



# CITY OF NEWPORT BEACH PLANNING COMMISSION AGENDA

Council Chambers - 100 Civic Center Drive

Thursday, September 5, 2024 - 6:00 PM

***Planning Commission Members:***

**Mark Rosene, Chair**  
**Tristan Harris, Vice Chair**  
**David Salene, Secretary**  
**Brady Barto, Commissioner**  
**Jonathan Langford, Commissioner**  
**Lee Lowrey, Commissioner**  
**Curtis Ellmore, Commissioner**

**Staff Members:**

**Seimone Jurjis, Assistant City Manager / Community Development  
Director**  
**Jaime Murillo, Deputy Community Development Director**  
**Brad Sommers, City Traffic Engineer**  
**Yolanda Summerhill, Assistant City Attorney**  
**Clarivel Rodriguez, Administrative Assistant**

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**NOTICE TO THE PUBLIC**

Regular meetings of the Planning Commission are held on the Thursdays preceding second and fourth Tuesdays of each month at 6:30 p.m. The agendas, minutes, and staff reports are available on the City's website at: <http://www.newportbeachca.gov> and for public inspection in the Community Development Department, Planning Division located at 100 Civic Center Drive, during normal business hours.. If you have any questions or require copies of any of the staff reports or other documentation, please contact the Community Development Department, Planning Division staff at 949-644-3200.

This Commission is subject to the Ralph M. Brown Act. Among other things, the Brown Act requires that the Commission's agenda be posted at least 72 hours in advance of each meeting and that the public be allowed to comment on agenda items before the Commission and items not on the agenda but are within the subject matter jurisdiction of the Commission. The Commission may limit public comments to a reasonable amount of time, generally three (3) minutes per person. All testimony given before the Planning Commission is recorded.

Under the Levine Act, Section 84308 of the Government Code, a party to a proceeding before the City involving a license, permit, or other entitlement for use is required to disclose on the record of the proceeding any contribution in an amount of more than two hundred fifty dollars (\$250) made within the preceding 12 months by the party or the party's agent to any elected or appointed officer of the City. If you have made a qualifying contribution, please ensure to make this disclosure on the record.

Please Note: You can submit your questions and comments in writing for the Planning Commission to consider by mailing or delivering them to the City of Newport Beach Planning Commission at 100 Civic Center Drive, Newport Beach CA, 92660. Alternatively, you can send them by electronic mail directly to Commissioners at [planningcommission@newportbeachca.gov](mailto:planningcommission@newportbeachca.gov). Each Commissioner and staff will receive your message directly. Pursuant to Planning Commission procedures, please submit your written comments no later than 5:00 p.m. on Wednesday the day before the meeting in order to give Commissioners adequate time to review your submission.

It is the intention of the City of Newport Beach to comply with the Americans with Disabilities Act (ADA) in all respects. If, as an attendee or a participant of this meeting, you will need special assistance beyond what is normally provided, the City of Newport Beach will attempt to accommodate you in every reasonable manner. Please contact Clarivel Rodriguez in the Community Development Department prior to the meeting to inform us of your particular needs and to determine if accommodation is feasible (949-644-3232 or [crodriguez@newportbeachca.gov](mailto:crodriguez@newportbeachca.gov)).

**APPEAL PERIOD:** Use Permit, Variance, Site Plan Review, and Modification Permit applications do not become effective until 14 days following the date of approval, during which time an appeal may be filed with the City Clerk in accordance with the provisions of the Newport Beach Municipal Code. Tentative Tract Map, Tentative Parcel Map, Lot Merger, and Lot Line Adjustment applications do not become effective until 10 days following the date of approval, during which time an appeal may be filed with the City Clerk in accordance with the provisions of the Newport Beach Municipal Code. General Plan, Zoning, and Local Coastal Program Amendments are automatically forwarded to the City Council for final action.

I. **CALL TO ORDER**

II. **PLEDGE OF ALLEGIANCE**

III. **ROLL CALL**

IV. **PUBLIC COMMENTS**

*Public comments are invited on non-agenda items generally considered to be within the subject matter jurisdiction of the Planning Commission. Speakers must limit comments to three (3) minutes. Before speaking, please state your name for the record and print your name on the blue forms provided at the podium.*

*Please call 949-270-8165 during the meeting to provide public comments on non-agenda items.*

V. **REQUEST FOR CONTINUANCES**

VI. **CONSENT ITEMS**

1. **MINUTES OF AUGUST 22, 2024**

**Recommended Action:** Approve and file.

[Draft Minutes of August 22, 2024](#)

VII. **PUBLIC HEARING ITEMS**

*Speakers must limit comments to three (3) minutes on all items. Before speaking, please state your name for the record and print your name on the blue forms provided at the podium.*

*If in the future, you wish to challenge in court any of the matters on this agenda for which a public hearing is to be conducted, you may be limited to raising only those issues, which you (or someone else) raised orally at the public hearing or in written correspondence received by the City at or before the hearing*

2. **WILD STRAWBERRY CAFE OUTDOOR DINING AREA EXPANSION (PA2023-309)**

**Site Location: 240 Newport Center Drive, Suite 100**

**Summary:**

A request for a conditional use permit to increase the authorized area used for outdoor dining at an existing restaurant from 75 square feet to approximately 658 square feet and to waive the additional parking spaces required for the expanded area. Alcohol service would be offered on a portion of the expanded outdoor dining area through the restaurant's existing Type 41 (On-Sale Beer and Wine - Eating Place) Alcoholic Beverage Control (ABC) License and the alcohol service area would be delineated with planters. Hours of operation are proposed to remain from 7:00 a.m. to 6:00 p.m., daily. Aside from the expanded outdoor dining and alcohol service area, there are no other operational changes proposed. If approved, this Conditional Use Permit would supersede all prior approvals.

**Recommended Action:**

1. Conduct a public hearing;
2. Find this review exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15301 under Class 1 (Existing Facilities) of the CEQA Guidelines, because it has no potential to have a significant effect on the environment; and
3. Adopt Resolution No. PC2024-017 approving Conditional Use permit filed as PA2023-309 and superseding Use Permit Nos. UP2021-026 (PA2021-135) and UP2003-051 (PA2003-295), Outdoor Dining Permit No. OD2004-002 and Staff Approval No. SA2004-018 (PA2004-220).

[Item No. 2 Staff Report](#)

[Attachment 1 - Draft Resolution With Findings and Conditions](#)

[Attachment 2 - Crime Statistics](#)

[Attachment 3 - Project Plans](#)

3. **UPTOWN NEWPORT DEVELOPMENT AGREEMENT SECOND AMENDMENT (PA2024-0078)**  
**Site Location: 4311 Jamboree Road, North side of Jamboree Road, between MacArthur Boulevard and Birch Street**

**Summary:**

An amendment of the Uptown Newport Development Agreement No. DA2021-003 (DA) to allow excess park in-lieu fee credits to be applied towards applicable public benefit fee obligations as specified in the DA for residential projects located within the Uptown Newport Planned Community (PC-58).

**Recommended Actions:**

1. Conduct a public hearing;
2. All significant environmental concerns for the proposed project have been addressed in the previously certified Environmental Impact Report No. ER2012-001 (SCH No. 2010051094), First Addendum No. ER2012-001, and Second Addendum No. ER2020-001; and
3. Adopt Resolution No. PC2024-018 approving Uptown Newport Development Agreement No. DA2012-003, Second Amendment.

[Item No. 3 Staff Report](#)

[Attachment 1 - Draft Resolution for Approval](#)

[Attachment 2 - The Applicant's Letter of Request](#)

4. **AMENDMENT TO THE 6TH CYCLE HOUSING ELEMENT (PA2022-0245)**  
**Site Location: Citywide**

**Summary:**

A narrowly focused amendment to the City's adopted and certified 6th Cycle Housing Element that would revise portions of Section 3 (Housing Constraints, Resources, and Affirmatively Furthering Fair Housing) and Section 4 (Housing Plan) to change the

narrative and implementing actions to remove the requirement for a vote of the electorate pursuant to Charter Section 423. T

**Recommended Actions:**

1. Conduct a public hearing;
2. Find that all significant environmental concerns for the City's Housing Element and its implantation have been addressed in a previously certified environmental document (Housing Element Implementation Program Environmental Impact Report [PEIR] - State Clearinghouse Number 2023060699); and
3. Adopt Resolution No. PC2024-019 recommending the City Council's adoption of the Amendment.

[Item No. 4 Staff Report](#)

[Attachment 1 - Draft Resolution](#)

[Attachment 2 - City Council Resolution NO. 2024-058](#)

[Attachment 3 - City Council Meeting Minutes from July 23, 2024](#)

[Attachment 4 - Housing Element Section 3 Redline Strikeout](#)

[Attachment 5 - Housing Element Section 4 Redline-Strikeout](#)

[Attachment 6 - Correspondence](#)

**VIII. STAFF AND COMMISSIONER ITEMS**

5. MOTION FOR RECONSIDERATION
6. REPORT BY THE COMMUNITY DEVELOPMENT DIRECTOR OR REQUEST FOR MATTERS WHICH A PLANNING COMMISSION MEMBER WOULD LIKE PLACED ON A FUTURE AGENDA
7. REQUESTS FOR EXCUSED ABSENCES

**IX. ADJOURNMENT**

**NEWPORT BEACH PLANNING COMMISSION MINUTES  
CITY COUNCIL CHAMBERS – 100 CIVIC CENTER DRIVE  
THURSDAY, AUGUST 22, 2024  
REGULAR MEETING – 6:00 P.M.**

I. **CALL TO ORDER** – 6:00 p.m.

II. **PLEDGE OF ALLEGIANCE** – Commissioner Lowrey

III. **ROLL CALL**

PRESENT: Chair Curtis Ellmore, Vice Chair Mark Rosene, Secretary Tristan Harris, Commissioner Brady Barto, Commissioner Jonathan Langford, Commissioner Lee Lowrey, and Commissioner David Salene

ABSENT: None

Staff Present: Assistant City Manager/Community Development Director Seimone Jurjis, Deputy Community Development Director Jaime Murillo, Assistant City Attorney Yolanda Summerhill, Civilian Investigator Wendy Joe, Associate Planner Jenny Tran, Administrative Assistant Clarivel Rodriguez, and Department Assistant Jasmine Leon

IV. **ELECTION OF OFFICERS**

**ITEM NO. 1 ELECTION OF OFFICERS**

**Summary:**

The Planning Commission adopted rules that require the election of officers at its annual meeting, which occurs at the first meeting of July each year. Officers include the Chair, Vice Chair, and Secretary and they would serve for a one-year term.

**Recommended Action:**

1. Find this action not subject to the California Environmental Quality Act (“CEQA”) pursuant to 15060(c)(3) (the activity is not a project as defined in Section 15378) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3;
2. Nominate Planning Commission officers consisting of Chair, Vice Chair, and Secretary; and
3. Appoint the officers by majority approval of a motion either individually or as one motion for all positions.

Commissioner Langford nominated Vice Chair Rosene for Chair, Secretary Harris for Vice Chair, and Commissioner Salene for Secretary. With a unanimous vote of 7 ayes, Commissioner Rosene was elected to Chair, Commissioner Harris was elected to Vice Chair, and Commissioner Salene was elected to Secretary.

V. **PUBLIC COMMENTS** - None

VI. **REQUEST FOR CONTINUANCES** – Deputy Director Community Development Murillo requested a continuance for Item No. 4.

VII. **CONSENT ITEMS**

**ITEM NO. 2 MINUTES OF JUNE 20, 2024**

**Recommended Action:** Approve and file.

**Motion** made by Vice Chair Harris and seconded by Commissioner Barto to approve the minutes of June 20, 2024, with Mr. Mosher's edits.

AYES: Barto, Ellmore, Harris, Langford, Lowrey, and Salene  
NOES: None  
ABSTAIN: Rosene  
ABSENT: None

**ITEM NO. 3 MINUTES OF AUGUST 8, 2024**

**Recommended Action:** Approve and file.

**Motion** made by Commissioner Ellmore and seconded by Commissioner Langford to approve the minutes of August 8, 2024, with Mr. Mosher's edits.

AYES: Ellmore, Langford, Rosene, and Salene  
NOES: None  
ABSTAIN: Barto, Harris, and Lowrey  
ABSENT: None

**VIII. PUBLIC HEARING ITEMS**

**ITEM NO. 4 UPTOWN NEWPORT DEVELOPMENT AGREEMENT 2<sup>ND</sup> AMENDMENT (PA2024-0078)**  
**Site Location: 4311 Jamboree Road, North side of Jamboree Road, between MacArthur Boulevard and Birch Street**

**Summary:**

An amendment of the Uptown Newport Development Agreement No. DA2021-003 (DA) to allow excess park in-lieu fee credits to be applied towards applicable public benefit fee obligations as specified in the DA for residential projects located within the Uptown Newport Planned Community (PC-58).

**Recommended Action:**

The applicant is requesting this item be continued to the September 5, 2024, Planning Commission meeting.

Chair Rosene opened the public hearing.

There was no public comment.

Chair Rosene closed the public hearing.

**Motion** made by Vice Chair Harris and seconded by Secretary Salene to continue the item to September 5, 2024.

AYES: Barto, Ellmore, Harris, Langford, Lowrey, Rosene, and Salene  
NOES: None  
ABSTAIN: None  
ABSENT: None

**ITEM NO. 5 TANAR'S TOBACCO APPEAL (PA2023-0032)**  
**Site Location: 2233 West Balboa Boulevard**

**Summary:**

An appeal of the Zoning Administrator's May 30, 2024, decision to deny a minor use permit to allow a Type 20 (Off-Sale Beer & Wine) Alcoholic Beverage Control (ABC) license at an existing tobacco retail store. The Type 20 (Off-Sale Beer & Wine) ABC license would allow the existing retail business to sell beer and wine for off-site consumption. No other changes to the operation are requested and no construction is proposed. No on-site consumption of alcohol is proposed as part of the project.

**Recommended Action:**

1. Conduct a de novo public hearing;
2. Find this project exempt from the California Environmental Quality Act (CEQA) pursuant Article 18, Section 15270 (Projects Which Are Disapproved) of the CEQA Guidelines, California Code of Regulations, Title 14, Division 6, Chapter 3 because a project which a public agency rejects or disapproves is statutorily exempt and not subject to review under CEQA; and
3. Adopt Resolution No. PC2024-018 affirming the decision of the Zoning Administrator denying the Minor Use Permit filed as PA2023-0032.

Associate Planner Tran utilized a presentation to review the project description, vicinity maps, police department review, Zoning Administrator action, appeal, inconsistency with similar approvals, misrepresentation of crime statistics, limited availability of off-sale licenses, community support, mitigating measures, redline to resolution, and recommendation.

In reply to Commissioner Ellmore's question, Deputy Community Development Director Murillo stated that the Zoning Administrator at the time of the Zoning Administrator hearing was Principal Planner Benjamin Zdeba.

Ex parte communications were disclosed by Commissioner Barto who was contacted by a neighbor, Chair Rosene who visited the property and spoke with the appellant, and Commissioner Langford who received phone calls from neighboring parcel owners expressing concern. The remaining Commissioners had no ex parte communications.

Chair Rosene opened the public hearing.

Mila Tanar, spokesperson for the appellant, appealed the decision of the Zoning Administrator and utilized a presentation to review the background, proposed addition of the Type 20 license, appeal reason – inconsistencies with the approval process, map of RD15, appeal reason – misrepresentation/overemphasis on crime statistics, Newport Beach Police Department 2023 Crime and Alcohol-Related Statistics, and conclusion.

In reply to Commissioner Langford's question, Ms. Tanar clarified that the site plan illustrates the cash register to be relocated.

In reply to Commissioner Ellmore's question, Ms. Tanar described the enhanced security measures that could be implemented, stated that the business is family run and operated, and agreed to alcohol sales training if approved.

Jim Mosher noted an error to the percentage on page four and spelling error to the word Pavilions on the next page, noticed an effort to reduce off-sale licenses and a rapid increase of on-sale licenses in the same census tract, relayed possible reasons for an inconsistency in applications in RD15, stated that the application was filed by the wife of a recently elected Council member, thought it was good that staff is not recommending approval of every application, and expressed confusion for the on-sale license for this suite in the police department's table of existing licenses on page 59.

Chair Rosene closed the public hearing.

Commissioner Ellmore thought the Zoning Administrator was accurate in the findings, additional accessibility to alcohol could exacerbate the homelessness issue, other options to purchase off-site liquor are available, and the location is not appropriate for the request. He supported the Zoning Administrator's decision.

Commissioner Langford concurred with Commissioner Ellmore, supported the precedence of off-site licenses not near the beach, noted the problems at McFadden Square, and was not inclined to support the appeal.

**Motion** made by Commissioner Ellmore and seconded by Commissioner Langford to deny the appeal and support the Zoning Administrator's denial of the application by adopting Resolution No. PC2024-018.

AYES: Barto, Ellmore, Harris, Langford, Lowrey, Rosene, and Salene  
NOES: None  
ABSTAIN: None  
ABSENT: None

**IX. STAFF AND COMMISSIONER ITEMS**

**ITEM NO. 6 MOTION FOR RECONSIDERATION - None**

**ITEM NO. 7 REPORT BY THE COMMUNITY DEVELOPMENT DIRECTOR OR REQUEST FOR MATTERS WHICH A PLANNING COMMISSION MEMBER WOULD LIKE PLACED ON A FUTURE AGENDA.**

Deputy Community Development Director Murillo stated that the California Department of Housing and Community Development (HCD) has determined that the amendment to the Housing Element will still allow it to remain in statutory compliance with State law. Additionally, he stated that the amendment will be brought to the Planning Commission for review and a recommendation to the City Council at the next Planning Commission meeting on September 5, along with two additional items.

**ITEM NO. 8 REQUESTS FOR EXCUSED ABSENCES - None**

**X. ADJOURNMENT** – With no further business, Chair Rosene adjourned the meeting at 6:31 p.m.

**The agenda for the August 22, 2024, Planning Commission meeting was posted on Thursday, August 15, 2024, at 2:42 p.m. in the Chambers binder, on the digital display board located inside the vestibule of the Council Chambers at 100 Civic Center Drive, and on the City's website on Thursday, August 15, 2024, at 2:39 p.m.**

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Mark Rosene, Chair

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David Salene, Secretary





## CITY OF NEWPORT BEACH PLANNING COMMISSION STAFF REPORT

September 5, 2024  
Agenda Item No. 2

**SUBJECT:** Wild Strawberry Cafe Outdoor Dining Expansion (PA2021-309)  
▪ Conditional Use Permit

**SITE LOCATION:** 240 Newport Center Drive, Suite 100

**APPLICANT:** Natasha Kazic of Wild Strawberry Cafe

**OWNER:** 240 Newport Center Drive Associates LP

**PLANNER:** Joselyn Perez, Senior Planner  
949-644-3312, [jperez@newportbeachca.gov](mailto:jperez@newportbeachca.gov)

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### **PROJECT SUMMARY**

A request for a conditional use permit to increase the outdoor dining area at an existing restaurant from 75 square feet to approximately 658 square feet and to waive the additional parking spaces required for the expanded area. Alcohol service would be offered on a portion of the expanded outdoor dining area, delineated with planters, through the restaurant's existing Type 41 (On-Sale Beer and Wine – Eating Place) Alcoholic Beverage Control (ABC) License. Hours of operation are proposed to remain from 7:00 a.m. to 6:00 p.m., daily. Aside from the expanded outdoor dining and alcohol service area, there are no other operational changes proposed. If approved, this Conditional Use Permit would supersede all prior approvals.

### **RECOMMENDATION**

- 1) Conduct a public hearing;
- 2) Find this review exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15301 under Class 1 (Existing Facilities) of the CEQA Guidelines, because it has no potential to have a significant effect on the environment; and
- 3) Adopt Resolution No. PC2024-017 approving the Conditional Use Permit filed as PA2023-309 and superseding Use Permit Nos. UP2021-026 (PA2021-135) and UP2003-051 (PA2003-295), Outdoor Dining Permit No. OD2004-002 and Staff Approval No. SA2004-018 (PA2004-220 (Attachment No. PC 1)).

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LOCATION	GENERAL PLAN	ZONING	CURRENT USE
ON-SITE	Regional Commercial Office (CO-R)	Office-Regional (OR)	Restaurant, other commercial
NORTH & EAST	CO-R	OR	Commercial buildings
WEST	CO-R & Multiple Residential (RM)	OR & PC 61 (Residences at Newport Center)	Parking lot, with offices and car wash beyond
SOUTH	CO-R	OR	Parking lot, office buildings beyond

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## **INTRODUCTION**

### **Project Setting**

Wild Strawberry Cafe is located on the ground floor of an existing multi-tenant, two-story, commercial building within a business center (see Figure 1). The business center, known as Design Plaza, contains nine separate buildings and is addressed as 200 Newport Center Drive through 280 Newport Center Drive. Notable tenants within Design Plaza include FedEx Office, Muldoon's Irish Pub, Spa Gregories, and Mariner's Escrow. The remaining tenant mix features general office, medical office, and personal services. The businesses share a large, approximately 649-space, surface, parking lot.



**Figure 1**, Aerial photograph of Design Plaza

Design Plaza is bounded to the north by Newport Center Drive and San Miguel Plaza, to the east by Avocado Avenue, to the south by Civic Center Drive, and to the west by Anacapa Drive. Land uses surrounding Design Plaza are almost exclusively nonresidential. There are future residences proposed for 150 Newport Center Drive, located approximately 215 feet to the west of the project site across Anacapa Drive. Fashion Island mall is located approximately 740 feet to the north of the project site.

Wild Strawberry Cafe is located within Suite 100 of 240 Newport Center Drive. Suite 100 is a ground level, exterior facing, corner suite and is both easily visible and accessible from the parking lot. There is a covered walkway along the exterior of the building, which creates a protected breezeway. There is a common trash enclosure with a gate located approximately 140 feet to the north, along the wall that separates Design Plaza from San Miguel Plaza.

### Restaurant Background

Suite 100 was originally authorized on February 13, 2004, to operate as a full service, eating and drinking, establishment known as Cafe Express with the Planning Director's approval of Use Permit No. UP2003-051 (PA2003-295). This Use Permit allowed seating within the interior of the restaurant for up to a total of 17 patrons. The 873-square-foot suite was improved for restaurant use, including 300 square feet of net public area<sup>1</sup>, primarily selling sandwiches, salads, and coffee drinks. Customers could order from a counter and dine at the provided tables. Plans also included a unisex restroom for customer use, a display counter, and back of house amenities including the kitchen area, storage, and a dressing room for employees. Hours of operation were approved for 7:00 a.m. to 6:00 p.m., daily.

On November 19, 2004, the Planning Director approved Staff Approval No. SA2004-018 and Outdoor Dining Permit No. OD2004-002 (PA2004-220), which modified the conditions of approval of Use Permit No. UP2003-051 (PA2003-295). The approval reduced the number of interior seats to eight and authorized an outdoor dining area of 75 square feet within the adjacent breezeway. The outdoor dining area was further limited to nine seats, to maintain the original 17-seat total.

In 2011, Wild Strawberry Cafe took over operations with minimal changes in the restaurant floor plan.

During the COVID-19 pandemic, the applicant placed additional tables and chairs within the breezeway to allow for adequate social distancing. The applicant did so without obtaining an emergency temporary use permit, limited term permit, or equivalent offered by the City. Instead, the applicant applied for a minor use permit to allow for alcohol service within both the interior and exterior seating areas of the restaurant. Minor Use Permit No. UP2021-026 was approved on October 4, 2021, by the Zoning Administrator allowing the Type 41 (On-Sale Beer and Wine – Eating Place) ABC License. Condition of Approval No. 3 of UP2021-026 required the applicant reduce the size of the outdoor dining area back to the 75 square feet originally approved through OD2004-002. Given the

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<sup>1</sup> "Net public area" means the total area used to serve customers, including customer sales and display areas, customer seating areas, service counters, and service queue and waiting areas, but excluding restrooms and offices, kitchens, storage and utility areas, and similar areas used by the employees of the establishment. The definition of net public area was eliminated from Title 20 (Planning and Zoning) in 2023, as part of an update to commercial parking regulations.

popularity and use of the expanded outdoor dining area, the applicant instead opted to file the subject application to make the temporary seating arrangement permanent. In a similar fashion to how other COVID-19 related outdoor dining areas were allowed to operate while pursuing use permit amendments, the applicant was permitted to continue using the expanded outdoor dining areas while the subject application was being processed.

### Project Description

The applicant is requesting a conditional use permit to permanently increase the area used for outdoor dining within the breezeway from 75 square feet to a total outdoor dining area of approximately 658 square feet and to waive the additional parking spaces required by Table 3-10, Section 20.40.040 (Off-Street Parking Spaces Required) of the Newport Beach Municipal Code (NBMC).

Outdoor dining would occur along both the southern and eastern frontage of the building. As shown below in Figure 2 through 4, furniture would be permanently placed along the exterior walls of the restaurant and between the building columns, creating the outdoor dining area.

Approximately 178 square feet of outdoor dining area will be created area along the building's southern frontage. A path of travel will be maintained through the breezeway and the restaurant's exit will remain clear of any obstructions such as tables, chairs, or planters. No alcohol would be served or consumed within this southern frontage area as the placement of the required alcohol service area delineators while maintaining a path of travel is not feasible.



**Figure 2,** Southern frontage of the restaurant.



**Figure 3,** Expanded outdoor dining areas along both the southern and eastern building frontage showing the free-and-clear walkway, which will be maintained.





**Figure 4,** Walkway between 240 and 250 Newport Center Drive and, on the left side of the photograph, a portion of outdoor dining area where alcohol service would be allowed.

The consumption of beer and wine would be allowed on an approximately 480-square-foot portion of the expanded area, located on the eastern frontage of the building. Alcohol service would be allowed through the restaurant's existing Type 41 (On-Sale Beer and Wine – Eating Place) ABC license. Required alcohol service area delineators will be provided with planters and appropriate signage. There is no actual construction proposed as part of the project and a building permit is not required to place furniture or planters. A site and floor plan is available as Attachment No. PC 3 (Project Plans).

The hours of operation are proposed to remain from 7:00 a.m. to 6:00 p.m., daily. Aside from the expanded dining and alcohol service area, there are no other changes proposed.

## **DISCUSSION**

### Analysis

#### *General Plan and Zoning*

The property is categorized as Regional Commercial Office (CO-R) by the Land Use Element of the General Plan. CO-R applies to areas where it is the intent of the Land Use Element to provide areas appropriate for corporate, administrative, and professional offices with accessory limited financial, retail, service, and entertainment uses. Restaurants are

consistent with the CO-R designation by providing a complementary service to the nearby corporate, administrative, and professional office workers. The expanded outdoor dining area does not alter the mix of commercial uses within Design Plaza or change the primary use of the area away from corporate, administrative, or professional offices.

Consistent with the General Plan Land Use categorization of CO-R, the property is zoned Office Regional (OR). The OR District is also intended to provide for corporate, administrative, and professional offices that serve local and regional markets, with accessory limited financial, retail, service, and entertainment uses. Table 2-5 of Section 20.20.020 (Commercial Zoning Districts Land Uses and Permit Requirements) of the NBMC allows for a full service, eating and drinking establishment with alcohol service and no late hours within the OR Zoning District subject to the approval of a minor use permit. However, because the proposed expanded outdoor dining area requires additional parking where no surplus is available, the applicant is requesting to waive the additional required parking pursuant to 20.40.110 (Adjustments to Off-Street Parking Requirements) of the NBMC. The requested parking adjustment elevates the requirements for a minor use permit to a conditional use permit. Parking is discussed in greater detail in a subsequent section of this report.

#### *Alcohol Sales*

The restaurant operates with a Type 41 (On-Sale Beer and Wine – Eating Place) ABC license. The applicant is not requesting any changes to hours of operation or ABC license type but has requested that alcohol service be extended to a portion of the expanded outdoor dining area. The portion of the outdoor dining area where alcohol consumption will be allowed will be delineated with planters. Appropriate signage will be placed alerting customers where alcohol may be consumed, and customers will be verbally informed from staff when receiving their alcoholic beverage. The Newport Beach Police Department (NBPD) has reviewed the project and has no concerns with the expanded area. The NBPD has requested that all conditions of approval from Minor Use Permit No. UP2021-026 related to alcohol service be carried over and have been included in the current use permit.

To authorize the sale and service of alcoholic beverages, the Planning Commission must first make a finding of consistency with Section 20.48.030 (Alcohol Sales) of the NBMC.

- 1. The crime rate in the reporting district and adjacent reporting districts as compared to other areas in the City.*

The property is in an area the NBPD has designated as Reporting District (RD) 39. RD 39 is bordered to the north by San Joaquin Hills Road, to the east by MacArthur Boulevard, to the south by East Coast Highway, and to the West by Jamboree Road. The NBPD is required to report offenses of Part One Crimes combined with all arrests for other crimes, both felonies, and misdemeanors (except traffic citations) to the California Department of Alcoholic Beverage Control (ABC). Part One Crimes are the eight most

serious crimes defined by the FBI Uniform Crime Report: criminal homicide, rape, robbery, aggravated assault, burglary, larceny-theft, auto theft, and arson. RD 39 is considered a higher crime area, as compared to other RDs within the City. Table 1 below summarizes the crime statistics for the subject property, RD 39, and surrounding RD's.

*Table 1: Crime Statistics*

Reporting District	Group A Offenses (Serious offenses)	Group B Offenses (All other offenses)	Total Crime Count
240 Newport Center Drive	1	0	2
RD No. 39	506	96	430
RD No. 43	47	10	40
RD No. 44	273	105	261
RD No. 47	64	21	65
Newport Beach	5,102	1,439	4,502

The RD 39 crime count for 2023 is 430, which is 312% over the citywide average of 118 crimes per RD. The higher crime rate is largely attributable to the concentration of commercial land uses and the high ratio of nonresidential to residential uses. For example, the RD to the southeast, RD 44, contains the entire commercial corridor of Corona del Mar. RD 44 is smaller in land area than RD 39, yet it also demonstrates a high number of crimes compared to the citywide RD average due to the similar ratio of nonresidential to residential land use. The remaining neighboring RDs, 43 and 47, are primarily residential areas with few commercial uses. As a result, they have a significantly lower number of crimes. Their crime counts are 40 and 65, respectively.

*2. The number of alcohol-related calls for service, crimes, or arrests in the reporting district and in adjacent reporting districts.*

According to the NBPD, there were 15 calls for service to the project site in 2023 and one arrest. A review of the calls revealed the calls were not related to Wild Strawberry Cafe, rather the 240 Newport Center Drive address was used to geographically tag the general area. None of the calls for service or arrests were related to alcohol, suggesting the calls are not indicators of poor business practices. Furthermore, no calls were due to the outdoor dining currently occurring.

*3. The proximity of the establishment to residential zoning districts, day care centers, hospitals, park and recreation facilities, places of worship, schools, other similar uses, and any uses that attract minors.*

Wild Strawberry Cafe and the surrounding Design Plaza do not currently abut any sensitive land uses and are separated from other uses by parking lots, roadways, and commercial buildings. Design Plaza is approximately 1,300 feet from the nearest residential community (Granville Community), 4,000 feet from the nearest day care center

(Del Mar Lincoln Child Development), 800 feet from the nearest park (Civic Center Park), 4,000 feet from the nearest place of religious assembly (Community Church Congregational), and 3,000 feet from the nearest school (Harbor View Elementary School).

*4. The proximity to other establishments selling alcoholic beverages for either off-site or on-site consumption.*

There are several active On-Sale ABC Licenses within the vicinity of Wild Strawberry Cafe. Most of the On-Sale Licenses are for restaurants with either a Type 41 (On-Sale Beer and Wine - Eating Place) or a Type 47(On-Sale General - Eating Place). Within Design Plaza, Muldoon's Irish Pub, located at 202 Newport Center Drive, is authorized to operate until 2 a.m. and provides live entertainment and dancing. Muldoon's holds a Type 47 (On-Sale General – Eating Place) and a Type 68 (Portable Bar) ABC License. There are many restaurants with the Fashion Island mall with on-sale ABC licenses. For example, Red-O holds a Type 47 (On-Sale General – Eating Place), Type 58 (Caterer's Permit), and Type 68 (Portable Bar) ABC License. JOEY Newport Beach and True Food Kitchen hold a Type 47 (On-Sale General – Eating Place).

Whole Foods Market within Fashion Island mall provides off-sale alcohol service with a Type 21 (Off-Sale General) ABC License. Korker Liquor, approximately 2,600 feet to the southeast and within the Corona del Mar commercial corridor, also provides off-sale alcohol service with a Type 21 (Off-Sale General) ABC License.

*5. Whether or not the proposed amendment will resolve any current objectionable conditions.*

A restaurant with outdoor dining has been at this location since 2004. However, Wild Strawberry Cafe currently uses an unpermitted outdoor dining area configuration that exceeds the 75-square-foot limitation. The project will formally recognize and authorize the expanded area. There are no other objectionable conditions occurring.

*Parking*

Pursuant to Table 3-10, Section 20.40.040 (Off-Street Parking Spaces Required) of the NBMC, a full-service restaurant requires one parking space per every 100 square feet of gross floor area and one parking space per every 150 square feet of outdoor dining area. As Wild Strawberry Cafe operates in an 873-square-foot tenant space and proposes 658 square feet of outdoor dining, the parking requirement is 14 spaces. Past approvals parked the restaurant at a rate of one space required for every 250 square feet of gross floor area and the outdoor dining area was not required to provide parking. This resulted in a parking requirement of four spaces. The project results in an increase of 10 required parking spaces over the permitted condition and to permit the project, a parking waiver of 10 spaces is required.

As previously discussed in the Project Setting section of the report, there is a large, 649-space, surface parking lot that is shared by all tenants of Design Plaza. The pool is distributed between five zones, shown below in Figure 5. Wild Strawberry is located adjacent to the area designated as Parking Zone 1.



**Figure 5:** Shared parking lot of Design Plaza, divided into 5 zones.

In coordination with the City Traffic Engineer, Planning Division staff took observational parking counts of the entire parking pool on Wednesday April 3, 2024, and Wednesday April 10, 2024. Counts were conducted at one-hour intervals beginning at 9 a.m., 12 p.m., and 4 p.m. Counts were not taken on the weekend as one of the primary land uses within Design Plaza is office, and offices are typically closed on the weekend. Parking demand for the overall pool peaked on April 3, at 12:00 p.m., with approximately 66% of the total parking pool occupied, or 34% of spaces available. Parking demand within the most relevant parking zone, Parking Zone 1, peaked at 12:00 p.m. on April 3 with 20% of parking spaces available, or 35 parking spaces available. At no point during the observational counts were any of the zones observed to be fully occupied.

In addition to the available onsite parking, Wild Strawberry Cafe benefits from a high number of walk-in customers. With Design Plaza having multiple office and service uses in proximity, Wild Strawberry Cafe serves many customers that were originally patronizing other businesses within the center. Additionally, Wild Strawberry Cafe experiences many walk-in customers, especially during the lunch hour, that are workers within the business center, the nearby offices in Newport Center to the north, and the offices of Corporate Plaza to the south.

Given Wild Strawberry Cafe is already operating with the expanded outdoor dining area, it is unlikely that approval of the project will generate additional parking demand beyond what was already occurring. The City Traffic Engineer has reviewed and accepted the observational counts as a valid indicator of the parking demand and supply at Design Plaza and has no concerns with the Project.

#### *Conditional Use Permit Findings*

Pursuant to Section 20.52.020(F) (Conditional Use Permits and Minor Use Permits) of the NBMC, the Planning Commission must make the following findings to approve a conditional use permit:

- 1. The use is consistent with the General Plan and any applicable specific plan;*
- 2. The use is allowed within the applicable zoning district and complies with all other applicable provisions of this Zoning Code and the Municipal Code;*
- 3. The design, location, size, and operating characteristics of the use are compatible with the allowed uses in the vicinity;*
- 4. The site is physically suitable in terms of design, location, shape, size, operating characteristics, and the provision of public and emergency vehicle (e.g., fire and medical) access and public services and utilities; and*
- 5. Operation of the use at the location proposed would not be detrimental to the harmonious and orderly growth of the City, nor endanger, jeopardize, or otherwise constitute a hazard to the public convenience, health, interest, safety, or general welfare of persons residing or working in the neighborhood of the proposed use.*

As demonstrated in the draft resolution (Attachment No. PC 1), staff believes that sufficient facts exist in support of each finding. The existing restaurant is defined as an Eating and Drinking Establishment, Food Service, No Late Hours with alcohol beverage service and is consistent with the CO-R General Plan land use designation and OR zoning district.

The hours of operation are appropriate for a business center, given there are no late hours proposed. Although the expanded outdoor dining area increases the number of required parking spaces, the observational counts demonstrate that the shared parking lot can accommodate all visitors to the center during peak hours. There is adequate access provided to the site and there are adequate utilities to support the increased capacity of the restaurant. The outdoor dining layout maintains clear paths of travel and does not block access to the surrounding tenants.

There have been no noise complaints related to operations and both Code Enforcement and the Police Department have no concerns with the expansion. The restaurant has operated with outdoor dining since 2004 and with an ABC Type 41 license since 2021. The success of the restaurant with the historic conditions of approval suggests that the conditions are appropriate and working well to help ensure compatibility with the surrounding uses. The expanded restaurant will serve residents, employees, and visitors to Newport Beach and contributes to Design Plaza remaining vibrant and successful.

### Summary and Alternatives

Staff finds that the project is consistent with Title 20 (Planning and Zoning) of the NBMC and the General Plan, as discussed in the analysis above. Staff recommends approval of the project, subject to the conditions of approval provided in the resolution as Exhibit "A." If approved, the project will allow Wild Strawberry Cafe to permanently expand the area used by the restaurant for outdoor dining and waive the associated parking.

Should the Planning Commission feel the facts are not in evidence of support for the project application, the following alternative actions are available:

1. The Planning Commission may require changes to the project to alleviate any concerns related to the design or the ability to make the required findings. If the changes are substantial, the item should be continued to a future meeting to allow the applicant to make the necessary adjustments and to allow staff to prepare a revised resolution incorporating new findings and/or conditions.
2. If the Planning Commission believes that there are insufficient facts to support the findings for approval, the Planning Commission may deny the application and provide facts in support of denial and allow staff to prepare a revised resolution for denial of the project. The outdoor dining area would need to be reduced to the originally authorized 75-square-foot area.

### Environmental Review

This project is exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15301 under Class 1 (Existing Facilities) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3 because it has no potential to have a significant effect on the environment.

The Class 1 exemption includes the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of use. Class 3 exemption includes a store, motel, office, restaurant, or similar structure not involving the use of significant amounts of hazardous substances, not exceeding 2,500 square feet in floor area or 10,000 square feet in floor area in urbanized areas zoned for such use. The project will increase the area dedicated to outdoor dining for an existing restaurant within a fully developed business center from 75 square feet to 658 square feet. The project does not involve new construction, rather, additional tables and chairs will be placed within the breezeway adjacent to the restaurant with planters to define the alcohol service area. While the project increases the area used for outdoor dining, the additional capacity is a negligible expansion of use considering the restaurant and its surrounding development.

Public Notice

Notice of this hearing was published in the Daily Pilot, mailed to all owners of property within 300 feet of the boundaries of the site (excluding intervening rights-of-way and waterways) including the applicant, and posted on the subject property at least 10 days before the scheduled meeting, consistent with the provisions of the Municipal Code. Additionally, the item appeared on the agenda for this meeting, which was posted at City Hall and on the city website.

Prepared by:

  
\_\_\_\_\_  
Joselyn Perez  
Senior Planner

Submitted by:

  
\_\_\_\_\_  
Jaime Murillo, AICP  
Deputy Community Development Director

BMZ/jp

**ATTACHMENTS**

- PC 1 Draft Resolution with Findings and Conditions
  - PC 2 Crime Statistics
  - PC 3 Project Plans
- 01/18/23



# **Attachment No. PC 1**

Draft Resolution with Findings and  
Conditions

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**RESOLUTION NO. PC2024-017**

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF NEWPORT BEACH, CALIFORNIA, SUPERSEDING ALL PRIOR APPROVALS AND APPROVING A CONDITIONAL USE PERMIT TO WAIVE A PORTION OF THE REQUIRED OFF-STREET PARKING AND ALLOW AN EXPANDED OUTDOOR DINING AREA FOR AN EXISTING RESTAURANT OPERATING WITH A TYPE 41 (ON-SALE BEER AND WINE) ALCOHOL BEVERAGE CONTROL LICENSE LOCATED AT 240 NEWPORT CENTER DRIVE, SUITE 100 (PA2021-309)**

THE PLANNING COMMISSION OF THE CITY OF NEWPORT BEACH HEREBY FINDS AS FOLLOWS:

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Natasha Kazic (“Applicant”) with respect to property located at 240 Newport Center Drive, Suite 100, and legally described as Parcel 5 of Resubdivison 289 (“Property”), requesting approval of a conditional use permit.
2. The Applicant operates a restaurant known as Wild Strawberry Cafe (“Restaurant”) within the Design Plaza business center (“Design Plaza”) in the 200 Block of Newport Center Drive. The Restaurant is approximately 873 gross square feet and is permitted to operate with 300 square feet of interior customer area and 75 square feet of outdoor dining area. The Applicant requests to expand the outdoor dining area to approximately 658 square feet. Alcohol service would be offered on a portion of the expanded outdoor dining area, delineated with planters, through the restaurant’s existing Type 41 (On-Sale Beer and Wine – Eating Place) Alcoholic Beverage Control (“ABC”) License. The hours of operation will remain from 7 a.m. to 6 p.m., daily. Aside from the expanded patio and alcohol service area, there are no other operational changes proposed. In order to authorize the larger outdoor dining area, the Applicant requests to waive the additional parking spaces required (“Project”). Approval of the Project would supersede Use Permit Nos. UP2021-026 (PA2021-135) and UP2003-051 (PA2003-295), Outdoor Dining Permit No. OD2004-002 (PA2004-220), and Staff Approval No. SA2004-018 (PA2004-220).
3. The Property is categorized as Regional Commercial Office (CO-R) by the Land Use Element of the General Plan and located within the Office-Regional (OR) Zoning District.
4. The Property is not located within the coastal zone; and therefore, a coastal development permit is not required.
5. A public hearing was held on September 5, 2024, in the Council Chambers at 100 Civic Center Drive, Newport Beach, California. A notice of time, place and purpose of the public hearing was given in accordance with California Government Code Section 54950 *et seq.* (“Ralph M. Brown Act”) and Chapter 20.62 (Public Hearings) of the Newport Beach Municipal Code (“NBMC”). Evidence, both written and oral, was presented to, and considered by, the Planning Commission at this public hearing.

## SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.

1. This Project is exempt from the California Environmental Quality Act (“CEQA”) pursuant to Section 15301 under Class 1 (Existing Facilities) of the CEQA Guidelines, California Code of Regulations, Title 14, Division 6, Chapter 3, because it has no potential to have a significant effect on the environment.
2. The Class 1 (Existing Facilities) exemption includes the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of use. The Project will increase the area dedicated to outdoor dining for an existing restaurant within a fully developed business center from 75 square feet to 658 square feet. The Project does not involve new construction, rather, outdoor furniture will be placed within the breezeway adjacent to the Restaurant. While the Project increases the area used for outdoor dining, the additional capacity is a negligible expansion of use considering the Restaurant and its surrounding development.

## SECTION 3. REQUIRED FINDINGS.

### ***Alcohol Sales***

In accordance with Section 20.48.030(C)(3) (Alcohol Sales – Permit Requirements) of the NBMC, the findings and facts in support of such findings are set forth as follows:

#### Finding:

- A. *The use is consistent with the purpose and intent of NBMC Section 20.48.030 (Alcohol Sales).*

#### Facts in Support of Finding:

- i. *The crime rate in the reporting district and adjacent reporting districts as compared to other areas in the City.*
  1. The Property is in an area the Newport Beach Police Department (“NBPD”) has designated as Reporting District (“RD”) 39. RD 39 is bordered to the north by San Joaquin Hills Road, to the east by MacArthur Boulevard, to the south by East Coast Highway, and to the West by Jamboree Road. The NBPD is required to report offenses of Part One Crimes combined with all arrests for other crimes, both felonies, and misdemeanors (except traffic citations) to the California Department of Alcoholic Beverage Control (“ABC”). Part One Crimes are the eight most serious crimes defined by the FBI Uniform Crime Report: criminal homicide, rape, robbery, aggravated assault, burglary, larceny-theft, auto theft, and arson. RD 39 is considered a higher crime area, as compared to other RDs within the City. The RD 39 crime count for 2023 is 430, which is 312% over the citywide average of 118 crimes per RD. The higher crime rate is largely attributable to the concentration of

commercial land uses and the high ratio of nonresidential to residential uses. For example, the RD to the southeast, RD 44, contains the entire commercial corridor of Corona del Mar. RD 44 is smaller in land area than RD 39, yet it also demonstrates a high number of crimes compared to the citywide RD average due to the similar ratio of nonresidential to residential land use. The remaining neighboring RDs, 43 and 47, are primarily residential with few commercial uses. As a result, they have a significantly lower number of crimes. Their crime counts are 40 and 65, respectively.

2. The NBPd has reviewed the Project and has no objection based on the location, operational characteristics, and early closing hour. As part of its review, the NBPd recommended carrying over all conditions of approval from Use Permit No. UP2021-026, which have all been incorporated in Exhibit "A" attached to this resolution.

ii. *The numbers of alcohol-related calls for service, crimes, or arrests in the reporting district and in adjacent reporting districts.*

1. RD 39 is reported to ABC as a high crime area as compared to other reporting districts in the City. For RD 39, the highest volume crime is theft/larceny and the highest volume arrest is for narcotics. DUI, public intoxication, and liquor law violations make up just 12% of arrests in this RD. All adjacent RDs have lower reported crime and arrests, due in part to low ratio of nonresidential to residential land uses.
2. According to the NBPd memorandum, there were 15 calls for service to the Property and one arrest in 2023. A review of the calls however revealed they were not related to the Restaurant, rather the 240 Newport Center Drive address was used to geographically tag the general area. None of the calls for service or arrests were related to alcohol, suggesting the calls are not indicators of poor business practices. Furthermore, no calls were due to the outdoor dining currently occurring. Therefore, the NBPd has no concerns with the Project.

iii. *The proximity of the establishment to residential zoning districts, day care centers, hospitals, park and recreation facilities, places of worship, schools, other similar uses, and any uses that attract minors.*

The Property and surrounding business center do not abut sensitive land uses and are separated from other uses by parking lots, roadways, and other commercial buildings. The Property It is approximately 1,300 feet from the nearest residential district (Granville Community), 4,000 feet from the nearest day care center (Del Mar Lincoln Child Development), 800 feet from the nearest parks and recreation facility (Civic Center Park), 4,000 feet from the nearest place of religious assembly (Community Church Congregational), and 3,000 feet from the nearest school (Harbor View Elementary School). Due to the distances from these uses, the continued sale and service of alcohol is not anticipated to create concerning conditions.

iv. *The proximity to other establishments selling alcoholic beverages for either off-site or on-site consumption.*

1. Muldoon's Irish Pub is located at 202 Newport Center Drive to the north of the Restaurant, at the intersection of Anacapa and Newport Center Drive. Muldoon's is authorized to operate until 2 a.m. and provides live entertainment and dancing. Muldoon's holds a Type 47 (On-Sale General – Eating Place) and a Type 68 (Portable Bar) ABC License. Approximately 3,600 feet away to the northeast, Whole Foods Market provides off-sale alcohol service with a Type 21 (Off-Sale General) ABC License. Korke Liquor, approximately 2,600 feet to the southeast, also provides off-sale alcohol service with a Type 21 (Off-Sale General) ABC License. Additionally, there are many restaurants with the Fashion Island Shopping Center with on-sale ABC licenses. For example, Red-O holds a Type 47 (On-Sale General – Eating Place), Type 58 (Caterer's Permit), and Type 68 (Portable Bar) ABC License. JOEY Newport Beach and True Food Kitchen hold a Type 47 (On-Sale General – Eating Place). There is no evidence suggesting these uses have been detrimental to the neighborhood.
2. The Property is in Census Tract 630 for which the per capita ratio of on-sale alcohol license is one license for every 75 residents. This is higher than the citywide and countywide per capita ratios; however, the NBPD does not anticipate any increase in crime or alcohol-related incidents with the approval of this Project given the limited operational characteristics and early closing hour. Additionally, the Restaurant has operated with alcohol service for approximately 3 years without any notable issue.
3. The Restaurant's proximity to other establishments selling alcohol does not raise concern due to the Project's limited alcohol service restricted by the conditions of approval. Specifically, Condition of Approval No. 27 explicitly prohibits the establishment from operating as a bar, lounge, or nightclub and Condition of Approval No. 28 requires the quarterly gross sales of alcoholic beverages to not exceed the gross sales of food during the same period and. Alcohol service will maintain accessory to the primary function of the business as a restaurant.

v. *Whether or not the proposed amendment will resolve any current objectionable conditions.*

1. A restaurant with outdoor dining has been at this location since 2004. However, the Restaurant currently uses an unpermitted outdoor dining area configuration that exceeds the 75-square-foot limitation. The project will formally recognize and authorize the expanded area. There are no other objectionable conditions occurring.
2. The Project has been reviewed by the NBPD, which required that all previous conditions of approval related to alcohol service be incorporated into the approval for this Project. These conditions of approval will help ensure that the purpose and intent of Section 20.48.030 (Alcohol Sales) of the NBMC is maintained and that a healthy environment for residents and businesses is preserved. For example, Condition of Approval No. 26 requires the owners, managers, and employees selling

alcohol undergo and successfully complete a certified training program in responsible methods and skills for selling alcohol. This should help ensure that no patron is overserved and that objectionable conditions are avoided.

***Conditional Use Permit***

In accordance with Section 20.52.020(F) (Conditional Use Permits and Minor Use Permits – Findings and Decision) of the NBMC, the following findings and facts in support of such findings are set forth:

Finding:

*B. The use is consistent with the General Plan and any applicable specific plan.*

Facts in Support of Finding

1. The Property is categorized as Regional Commercial Office (CO-R) by the Land Use Element of the General Plan. Regional Commercial Office (CO-R) applies to areas where it is the intent of the Land Use Element to provide areas appropriate for corporate, administrative, and professional offices with accessory limited financial, retail, service, and entertainment uses.
2. Eating and drinking establishments with alcohol service (i.e., “restaurants”) are consistent with the Regional Commercial Office (CO-R) designation by providing a complementary service to the nearby corporate, administrative, and professional office workers. The expanded outdoor dining area does not alter the mix of commercial uses within Design Plaza or change the primary use of the area away from corporate, administrative, or professional offices.
3. The Project will also serve residents of and visitors to Newport Beach, which helps ensure the area remains vibrant and successful. The Project is in support of General Plan Policy LU 2.4 (Economic Development) which encourages the accommodation of uses that maintain or enhance Newport Beach’s fiscal health and account for market demands, while maintaining and improving the quality of life for current and future residents.
4. The Property is not part of a specific plan area.

Finding:

*C. The use is allowed within the applicable zoning district and complies with all other applicable provisions of this Zoning Code and the Municipal Code.*

Facts in Support of Finding

1. The Property is located within the Office Regional Commercial (OR) Zoning District. Similar to the Land Use categorization of Regional Commercial Office (CO-R), the

OR Zoning District is also intended to provide for corporate, administrative, and professional offices that serve local and regional markets, with accessory limited financial, retail, service, and entertainment uses.

2. Table 2-5 of Section 20.20.020 (Commercial Zoning Districts Land Uses and Permit Requirements) of the NBMC allows for a full service, eating and drinking establishment with alcohol service and no late hours within the Office-Regional (OR) Zoning District subject to the approval of a minor use permit. However, the proposed expanded outdoor dining area requires additional parking where no surplus is available. As such, the Applicant is requesting to waive the additional required parking pursuant to Section 20.40.110 (Adjustments to Off-Street Parking Requirements) of the NBMC. The requested parking adjustment elevates the requirements for a minor use permit to a conditional use permit. Facts 1 through 8 in support of Finding G substantiate the request and are incorporated herein by reference.
3. The Restaurant operates pursuant to Minor Use Permit No. UP2021-026 (PA2021-135), Use Permit No. UP2003-051 (PA2003-295), Outdoor Dining Permit No. OD2004-002 (PA2004-220), and Staff Approval No. SA2004-018 (PA2004-220). Aside from the expanded outdoor dining area and alcohol service, all other characteristics, including the type of alcohol license, the interior configuration of the restaurant, and the hours of operation will remain unchanged. The success of the restaurant with the historic conditions of approval suggests that the conditions are appropriate and working well to help ensure compatibility with surrounding uses. All relevant conditions have been carried forward as part of Exhibit “A” of this resolution.
4. During the COVID-19 pandemic, the outdoor dining area expanded beyond the permitted 75 square feet. Condition of Approval No. 3 of UP2021-026 required the Applicant to return the outdoor dining area to the configuration approved by Outdoor Dining Permit No. OD2004-002 (PA2004-220). Due to the popularity and use of the expanded outdoor dining area, the Applicant instead opted to file the subject application to make the temporary improvement permanent. Once approved, the Restaurant will comply with Section 20.48.090 (Eating and Drinking Establishments) of the NBMC.

Finding:

- D. The design, location, size, and operating characteristics of the use are compatible with the allowed uses in the vicinity*

Facts in Support of Finding

1. The Restaurant is located on the ground floor existing multi-tenant, two-story, commercial building within a business center. Adjacent ground floor tenants include medical offices and other service uses. There are professional offices above. The walkway between tenant suites is generally covered and creates a protected



breezeway. The Restaurant is within a corner suite and is both easily visible and accessible from the large, shared, parking lot.

2. The Restaurant consists of 300 square feet of interior area dedicated to customer service and seating with the remaining 573 square footage developed as a unisex restroom, and back of house areas for food prep. The outdoor dining area is immediately adjacent to the Restaurant's space within the breezeway. There is no construction proposed with this Project, rather, tables, chairs, umbrellas, planters, and any barriers required by ABC will be placed within the breezeway. A path of travel will be maintained through the breezeway and as required to provide unobstructed exiting from the interior of the Restaurant.
3. The Restaurant's current hours of operation from 7 a.m. to 6 p.m. are consistent with the business hours of other uses in Design Plaza and reiterate its primary intent as an amenity for businesses in and visitors to the Newport Center area.
4. Fact 2 in support of Finding A(v) is incorporated herein by reference.
5. There is a common trash enclosure with a gate located approximately 140 feet to the north. It is conveniently located where materials can be deposited and collected without impeding parking. The existing trash storage area is adequate to accommodate the waste generated from the business and complies with Section 20.30.120 (Solid Waste and Recyclable Materials Storage) of the NBMC.

Finding:

- E. *The site is physically suitable in terms of design, location, shape, size, operating characteristics, and the provision of public and emergency vehicle (e.g., fire and medical) access and public services and utilities.*

Facts in Support of Finding

1. Design Plaza is accessible from both Civic Center Drive to the south and Anacapa Drive to the west. There is a large, 649-space, surface parking lot that is shared by all buildings within the complex.
2. The Project was reviewed by the Fire Marshal, Public Works Department, and Building Division. It was determined that adequate public and emergency vehicle access is provided, and that adequate public services and utilities are provided to the Property.
3. As conditioned, the Applicant is required to obtain all necessary approvals from Orange County Health Department to ensure the safety and welfare of customers and employees.

Finding:

*F. Operation of the use at the location proposed would not be detrimental to the harmonious and orderly growth of the City, nor endanger, jeopardize, or otherwise constitute a hazard to the public convenience, health, interest, safety, or general welfare of persons residing or working in the neighborhood of the proposed use.*

Facts in Support of Finding:

1. The Project includes conditions of approval to help ensure potential conflicts with the surrounding land uses are minimized to the greatest extent possible. The outdoor dining area will also need to comply with the City’s noise ordinance, as stated in Condition of Approval No. 15. Additionally, Conditional of Approval No. 30 prohibits live entertainment, an activity with the potential to disrupt the surrounding businesses.
2. The Project was reviewed by the Code Enforcement Division. There were no complaints on file, suggesting the expanded outdoor dining area does not endanger, jeopardize, or otherwise constitute a hazard to the public convenience, health, interest, safety, or general welfare of persons residing or working in the neighborhood.
3. The Restaurant provides dining services as a convenience to the adjacent office workers and visitors to Design Plaza. The expanded outdoor dining area complements the principal use of the tenant suite as a restaurant and provides economic opportunity for the Applicant to maintain a successful business in a way that best serves the community.
4. Fact 2 in support of Finding B is incorporated herein by reference.
5. Fact 2 in support of Finding A(v) is incorporated herein by reference

***Off-Street Parking Reduction***

In accordance with Section 21.40.110 (Adjustments to Off-Street Parking Requirements) of the NBMC, off-street parking requirements may be reduced with the approval of a conditional use permit in compliance with Section 20.52.020 (Conditional Use Permits and Minor Use Permits) of the NBMC. The following findings and facts in support of such findings are set forth:

Finding:

*G. The Applicant has provided sufficient data, including a parking study if required by the Director, to indicate that parking demand will be less than the required number of spaces or that other parking is available (e.g., City parking lot located nearby, on-street parking available, greater than normal walk in trade, mixed-use development);*

Facts in Support of Finding:

1. Pursuant to Table 3-10 of Section 20.40.040 (Off-Street Parking Spaces Required) of the NBMC, a full-service restaurant requires one parking space per every 100 square feet of gross floor area and one parking space per every 150 square feet of outdoor dining area. As the Restaurant operates in an 873-square-foot tenant space and proposes 658 square feet of outdoor dining, 14 parking spaces are required.
2. Under previous approvals, the Restaurant was parked at a rate of one space required for every 250 square feet of gross floor area. The outdoor dining patio was not required to provide parking. This formula resulted in a parking requirement of four spaces.
3. The Project results in an increase of 10 required parking spaces over the permitted condition. To permit the Project, a parking waiver of 10 spaces is required.
4. Design Plaza provides approximately 649 parking spaces within a shared parking pool. The parking pool is distributed between five zones and serves nine, multi-tenant, buildings. The Restaurant is located adjacent to the area designated as Parking Zone 1.
5. Staff performed observational parking counts of the entire parking pool on Wednesday April 3, 2024, and Wednesday April 10, 2024. Counts were conducted at one-hour intervals beginning at 9 a.m., 12 p.m., and 4 p.m. Parking demand for the overall parking pool peaked on April 3, at 12 p.m., with approximately 66 percent of the overall parking pool occupied, or a 34% of parking spaces available. Parking demand for the adjacent parking area, Parking Zone 1, peaked at 12 p.m. on April 3 with 20% of parking spaces available, or 35 parking spaces available. At no point during the observational counts were any of the zones observed to be fully occupied.
6. The Restaurant benefits from a high number of walk-in customers. With Design Plaza having multiple office and service uses in proximity to the Restaurant, it serves many customers that were originally patronizing other businesses within the center. Additionally, the Restaurant is in proximity to customers that work within the business center, the nearby offices in Newport Center to the north, and Corporate Plaza to the south. These customers are likely to walk in, especially during the lunch hour, when parking demand peaks.
7. Given the Restaurant is already operating with the expanded outdoor dining area, it is unlikely that approval of the Project will generate additional parking demand beyond what was already observed.
8. The City Traffic Engineer has reviewed and accepted the observational counts as a valid indicator of the parking demand and supply at Design Plaza and has no concerns with the Project.

Finding:

- H. *A parking management plan shall be prepared in compliance with subsection (C) of this section (Parking Management Plan).*

Fact in Support of Finding:

Given the observational counts conclude that on-site parking provided within Design Plaza is adequate to accommodate the expanded outdoor dining area, no parking management plan has been required.

SECTION 4. DECISION.

**NOW, THEREFORE, BE IT RESOLVED:**

1. The Planning Commission of the City of Newport Beach hereby finds this Project is categorically exempt from CEQA pursuant to Section 15301 under Class 1 (Existing Facilities) of the CEQA Guidelines, California Code of Regulations, Title 14, Division 6, Chapter 3, because it has no potential to have a significant effect on the environment.
2. The Planning Commission of the City of Newport Beach hereby approves PA2021-309, subject to the conditions set forth in Exhibit "A," which is attached hereto and incorporated by reference.
3. This action shall become final and effective 14 days following the date this resolution was adopted unless within such time an appeal is filed with the City Clerk in accordance with the provisions of Title 20 (Planning and Zoning) of the NBMC.
4. This resolution supersedes Minor Use Permit No. UP2021-026 (PA2021-135) and UP2003-051 (PA2003-295), Outdoor Dining Permit No. OD2004-002 and Staff Approval No. SA2004-018 (PA2004-220), which upon vesting of the rights authorized by PA2021-309, shall all become null and void.

**PASSED, APPROVED, AND ADOPTED THIS 5<sup>TH</sup> DAY OF SEPTEMBER, 2024.**

AYES:

NOES:

ABSTAIN:

ABSENT:

BY: \_\_\_\_\_  
Mark Rosene, Chair

BY: \_\_\_\_\_  
Dave Salene, Secretary

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## CONDITIONS OF APPROVAL

### **Planning Division**

1. The development shall be in substantial conformance with the approved floor plan stamped and dated with the date of this approval (except as modified by applicable conditions of approval).
2. The Project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
3. This approval shall expire and become void unless exercised within 24 months from the actual date of review authority approval, except where an extension of time is approved in compliance with the provisions of Title 20 (Planning and Zoning) of the NBMC.
4. The Applicant shall comply with all federal, state, and local laws. Material violation of any of those laws in connection with the use may be cause for revocation of this CUP.
5. This CUP may be modified or revoked by the Planning Commission should they determine that the proposed uses or conditions under which it is being operated or maintained is detrimental to the public health, welfare or materially injurious to property or improvements in the vicinity or if the property is operated or maintained so as to constitute a public nuisance.
6. Any change in operational characteristics, expansion in area, or other modification to the approved plans of the restaurant, shall require subsequent review and approval by the Planning Division. If deemed significant, an amendment to this CUP or processing of a new permit may be required.
7. *Hours of operation shall be limited between 7 a.m. and 6 p.m. daily.*
8. *The use of area heaters shall be approved by the Building Division and the Fire Department prior to installation or use. The use of propane heaters and the storage of propane containers on the premises is prohibited, unless otherwise approved by the Fire Department.*
9. *Fences, walls, or similar barriers shall serve to define the outdoor dining area, shall meet the minimum requirements required by the Alcoholic Beverage Control License, and shall not constitute a permanent all-weather enclosure.*
10. *The approved outdoor dining area shall be located on a solid surface. The seating adjacent to the Restaurant shall be limited to the areas as delineated on the approved floor plan only.*
11. Trash receptacles for patrons shall be conveniently located both inside and outside of the establishment, however, not located on or within any public property or right-of-way.

12. All trash shall be stored within the building or within dumpsters stored in the trash enclosure or otherwise screened from view of neighboring properties, except when placed for pick-up by refuse collection agencies.
13. Storage outside of the building, apart from the required trash containers, shall be prohibited.
14. The Applicant shall ensure that the trash dumpsters and/or receptacles are maintained to control odors. This may include the provision of either fully self-contained dumpsters or periodic steam cleaning of the dumpsters, if deemed necessary by the Planning Division. Cleaning and maintenance of trash dumpsters shall be done in compliance with the provisions of Title 14, including all future amendments (including Water Quality related requirements).
15. All noise generated by the proposed use shall comply with the provisions of Chapter 10.26 (Community Noise Control) and other applicable noise control requirements of the NBMC.
16. No outside paging system shall be utilized in conjunction with this food service establishment.
17. Deliveries and refuse collection for the facility shall be prohibited between the hours of 10 p.m. and 7 a.m. on weekdays and Saturdays and between the hours of 10 p.m. and 9 a.m. on Sundays and Federal holidays, unless otherwise approved by the Director of Community Development, and may require an amendment to this CUP.
18. A Special Events Permit is required for any event or promotional activity outside the normal operational characteristics of the approved use, as conditioned, or that would attract large crowds, involve the sale of alcoholic beverages, include any form of on-site media broadcast, or any other activities as specified in the Newport Beach Municipal Code to require such permits.
19. The site shall not be excessively illuminated based on the luminance recommendations of the Illuminating Engineering Society of North America, or, if in the opinion of the Director of Community Development, the illumination creates an unacceptable negative impact on surrounding land uses or environmental resources. The Director may order the dimming of light sources or other remediation upon finding that the site is excessively illuminated.
20. Prior to the issuance of any building permit, a copy of the Resolution, including conditions of approval Exhibit "A" shall be incorporated into the Building Division and field sets of plans.
21. Prior to the issuance of any building permit, the Applicant shall pay any unpaid administrative costs associated with the processing of this application to the Planning Division.

22. Should this business be sold or otherwise come under different ownership, any future owners or assignees shall be notified of the conditions of this approval by either the current owner or the leasing company.
23. To the fullest extent permitted by law, Applicant shall indemnify, defend and hold harmless City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation, attorney's fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to City's approval of **Wild Strawberry Cafe Outdoor Dining Expansion including, but not limited to, PA2021-309**. This indemnification shall include, but not be limited to, damages awarded against the City, if any, costs of suit, attorney's fees, and other expenses incurred in connection with such claim, action, causes of action, suit or proceeding whether incurred by Applicant, City, and/or the parties initiating or bringing such proceeding. The Applicant shall indemnify the City for all of City's costs, attorney's fees, and damages which City incurs in enforcing the indemnification provisions set forth in this condition. The Applicant shall pay to the City upon demand any amount owed to the City pursuant to the indemnification requirements prescribed in this condition.

**Police Department**

24. *The Alcoholic Beverage Control License shall be limited to a Type 41 (On-Sale Beer and Wine – Eating Place). Any substantial change in the ABC license type shall require subsequent review and potential amendment of the Use Permit.*
25. *The expanded outdoor dining area must be licensed by ABC prior to use.*
26. *All owners, managers and employees selling alcoholic beverages shall undergo and successfully complete a certified training program in responsible methods and skills for selling alcoholic beverages within 60 days of hire. This training must be updated every three years regardless of certificate expiration date. The certified program must meet the standards of the certifying/licensing body designated by the State of California. The establishment shall comply with the requirements of this section within 60 days of approval. Records of each owner's manager's and employee's successful completion of the required certified training program shall be maintained on the premises and shall be presented upon request by a representative of the City of Newport Beach.*
27. *Approval does not permit the premises to operate as a bar, tavern, cocktail lounge or nightclub as defined by the NBMC.*
28. *The quarterly gross sales of alcoholic beverages shall not exceed the gross sales of food during the same period. The licensee shall at all times maintain records, which reflect separately the gross sales of food and the gross sales of alcoholic beverages of the licensed business. These records shall be kept no less frequently than on a quarterly basis and shall be made available to the Police Department on demand.*



29. *No alcoholic beverages shall be consumed on any property adjacent to the licensed premises under the control of the licensee.*
30. *There shall be no live entertainment or dancing allowed on the premises.*
31. *Food service from the regular menu shall be made available to patrons until closing.*
32. *Petitioner shall not share any profits or pay any percentage or commission to a promoter or any other person based upon monies collected as a door charge, cover charge, or any other form of admission charge, including minimum drink orders or the sale of drinks.*
33. *Any event or activity staged by an outside promoter or entity, where the Applicant, operator, owner or his employees or representatives share in any profits or pay any percentage or commission to a promoter or any other person based upon money collected as a door charge, cover charge or any other form of admission charge is prohibited.*
34. *“VIP” passes or other passes to enter the establishment, as well as door charges, cover charges, or any other form of admission charge, including minimum drink order of the sale of drinks is prohibited (excluding charges for prix fixe meals).*
35. *Strict adherence to maximum occupancy limits is required.*
36. *The Applicant shall maintain a security recording system with a 30-day retention and make those recording available to police upon request.*
37. *The exterior of the business shall be maintained free of litter and graffiti at all times. The owner or operator shall provide for daily removal of trash, litter, and debris from the premises and on all abutting sidewalks within 20 feet of the premises. Graffiti shall be removed within 48 hours of written notice from the City.*
38. *There shall be no exterior advertising or signs of any kind or type, including advertising directed to the exterior from within, promoting or indicating the availability of alcoholic beverages. Interior displays of alcoholic beverages or signs which are clearly visible to the exterior shall constitute a violation of this condition.*

**Building Division**

39. *Approval from the Orange County Health Department is required.*
40. *Accessible outdoor seating shall be provided.*
41. *An accessible path shall be maintained under the covered walkway.*
42. *Seating areas are not permitted to obstruct exit paths.*

**Fire Department**

43. *Egress to the public walkway shall be maintained at all times.*

# **Attachment No. PC 2**

Crime Statistics

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# NEWPORT BEACH POLICE DEPARTMENT

## 2023 CRIME AND ALCOHOL-RELATED STATISTICS

CHIEF JOSEPH L. CARTWRIGHT

Summary for Wild Strawberry at 240 Newport Center Drive (RD39)

Subject:	DISPATCH EVENTS	REPORTED CRIMES				ARRESTS					CITATIONS
		GROUP A OFFENSES	GROUP B OFFENSES	CRIME RATE	HIGHEST VOLUME	ALL ARRESTS	DUI ALCOHOL	PUBLIC INTOXICATION	LIQUOR LAW	HIGHEST VOLUME	ALCOHOL RELATED
240 Newport Center Drive	15	1	0	N/A	N/A	1	0	0	0	N/A	0
Subject RD: RD39	3,834	506	96	18,123.21	THEFT/LARCENY	243	16	22	0	NARCOTICS	6
Adjacent RD: RD47	524	64	21	3,881.14	BURGLARY & THEFT/LARCENY	33	5	2	0	NARCOTICS	0
Adjacent RD: RD43	400	47	10	1,986.48	BURGLARY	17	3	0	0	DUI	0
Adjacent RD: RD44	2,506	273	105	9,718.76	THEFT/LARCENY	141	19	23	1	DISORDERLY CONDUCT	1
Newport Beach	40,526	5,102	1,439	5,885.07	THEFT/LARCENY	2,732	291	339	7	NARCOTICS	67

*This report reflects City of Newport Beach data for 2022. The NIBRS Group A Offense category is made up of 49 offenses used to report crimes committed within a law enforcement agency's jurisdiction. NIBRS Group B Offenses are less serious offenses that require an arrest to be reportable. Crime Rate refers to the number of Group A Crimes per 100,000 people.*

Subject:	ACTIVE RETAIL ABC LICENSES <small>as of 07/18/2023</small>							ABC CRIME COUNT			
	Population	ON-SALE Licenses	ON-SALE License Per Capita	OFF-SALE Licenses	OFF-SALE License Per Capita	TOTAL RETAIL LICENSES	TOTAL RETAIL LICENSES PER CAPITA	Subject:	CRIME COUNT	DIFF FROM AVG	%DIFF FROM AVG
240 Newport Center Drive	N/A	1	N/A	0	N/A	1	N/A	240 Newport Center Drive	2	N/A	N/A
Subject Census Tract: 630.08	2,408	32	75	4	602	36	67	Subject RD: RD39	430	+312	+264%
Adjacent Census Tract: 626.42	2,849	1	2,849	2	1,425	3	950	Adjacent RD: RD47	65	-53	-45%
Adjacent Census Tract: 627.01	2,667	11	242	2	1,334	13	205	Adjacent RD: RD43	40	-78	-66%
Adjacent Census Tract: 627.02	4,515	15	301	6	753	21	215	Adjacent RD: RD44	261	+143	+121%
Newport Beach	86,694	279	311	66	1,314	345	251	Newport Beach	4,502	RD Average = 118	
Orange County	3,186,989	3,876	822	1,842	1,730	5,718	557				

*All Population figures taken from 2020 US Census. Per BP 23958.4, the "ABC Crime Count" includes offenses of criminal homicide, forcible rape, robbery, aggravated assault, burglary, larceny, theft, and motor vehicle theft, combined with all arrests for other crimes, both felonies and misdemeanors (except traffic citations).*

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# **Attachment No. PC 3**

Project Plans

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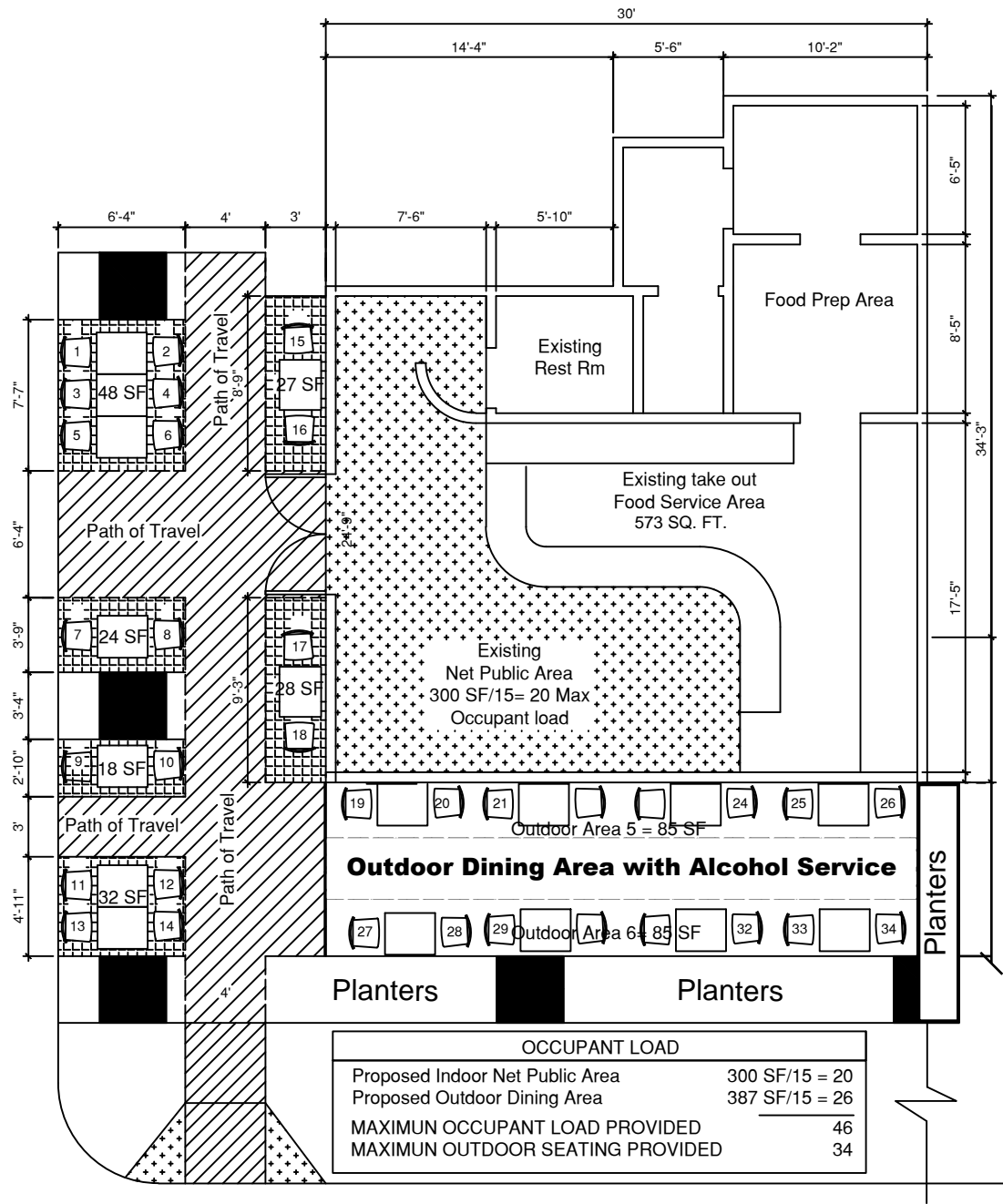
## Existing Wild Strawberry Cafe & Proposed New Outdoor Dining Area Site and Floor Plan

240 Newport Center Dr Suite 100 Newport Beach Ca 92660

	Existing Interior Gross Floor Area 573 SQ. FT.
	Existing Net Public Area 300 SQ. FT.
	Proposed New Outdoor Dining Area to be included in the parking analysis 48+24+18+32+ 56 + 480 = 658 SQ. FT.
	Clear Path of travel Not to be included in the parking analysis

ORIGINAL BUILDING PERMIT PARKING CALCULATION

ORIGINAL BUILDING PERMIT USE AS RETAIL      825 SF  
 PARKING REQUIRED FOR 825 SF / 250 SF=      4 SPACES



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## CITY OF NEWPORT BEACH PLANNING COMMISSION STAFF REPORT

September 5, 2024  
Agenda Item No. 3

**SUBJECT:** Uptown Newport (PA2024-0078)  
▪ Development Agreement No. DA2012-003, Second Amendment

**SITE LOCATION:** 4311 Jamboree Road

**APPLICANT:** TSG – Parcel 1, LLC

**OWNER:** TSG – Parcel 1, LLC

**PLANNER:** Rosalinh Ung, Principal Planner  
949-644-3208 or [rung@newportbeachca.gov](mailto:rung@newportbeachca.gov)

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### **PROJECT SUMMARY**

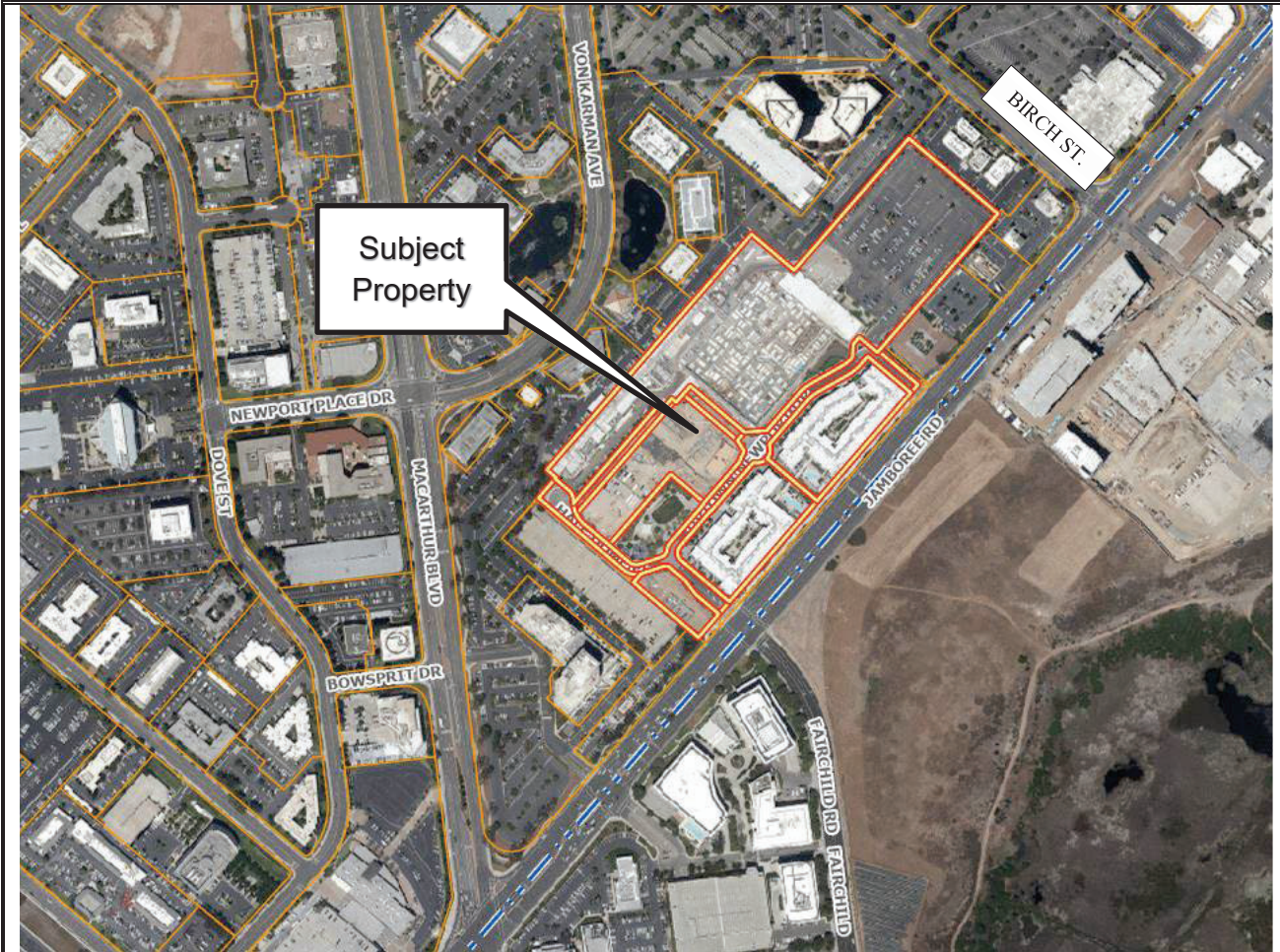
Amendment to Uptown Newport Development Agreement No. DA2012-003 (DA) to allow excess park in-lieu fee credits to be applied towards the applicable public benefit fee obligations as specified in the DA for residential projects located within the Uptown Newport Planned Community (PC-58).

### **RECOMMENDATION**

- 1) Conduct a public hearing;
- 2) All significant environmental concerns for the proposed project have been addressed in the previously certified Environmental Impact Report No. ER2012-001 (SCH No. 2010051094), First Addendum No. ER2012-001, and Second Addendum No. ER2020-001; and
- 3) Adopt Resolution No. PC2024-018 approving Uptown Newport Development Agreement No. DA2012-003, Second Amendment (Attachment No. PC 1).

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**VICINITY MAP**



LOCATION	GENERAL PLAN	ZONING	CURRENT USE
ON-SITE	MU-H2 (Mixed-Use Horizontal 2)	PC-58 (Uptown Newport Planned Community)	Residential - Phase 1 & Industrial (TowerJazz Semiconductor) – Phase 2
NORTH	MU-H2	PC 15 (Koll Center Newport Planned Community)	Office Developments
SOUTH	UCI North Campus	UCI North Campus	UCI North Campus
EAST	MU-H2/UCI North Campus	PC15 & UCI North Campus	Office/Commercial Developments & UCI North Campus
WEST	MU-H2	PC 15	Office Developments

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## **INTRODUCTION**

### **Project Setting**

The subject property is located in the Airport Area and is approximately 25.05 acres in size. Vehicular access to the project site is from Jamboree Road and Birch Street. The site is surrounded to the north, west, and south by commercial/office uses within the Koll Center Newport office park. Jamboree Road borders the eastern property line and the University of California, Irvine North Campus.

### **Background**

#### *Uptown Newport Planned Community (PC-58) Project Approval*

On March 12, 2013, City Council adopted [Ordinance No. 2013-5](#), among other entitlement applications, for the adoption of [Uptown Newport Planned Community](#) (PC-58) consisting of removing existing office and industrial uses in two primary phases and constructing a mixed-use planned community consisting of 1,244 residential units, 11,500 square feet of neighborhood-serving retail space, and approximately two acres of public park.

Phase 1 is located on the westerly side of the property and includes 680 residential units and a one-acre neighborhood park. This phase is nearly completed with a total of 548 residential units allotted to the following projects that are in various improvement stages:

- **One Uptown Newport:** a 458-unit apartment project inclusive of 92 affordable units (completed and occupied);
- **Parkhouse Residences:** a 30-unit condominium project (near completion and issuance of Certificate of Occupancy pending payment of public benefit fees);
- **Uptown Newport Residences:** a 60-unit condominium project (entitled); and
- **Phase 1 Park:** a one-acre public park (improved and open to public).

Of the 132 (680-548) remaining unbuilt residential units for this phase, 77 units have been transferred to the Residences at Bristol Street project (PA2021-161) located in the Airport Area and 55 units to be transferred to Phase 2, as allowed by PC-58.

Phase 2 is located on the easterly side of the property and currently occupied by TowerJazz Semiconductor and its ancillary uses. Timing for Phase 2 construction is contingent on the existing lease with the TowerJazz facility, which has been extended to March 2027. This phase has a total of 619 residential units (564 originally planned + 55 un-built units transferred from Phase 1), 11,500 square feet of retail space transferred from Phase 1, and a remaining one-acre public park.

Exhibit 1 below illustrated the approved phasing plan for PC-58; and the locations of approved/improved residential projects and 1-acre public park in Phase 1.



**Development Agreement (DA2012-003) – 2013 Approval**

In addition to the PC-58 approval, the City Council adopted [Ordinance No. 2013-6](#) to approve Development Agreement No. [DA2012-003](#) (DA) which would vest its development approvals to allow build-out of the project site under development standards and requirements in place at the time of project approval. The term of the DA is 15 years, with two five-year extensions. The DA became effective on April 11, 2013, and earliest expiration could be in 2028 (2013+15).

The public benefits of the DA are listed below:

- Payment of a public benefit fee of \$32,500 per residential dwelling unit developed as part of the project, which is adjusted annually based on the Consumer Price Index (“CPI”). With adjustments, the fee is currently \$44,380/unit;
- Park land dedication and improvements consistent with applicable State law and Municipal Code provisions, including the dedication and improvement of over two acres of on-site public parkland;
- Perpetual private maintenance of over two acres of on-site public parks;



- Improvement of private open space, including paseos and urban plazas that will be accessible to the public and connect Uptown Newport and surrounding properties to promote connectivity and pedestrian travel in the Airport Area; and
- Construction of 102 affordable (very-low income) housing units within Uptown Newport that will provide affordable housing opportunities to Newport Beach residents.

### *First Amendment to DA2012-003*

On May 12, 2015, the City Council adopted [Ordinance 2015-11](#) to approve the [First Amendment to DA](#) (PA2015-015) to allow deferring the payment of public benefit fees to the City from the issuance of building permits to the issuance of certificates of occupancy, as an option; and the payment of fees in-lieu of parkland dedication for all units at the issuance of the first building permit for any unit in a final subdivision map to the issuance of building permits on a per unit basis. The approved First Amendment has no impact on the PC-58 development, the overall terms, condition or development rights specified in the DA; other than the timing of subject payments.

### *Park Dedication Requirements and Credits*

Overall, development of PC-58 requires a total of 13.62 acres of parkland required. With the dedication and completion of the two required parks (2.049 ac), the remaining 11.571 acres of parkland are to be satisfied through the payment of in-lieu park fees in the amount of \$19,941.07 per residential unit.

The applicant is eligible to receive credits against the payment of park in-lieu fees. Specifically, General Plan Land Use Element Policy [LU 6.15.16](#), [Chapter 19.52](#), and the [DA](#) provide for the following three potential credits to park in-lieu fees based on the value of: 1) full construction and improvement costs for completed on-site public parks; 2) up to 30% of on-site open space developed within each individual residential project within PC-58 where it is accessible to the public during daylight hours, visible from public rights-of-way, and is of sufficient size to accommodate recreational use by the public; and, 3) up to 30% of private recreational amenities constructed within each individual residential project within PC-58.

To date, the City has considered and approved two park in-lieu fee credit requests as described below:

- *2017 Approval Park In-Lieu Fees and Credits:* On April 11, 2017, the City Council approved [Resolution No. 2017-23](#) to approve a park in-lieu fee credit in the amount of \$2,008,130.39 for the provision of private recreational facilities and public recreational open space areas within the One Uptown Newport project and an

estimate of public park construction costs of Phase 1 park. This fee credit has been given to One Uptown Newport apartment project.

- *2021 Approval Park In-Lieu Fees and Credits:* On October 27, 2021, the Community Development Director approved [Staff Action Letter](#) (PA2021-165) that identified residual park fees and park in-lieu fee credits for the Phase 1 Park construction costs, the provision of public recreational open space areas around and between the approved Parkhouse Residences and the Uptown Newport Residences projects and their individual private recreational facilities. The total estimated remaining maximum park in-lieu fee credit would be \$824,637.32 and it would be used towards future residential projects in Phase 2, since Phase 1 will be completed upon completion of the two above-mentioned residential projects.

Presently, the DA does not provide for any residual park in-lieu fee credit to be applied towards the payment of required public benefit fees. Any remaining park in-lieu fee credit can only be applied towards future park in-lieu fee payment for future units developed in Phase 2.

## **DISCUSSION**

### **Proposed DA Amendment**

The applicant proposes to amend the DA to allow excess park in-lieu fee credits to be used towards the developer's public benefit fee obligations for residential projects located within PC-58 (Attachment No. PC 2).

As proposed, upon the City's receipt of a complete application for such request with applicable fees including any additional information deemed necessary required by the City, the Community Development Director will consider the request and issue a decision within 60 days. The Community Development Director's decision will be based on whether the request is in compliance with all obligations under the DA and/or applicable condition(s) of approval, including completion of all on-site parks, public recreational open space areas and private recreational amenities, and payment of park in-lieu fees required under Section 3.2.1 of the DA.

For the 30-unit Parkhouse Residences project, the applicant will be responsible for paying a Public Benefit Fee in the amount of \$1,331,426.10 (\$44,380.87/unit) prior to the issuance of Certificate of Occupancy which is anticipated to occur September 2024. Of the \$824,637 unused credit, only \$299,116 is attributed to credits associated with the Parkhouse development and would be available as a credit towards the public benefit fee obligations for this project if the DA Amendment is approved.

The remaining \$598,232 of unused credits is associated with the 60-unit Uptown Newport Residences project yet to be constructed. If the requested DA amendment is approved, the applicant may apply the remaining unused credit towards the public benefit obligations for that project, currently estimated to be approximately \$2,662,852.20.

It should be noted that this DA was the first negotiated for new residential development in the Airport Area of the City. The required public benefit fee of \$44,380 is higher compared to a lower range of \$13,500 to \$24,000 per residential unit for the more-recently approved residential projects in the Airport Area. Therefore, the applicant has requested this amendment to help offset their overall project costs.

Staff supports the proposed amendment as drafted and attached as Exhibit "A" to the draft resolution.

Environmental Review

All significant environmental concerns for the proposed project have been addressed in the previously certified Environmental Impact Report No. ER2012-001 (SCH No. 2010051094), First Addendum No. ER2012-001, and Second Addendum No. ER2020-001, and the City of Newport Beach intends to use said documents for the above noted project, and further that there are no additional reasonable alternative or mitigation measures that should be considered in conjunction with said project. The previously prepared environmental documents for the Uptown Newport project are available for public review at [www.newportbeachca.gov/CEQA](http://www.newportbeachca.gov/CEQA).

Public Notice

Notice of this hearing was published in the Daily Pilot, mailed to all owners of property within 300 feet of the boundaries of the site (excluding intervening rights-of-way and waterways) including the applicant, and posted on the subject property at least 10 days before the scheduled meeting, consistent with the provisions of the Municipal Code. Additionally, the item appeared on the agenda for this meeting, which was posted at City Hall and on the city website.

Prepared by:

Submitted by:

  
\_\_\_\_\_  
Rosalinh Ung  
Principal Planner

  
\_\_\_\_\_  
Jaime Murillo, AICP  
Deputy Community Development Director

**ATTACHMENTS**

- PC 1 Draft Resolution For Approval
- PC 2 The Applicant's Letter of Request

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**Attachment No. PC 1**  
Draft Resolution for Approval

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## RESOLUTION NO. PC2024-018

### **A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF NEWPORT BEACH, CALIFORNIA RECOMMENDING CITY COUNCIL APPROVAL OF THE SECOND AMENDMENT TO DEVELOPMENT AGREEMENT NO. DA2012-003 FOR THE UPTOWN NEWPORT PROJECT LOCATED AT 4311 JAMBOREE ROAD (PA2024-0078)**

THE PLANNING COMMISSION OF THE CITY OF NEWPORT BEACH HEREBY FINDS AS FOLLOWS:

#### SECTION 1. STATEMENT OF FACTS.

1. An application was filed by TSG-Parcel 1, LLC. ("Applicant") with respect to a 25.05-acre property located at 4311-4321 Jamboree Road, legally described as Parcels 1 through 4 of Parcel Map No. 2013-108 ("Property").
2. The Applicant proposes to amend Development Agreement No. DA2012-003 ("DA"), to allow excess park in-lieu fee credits to be applied towards applicable public benefit fee obligations as specified the DA for residential projects located within the Uptown Newport Planned Community ("Project").
3. The Property is designated Mixed-Use Horizontal 2 (MU-H2) by the General Plan Land Use Element and located within the Uptown Newport Planned Community Zoning District (PC-58).
4. The Property is not located within the coastal zone; and therefore, a coastal development permit is not required.
5. The Newport Beach City Council ("City Council") adopted Ordinance No. 2013-5 on March 12, 2013, approving the Uptown Newport Planned Community Development Plan ("Uptown Newport PC").
6. The City Council adopted Ordinance No. 2013-6 on March 12, 2013, approving the DA for the development of up to 1,244 residential dwelling units, 11,500 square feet of retail commercial uses and 2.05 acres of parklands. Ordinance No. 2013-6 became effective on or around April 11, 2013.
7. The DA is dated March 12, 2013, for reference purposes, and was recorded in the Official Records of Orange County on March 26, 2013, as document number 2013000180939.
8. The Applicant transferred ownership of individual parcels that comprise the entire Property on February 14, 2014 and assigned the DA as it pertains to Parcel 1 to TSG-Parcel 1, LLC, a Delaware limited liability company; as it pertains to Parcels 2 and 4 to Uptown Newport Jamboree, LLC, a Delaware limited liability company; and as it pertains to Parcel 3 to TPG/TSG Venture I Acquisition, LLC, a Delaware limited liability company (collectively, the

“Landowners”) with each Landowner agreeing to be bound by all the terms, covenants and conditions relating to the Property.

9. The City Council adopted Ordinance No. 2015-11 on May 12, 2015, approving the First Amendment to the DA to amend the following sections:
  - a. Section 3.1: To defer the payment of public benefit fees to the City from the issuance of building permits to the issuance of certificates of occupancy; and
  - b. Section 3.2.1: To defer the payment of fees in-lieu of parkland dedication for all units at the issuance of the first building permit for any unit to the issuance of building permits on a per-unit basis.
10. The City Council adopted Resolution No. 2017-23 on April 11, 2017, approving a park in-lieu fee credit in the amount of \$2,008,130.39 for the provision of private recreational facilities and public recreational open space areas within the One Uptown Newport apartment project and an estimate of public park construction costs of Phase 1 park in Uptown Newport PC.
11. The Community Development Director approved Staff Action Letter (PA2021-165) on October 27, 2021, identifying residual park fees and park in-lieu fee credits for the Phase 1 park construction costs, the provision of public recreational open space areas around and between the Parkhouse Residences and the Uptown Newport Residences projects and their individual private recreational facilities. The total estimated remaining maximum park in-lieu fee credit that can be given and applied towards future park in-lieu fee payment within Uptown Newport PC would be approximately \$824,637.
12. The Deputy Community Development Director issued a letter on January 20, 2022, denying a request to have the remaining park in-lieu fee credits available from Uptown Newport PC Phase 1 development in the amount of \$824,637 to be applied towards public benefit fees to be paid by the Parkhouse Residences project as the DA does not provide for any credit to public benefit fees. Section 3.1 of the DA provides for public benefit fees to be adjusted annually based on a consumer price index factor but does not provide for any credit to public benefit fees.
13. The Property Owners submitted an application on May 7, 2024, requesting an amendment to the DA to allow park in-lieu fee credits be applied towards public benefit fees. The Second Amendment to the Development Agreement (“Second Amendment”), which would authorize park in-lieu fee credits to be applied towards public benefit fees in certain limited circumstances, is attached hereto as Exhibit “A,” and incorporated herein by reference.
14. A public hearing was held on September 5, 2024, in the Council Chambers at 100 Civic Center Drive, Newport Beach, California. A notice of the time, place, and purpose of the hearing was given in accordance with Government Code Section 54090 *et seq.* (“Ralph M. Brown Act”) and Chapters 15.45 (Development Agreements) and 20.62 (Public Hearings) of the Newport Beach Municipal Code (“NBMC”). Evidence, both written and oral, was presented to and considered by, the Planning Commission at this hearing.



SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.

1. The City Council adopted Resolution No. 2013-21 on February 26, 2013, certifying Environmental Impact Report ER2012-001 (SCH No. 2010051094) ("EIR") and approving a Mitigation Monitoring and Reporting Program ("MMRP") for the Uptown Newport PC.
2. The Planning Commission adopted Resolution No. 2052 on March 23, 2017, approving an Addendum to the EIR ("Addendum No. 1") to allow alternative locations and construction phasing of the commercial component of Uptown Newport PC.
3. The City Council adopted Resolution No. 2020-71 on July 28, 2020, approving an Addendum to the EIR ("Addendum No. 2") to modify Mitigation Measures and approve Mitigation Monitoring and Reporting Program of the EIR related to hazardous materials within Uptown Newport PC.
4. All significant environmental concerns for the Uptown Newport PC have been addressed in the previously certified Environmental Impact Report No. ER2012-001 (SCH No. 2010051094), First Addendum No. ER2012-001 and Second Addendum No. ER2020-001 and the City intends to use said documents for the above-noted Project, and further there are no additional reasonable alternative or mitigation measures that should be considered in conjunction with said Project. The previously prepared environmental documents are available for public review at the City of Newport Beach website here: [Uptown Newport-CEQA](#).
5. The Planning Commission finds that judicial challenges to the City's CEQA determinations and approvals of land use projects are costly and time-consuming. In addition, project opponents often seek an award of attorneys' fees in such challenges. As project applicants and Landowners are the primary beneficiaries of such approvals, it is appropriate that such applicants and Landowners should bear the expense of defending against any such judicial challenge, and bear the responsibility for any costs, attorneys' fees, and damages that may be awarded to a successful challenger.

SECTION 3. REQUIRED FINDINGS.

In accordance with Chapter 15.45 (Development Agreements) of the NBMC, the following findings and facts in support of such findings are set forth:

Finding:

- A. *The Second Amendment is consistent with the General Plan and the Uptown Newport Planned Community Development Plan (PC-58), Municipal Code and Subdivision Map Act.*

Facts in Support of Finding:

1. The Second Amendment will continue to allow the development of a mixed-use community, containing a mix of housing types, supporting retail and active parklands,

consistent with the land uses, densities and intensities of the Uptown Newport PC which is the zoning document for the Project, the General Plan Land Use designation of Mixed-Use Horizontal-2 and the Airport Business Area Integrated Conceptual Development Plan.

2. The changes included in the Second Amendment are to allow the Landowners, in the event the Landowners complete park land dedication and improvements which consist of on-site parks, public recreational open space areas and private recreational amenities, and credits have been identified in connection with the completion of those park land dedication and improvements that exceed any remaining park in-lieu fee requirements (“unused credits”), the Landowners may submit an application to the City to use the unused credits, or a portion thereof, towards the Landowners’ public benefit fee obligations set forth in Section 3.1 or Section 3.2.1 of the DA.
3. The Landowners understand and agree that the park land dedication fees collected pursuant to Government Code Section 66477 (Quimby Act), Chapter 19.52 (Park Dedications and Fees) of the NBMC and Section 3.2.1 of the DA are only to be used for park-related purposes. Therefore, the Landowners understand and agree that only the unused credit that exceed all park in-lieu fee requirements are eligible as credits against the payment of park in-lieu fees required in Section 3.2.1 of DA.
4. These changes do not add any lots, units, building sites or structures to the Project and does not change the approved design or uses allowed by the Uptown Newport PC. The park in-lieu fee payments and parkland dedication will remain a requirement for Uptown Newport PC.
5. The Uptown Newport PC project approval included detailed findings and facts in support of these findings that demonstrate the Project’s conformity with, among other things, the General Plan, PC-58, NBMC and the Subdivision Map Act. All of those findings are still applicable to the Project and are incorporated by reference into this Resolution.

**SECTION 4. DECISION.**

**NOW, THEREFORE, BE IT RESOLVED:**

1. The Statement of Facts, CEQA Determination and Required Findings set forth above are true and correct and incorporated herein by reference.
2. The Planning Commission of the City of Newport Beach hereby recommends the City Council approve the Second Amendment to Development Agreement No. DA2012-003 attached as Exhibit “A.”

**PASSED, APPROVED, AND ADOPTED THIS 5th DAY OF SEPTEMBER, 2024.**

AYES:

NOES:

ABSTAIN:

ABSENT:

BY: \_\_\_\_\_  
Mark Rosene, Chair

BY: \_\_\_\_\_  
David Salene, Secretary

Attachment: Exhibit A – Second Amendment to Development Agreement No. DA2012-003

**EXHIBIT "A"**

Second Amendment to Development Agreement No. DA2012-003

RECORDING REQUESTED BY  
AND WHEN RECORDED RETURN TO:

City of Newport Beach  
100 Civic Center Drive  
Newport Beach, CA 92660  
Attn: City Clerk

---

(Space Above This Line Is for Recorder's Use Only)

This Agreement is recorded at the request and for the benefit of the City of Newport Beach and is exempt from the payment of a recording fee pursuant to Government Code Sections 6103 and 27383.

## **SECOND AMENDMENT TO DEVELOPMENT AGREEMENT**

**between**

**CITY OF NEWPORT BEACH**

**and**

**TSG-PARCEL 1, LLC, TPG/TSG VENTURE I ACQUISITION, LLC, AND  
UPTOWN NEWPORT JAMBOREE, LLC**

**CONCERNING UPTOWN NEWPORT PROPERTY**

**SECOND AMENDMENT TO DEVELOPMENT AGREEMENT**

**(Pursuant to Newport Beach Municipal Code Chapter 15.45 and California Government Code sections 65864-65869.5)**

This SECOND AMENDMENT TO DEVELOPMENT AGREEMENT (the “**Second Amendment**”) is dated for reference purposes as of the \_\_\_\_ day of \_\_\_\_\_, 2024 (the “**Amendment Date**”), and is being entered into by and between the CITY OF NEWPORT BEACH (“**City**”), on the one hand, and TSG-Parcel 1, LLC, a Delaware limited liability company, TPG/TSG Venture I Acquisition, LLC, a Delaware limited liability company and Uptown Newport Jamboree, LLC, a Delaware limited liability company (collectively, the “**Landowner**” or “**Landowners**”), on the other. City and Landowners are sometimes collectively referred to in this Second Amendment as the “**Parties**” and individually as a “**Party**.”

**RECITALS**

A. Uptown Newport LP, a Delaware limited partnership was the owner of that certain real property located in the City of Newport Beach, County of Orange, State of California commonly referred to as Uptown Newport, located at 4311-4321 Jamboree Road (Assessor Parcel Nos. 445-131-02 and 445-131-03) (the “**Property**”).

B. City and Uptown Newport LP entered into that certain Development Agreement dated March 12, 2013, for reference purposes and recorded in the Official Records of Orange County on March 26, 2013, as document number 2013000180939 (the “**Agreement**”). All terms not otherwise defined in this Second Amendment shall have the meanings given them in the Agreement.

C. Uptown Newport, LP transferred ownership of individual parcels that comprise the entire Property and assigned the Agreement as it pertains to Parcel 1 to TSG-Parcel 1, LLC, a Delaware limited liability company; as it pertains to Parcel 3 to TPG/TSG Venture I Acquisition, LLC, a Delaware limited liability company; and as it pertains to Parcels 2 and 4 to Uptown Newport Jamboree, LLC, a Delaware limited liability company as recorded in the Official Records of Orange County on February 14, 2014, as document numbers 2014000060354 and 2014000060352 (the “**Partial Assignment**” or “**Partial Assignments**”).

D. With the transfer of ownership of Parcels 1-4, the legal description of the Property as described in Exhibit “A” to the Agreement remains the same, however, new street addresses and Assessor Parcel Nos. were established as set forth in Exhibit “C” to this Second Amendment, which is attached hereto and incorporated herein by reference.

E. The City Council adopted Ordinance No. 2015-11 on May 12, 2015, approving the First Amendment to Development Agreement (“**First Amendment**”) adjusting provisions related to the timing of payment of public benefit fees and park in-lieu fees which was recorded in the Official Records of Orange County on July 6, 2015, as document number 2015000349840.

F. The Parties now wish to enter into this Second Amendment to allow the Landowners, upon completion of parkland dedication and improvements, to submit an

application to the City to use any unused fee credits, or a portion thereof, towards Landowners' Public Benefit Fee obligations.

G. On March 13, 2007, the City Council adopted Ordinance No. 2007-6, entitled "Ordinance Amending Chapter 15.45 of City of Newport Beach Municipal Code Regarding Development Agreements" (the "**Development Agreement Ordinance**"). This Second Amendment is consistent with the Development Agreement Ordinance.

H. This Second Amendment is consistent with the City of Newport Beach General Plan, including without limitation the General Plan's designation of the Property as "Mixed-Use Horizontal-2," Airport Business Area Integrated Conceptual Development Plan, and the Uptown Newport Planned Community Development Plan.

I. On September 5, 2024, the Planning Commission held a properly noticed public hearing on this Second Amendment and considered the testimony and information submitted by City staff, Landowners, and members of the public. On September 5, 2024, consistent with applicable provisions of the Development Agreement Statute and Development Agreement Ordinance, the Planning Commission adopted Resolution No. \_\_\_\_\_, recommending the City Council approve this Second Amendment.

J. In recognition of the significant public benefits that the Agreement, as amended, provides, the City Council has found that this Second Amendment: (i) is consistent with the City of Newport Beach General Plan as of the date of the Agreement, the First Amendment and this Second Amendment; (ii) is in the best interests of the health, safety, and general welfare of City, its residents, and the public; (iii) is entered into pursuant to, and constitutes a present exercise of, City's police power; (iv) is consistent and has been approved consistent with the final Environmental Impact Report (No. ER2012-001) (SCH#2010051094) ("**EIR**") that has been certified by the City Council on or before the Agreement Date, which analyzed the environmental effects of the proposed development of the Project on the Property, and all of the findings, conditions of approval and mitigation measures related thereto; and (v) is consistent and has been approved consistent with provisions of California Government Code section 65867 *et seq.* and Chapter 15.45 of the Newport Beach Municipal Code.

K. On \_\_\_\_\_, 2024, the City Council held a properly noticed public hearing on this Second Amendment and considered the testimony and information submitted by City staff, Landowners, and members of the public. On \_\_\_\_\_, 2024, consistent with applicable provisions of the Development Agreement Statute and Development Agreement Ordinance, the City Council held second reading and adopted Ordinance No. 2024-\_\_\_\_, finding the Second Amendment to be consistent with the City of Newport Beach General Plan and approving this Second Amendment.

#### AGREEMENT

NOW, THEREFORE, City and Landowners agree as follows:

1. A new Section 4.6 (Park In-Lieu Fee Credits) is hereby added to the Agreement as follows:

#### “4.6 Park In-Lieu Fee Credits.

Section 3.1 of this Agreement requires that a “Public Benefit Fee” be paid by Landowners to the City in the amount of Thirty-Two Thousand Five Hundred Dollars and 00/100 (\$32,500.00) for every residential unit in the Project, which is due and payable on a per-unit basis at the time of issuance of building permit or certificate of occupancy (timing for payment in Landowners’ discretion), which amount increases beginning on January 1, 2015, pursuant to the First Amendment to Development Agreement by the percentage increase in the CPI Index between the Effective Date (as that term is defined in this Agreement) and said January 1<sup>st</sup> date (the first “Adjustment Date”) and further subject to subsequent increases on January 1st of each following year based the percentage increase in the CPI Index in the preceding year.

In addition, Section 3.2.1 of this Agreement acknowledges that pursuant to Government Code Section 66477 and Chapter 19.52 of the Newport Beach Municipal Code, Landowners are required to construct certain park improvements and to pay parkland dedication in-lieu fees in connection with the Project and that Landowners are eligible to receive credits against the payment of park in-lieu fees to be used for the limited purpose as a credit against the Landowners’ park fee(s) and/or park dedication requirements in accordance with General Plan Policy LU 6.15.16 for Public Recreational Open Space Areas, Section 19.52.030(B) of the Municipal Code for On-Site Park construction and improvement costs, and Section 19.52.080 of the Municipal Code for Private Recreational Amenities.

In the event Landowners complete Park Land, also referred to as Parkland, Dedication and Improvements which consist of On-Site Parks, Public Recreational Open Space Areas and Private Recreational Amenities, and credits have been identified in connection with the completion of those park land dedication and improvements that exceed any remaining park in-lieu fee requirements, (the “Unused Credits”), Landowners may submit an application to the City to apply the Unused Credits, or a portion thereof, towards Landowners Public Benefit Fee obligations set forth in Section 3.1 or Section 3.2.1.

Upon the City’s receipt of a complete application and applicable fees including any additional requests for information that are deemed necessary by the City, the Community Development Director shall issue his or her decision within sixty (60) days. The Community Development Director’s decision shall be based on whether Landowners are in compliance with all obligations under this Agreement and/or condition(s) of approval for the Project, including completion of all On-Site Parks, Public Recreational Open Space Areas and Private Recreational Amenities, and payment of park in-lieu fees required under Section 3.2.1.

Notwithstanding the foregoing, Landowners understand and agree that the park land dedication fees collected pursuant to Government Code Section 66477 (Quimby Act), Chapter 19.52 of the Municipal Code and Section 3.2.1 of the



Agreement are only to be used for park-related purposes. Landowners understand and agree that only the Unused Credit that exceed all park in-lieu fee requirements are eligible as credits against the payment of park in-lieu fees required in Section 3.2.1.”

2. The City’s address set forth in Section 13.1 (Notices) of the Agreement is hereby amended as follows:

TO CITY: City of Newport Beach  
 100 Civic Center Drive  
 Newport Beach, California 92660  
 Attn: City Manager

With a copy to: City of Newport Beach  
 100 Civic Center Drive  
 Newport Beach, California 92660  
 Attn: City Attorney

3. All of the Recitals in this Second Amendment are incorporated into the Agreement. Exhibits A and B are attached to the original Agreement and Exhibit C, which is attached hereto and incorporated by reference to this Second Amendment. Exhibits A through C are incorporated by reference to the Agreement, First Amendment and Second Amendment as follows:

EXHIBIT DESIGNATION	DESCRIPTION
A	Legal Description of Property
B	Depiction of the Property
C	Property Addresses and Assessor Parcel Numbers

4. **Full Force and Effect.** Except as modified by this Second Amendment, the First Amendment and Agreement shall remain in full force and effect.

5. **Recitals.** The Recitals set forth above are true and correct and incorporated herein by reference.

6. **Counterparts.** This Second Amendment may be signed by the Parties in different counterparts and the signature pages combined shall create a single document binding on all Parties.

7. **Recordation.** The City Clerk of City shall record this Second Amendment in the Office of the County Recorder of the County of Orange within the period required by California Government Code section 65868.5 and City of Newport Beach Municipal Code section 15.45.100. The date of this Second Amendment and the date of recordation of this Second Amendment shall not modify or amend the Effective Date or the Termination Date of the Agreement.

**[SIGNATURE PAGE FOLLOWS]**

**LANDOWNERS SIGNATURE PAGE TO  
SECOND AMENDMENT TO DEVELOPMENT AGREEMENT**

**“LANDOWNERS”**

UPTOWN NEWPORT JAMBOREE, LLC,  
a Delaware limited liability company

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

TPG/TSG VENTURE I ACQUISITION, LLC,  
a Delaware limited liability company

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

TSG-PARCEL 1, LLC,  
a Delaware limited liability company

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**CITY SIGNATURE PAGE TO  
SECOND AMENDMENT TO DEVELOPMENT AGREEMENT**

**“CITY”**

CITY OF NEWPORT BEACH

By: \_\_\_\_\_  
Will O’Neill, Mayor

**ATTEST:**

\_\_\_\_\_  
Leilani I. Brown, City Clerk

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Aaron C. Harp, City Attorney

**Attachment:** Exhibit C - Property Addresses and Assessor Parcel Numbers

**ACKNOWLEDGMENT**

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California  
County of \_\_\_\_\_ }

On \_\_\_\_\_, 20\_\_\_\_ before me, \_\_\_\_\_, Notary Public, personally appeared \_\_\_\_\_, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signatures(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

\_\_\_\_\_  
Signature (seal)

**ACKNOWLEDGMENT**

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California  
County of \_\_\_\_\_ }

On \_\_\_\_\_, 20\_\_\_\_ before me, \_\_\_\_\_, Notary Public, personally appeared \_\_\_\_\_, proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signatures(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

\_\_\_\_\_  
Signature (seal)

## EXHIBIT C

### PROPERTY ADDRESSES AND ASSESSOR PARCEL NUMBERS

#### APNs:

445-134-01 thru 16, 18 thru 34, and 36

445-133-07 and 08

#### Addresses:

4141 Jamboree

4201 Jamboree

4301 Jamboree

4321 Jamboree

4251, 4261, 4271, 4281, 4291 Uptown Newport Drive

4288 Half Dome Place

**Attachment No. PC 2**  
The Applicant's Letter of Request

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May 7, 2024

Jaime Murillo,  
Acting Deputy Director  
Community Development  
City of Newport Beach  
100 Civic Center Drive  
Newport Beach, CA 92660

RE: Uptown Newport Development Agreement Amendment Application

Dear Mr. Murillo:

Thank you for taking the time to meet with me to discuss a proposed Development Agreement Amendment for the Uptown Newport Planned Community (Uptown). As we discussed, the City previously determined that there are excess Park Fee Credits from the development of Phase 1 of the Uptown project

Uptown Newport Phase 1 Park In-Lieu Fee Credits were determined with Community Development Director Action Letter PA2021-165 on October 27, 2021. This determination identified Park Fee credits for the Parkhouse Residences (30 DU) and the USAI Condominium (60 DU) projects, including credits for public park construction costs, private recreational facilities, and public recreational open space areas. The remaining in-lieu Park Fee credits are \$824,637.32.

The City previously acknowledged that the excess Park Fee Credits can be used to offset future Park In-Lieu Fees in Phase 2. We are providing the attached application and proposed amendment to the Uptown Development Agreement to allow the excess Park Fee Credits to be used to offset other Development Impact Fees of Public Benefit Fees within the Uptown project.

A deposit fee of \$5,000 and mailing labels will be provided under separate cover from this letter. Please feel free to contact me at 949-302-4668 or [brupp@shopoff.com](mailto:brupp@shopoff.com) if you have any questions or need any additional information.

Sincerely,



Brian G. Rupp  
Executive Vice President – Real Estate  
TSG-Venture 1, LLC

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# CITY OF NEWPORT BEACH PLANNING COMMISSION STAFF REPORT

September 5, 2024  
Agenda Item No. 4

**SUBJECT:** Amendment to the 6<sup>th</sup> Cycle Housing Element (PA2022-0245)  
▪ General Plan Amendment

**SITE LOCATION:** Citywide

**APPLICANT:** City of Newport Beach

**PLANNER:** Benjamin M. Zdeba, AICP, Planning Manager  
949-644-3253, [bzdeba@newportbeachca.gov](mailto:bzdeba@newportbeachca.gov)

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## **PROJECT SUMMARY**

For the Planning Commission's consideration is a narrowly focused amendment to the City's adopted and certified 6<sup>th</sup> Cycle Housing Element that would revise portions of Section 3 (Housing Constraints, Resources, and Affirmatively Furthering Fair Housing) and Section 4 (Housing Plan) to change the narrative and implementing actions to remove the requirement for a vote of the electorate pursuant to Charter Section 423.

## **RECOMMENDATION**

- 1) Conduct a public hearing;
- 2) Find that all significant environmental concerns for the City's Housing Element and its implementation have been addressed in a previously certified environmental document (Housing Element Implementation Program Environmental Impact Report [PEIR] – State Clearinghouse Number 2023060699); and
- 3) Adopt Resolution No. PC2024-019 recommending the City Council's adoption of the Amendment (Attachment No. PC 1).

## **INTRODUCTION**

### **Background**

The Housing Element is a required element, or chapter, of the General Plan. It presents how a city plans to accomplish the state-mandated Regional Housing Needs Allocation (RHNA) on sites within city limits. Local jurisdictions, like the City of Newport Beach (City), are responsible for creating a regulatory environment in which the private market can build the unit types included in the RHNA. The City is required to prepare an update to its housing element every eight years.

After conducting wide-ranging public outreach involving extensive public participation opportunities, including numerous meetings of the City Council-appointed Housing Element Update Advisory Committee (HEUAC), the City Council adopted the [City's 6<sup>th</sup> Cycle Housing Element](#) for the 2021-2029 planning period (Housing Element) on September 13, 2022. The Housing Element was later certified as statutorily compliant with state law by the California Department of Housing and Community Development (HCD) on October 5, 2022.

Since adoption and certification, the City has diligently pursued implementation in alignment with Housing Element Policy Actions 1A through 1G, which collectively serve to rezone sites identified in Appendix B of the Housing Element to allow for residential development. To remain compliant, the amendments must take effect by the statutory deadline of February 2025. Should the City not meet this deadline, the Housing Element may be considered non-compliant with state housing law. This will enable developers of affordable housing projects to have their residential projects approved as a "builder's remedy" in accordance with the Housing Accountability Act allowing higher density housing on any site. Further ramifications could include but are not limited to increased exposure to public and private litigation, loss of permitting authority, financial penalties, loss of eligibility for state and regional funding sources, court receivership, and increased exposure to monitoring by the newly formed Housing Accountability Unit of HCD.

A public hearing was held by the City Council on July 23, 2024, to consider the implementing amendments of the Housing Element. At the conclusion of the hearing, the City Council adopted the following resolutions to take the related actions:

- **CEQA Clearance:** [Resolution No. 2024-50](#) Certifying Environmental Impact Report (State Clearinghouse SCH Number 2023060699), Including a Mitigation Monitoring and Reporting Program and Adopting Findings, and a Statement of Overriding Considerations Related to the Housing Element Implementation Program Involving Amendments to the General Plan, Coastal Land Use Plan, and Title 20 (Planning and Zoning) and Title 21 (Local Coastal Program Implementation Plan) of the Newport Beach Municipal Code;
- **Land Use Element Amendment:** [Resolution No. 2024-51](#) Amending the General Plan Land Use Element to Implement the General Plan Housing Element Implementation Program;
- **Local Coastal Program Amendment:** [Resolution No. 2024-52](#) Authorizing the Submittal of a Local Coastal Program Amendment to the California Coastal Commission to Amend the City of Newport Beach Coastal Land Use Plan and Title 21 (Local Coastal Program Implementation Plan) of the Newport Beach Municipal Code Related to the Implementation of the Housing Element;

- **ALUC Override:** [Resolution No. 2024-53](#) Finding the Housing Element Implementation Amendments Consistent with the Purposes of the State Aeronautics Act and Overriding the Orange County Airport Land Use Commission's Determination of Inconsistency with the 2008 John Wayne Airport Environs Land Use Plan; and
- **Initiation of Housing Element Amendment:** [Resolution No. 2024-58](#) Initiating a Narrowly Focused Amendment to the Adopted and Certified 6<sup>th</sup> Cycle Housing Element to Remove the Reference to Charter Section 423 Voter Approval.

Also, at the conclusion of the public hearing on July 23, 2024, the City Council introduced the following two ordinances, initiating the following actions for adoption at a future meeting:

- **Zoning Code Amendment for Overlay Rezoning:** [Ordinance No. 2024-16](#) Amending Title 20 (Planning and Zoning) of the Newport Beach Municipal Code to Implement the General Plan 6th Cycle Housing Element; and
- **Zoning Code Amendment for Objective Design Standards:** [Ordinance No. 2024-17](#) Amending Title 20 (Planning and Zoning) of the Newport Beach Municipal Code to Create Multi-Unit Objective Design Standards.

It is important to highlight that, with all the above-mentioned actions, the City Council determined that a vote of the electorate pursuant to Charter Section 423 is precluded by state law given the mandate to plan and provide capacity for the RHNA. The full City Council discussion as captured by the minutes from the meeting is included as Attachment No. PC 3.

#### Narrowly Focused Amendment

In accordance with the City Council's action and direction through the adoption of Resolution No. 2024-058 (Attachment No. PC 2), City staff prepared a narrowly focused amendment to the Housing Element. The proposed amendment involves targeted revisions to Section 3 (Housing Constraints, Resources, and Affirmatively Furthering Fair Housing) and Section 4 (Housing Plan) of the Housing Element. Both sets of revisions serve to modify the narrative and implementing actions related to removing the requirement for a vote of the electorate pursuant to Charter Section 423. The balance of the Housing Element, including the sites analysis and all Policy Actions would remain unchanged.

A redline-strikeout version of Section 3 is included in this report as Attachment No. PC 4.

A redline-strikeout version of Section 4 is included as Attachment No. PC 5.

As required by state law, on July 26, 2024, City staff published online and circulated the draft to previously interested parties for a seven-day public review period. Direct recipients included The Kennedy Commission, People for Housing Orange County, Still Protecting Our Newport (SPON), The Public Law Center, and YIMBY Law.

At the conclusion of the seven-day public review period on August 2, 2024, City staff transmitted the draft amendment to the State Department of Housing and Community Development (HCD) for a formal review along with one piece of written correspondence received from Jim Mosher, included as Attachment No. PC 6 to this report. No other correspondence was received in response to the published and circulated amendment.

On August 20, 2024, the City received a letter from HCD confirming the amendment maintains the City's compliant status and, with its adoption, the Housing Element will remain certified as statutorily compliant. This letter is incorporated into the draft resolution as Exhibit "A" (Attachment No. PC 1).

#### Next Steps

If the amendment is recommended to the City Council for adoption, then it will be brought to the City Council on September 24, 2024, for consideration. Alongside this amendment, the City Council will consider Ordinance Nos. 2024-16 and 2024-17 for adoption and second reading to approve the rezoning and to establish new multi-unit objective design standards. With a favorable recommendation and adoption by the City Council, the City will fulfill its rezoning obligation in compliance with the statutory deadline, a necessary action in order to maintain certification of a compliant Housing Element throughout the 2021-2029 planning period.

#### Environmental Review

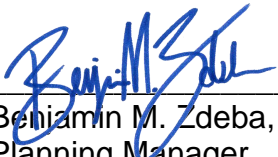
Implementation of the Housing Element was evaluated in the Housing Element Implementation Program Amendments Final Program Environmental Impact Report (PEIR) (SCH No. 2023060699), which was prepared in compliance with the California Environmental Quality Act (CEQA) as set forth in the Public Resources Code Sections 21000 et seq., Title 14, Division 6, Chapter 3 of the California Code of Regulations (CEQA Guidelines), and City Council Policy K-3 (Implementation Procedures for the California Environmental Quality Act). On July 23, 2024, the City Council adopted Resolution No. 2024-50, to certify the PEIR as complete and adequate, inclusive of all required findings, a statement of overriding considerations, and a mitigation monitoring reporting program.

#### Public Notice

Given the citywide nature of this activity, notice of this hearing was published in the Daily Pilot in a one-eighth-page format at least 10 days before the scheduled meeting, consistent with Section 20.62.020(B)(2)(c) of the NBMC. Additionally, the item appeared on the agenda for this meeting, which was posted at City Hall and on the City website.

Prepared by:

Submitted by:

  
\_\_\_\_\_  
Benjamin M. Zdeba, AICP  
Planning Manager

  
\_\_\_\_\_  
Jaime Murillo, AICP  
Deputy Community Development Director

**ATTACHMENTS**

- PC 1 Draft Resolution
- PC 2 City Council Resolution No. 2024-058
- PC 3 City Council Meeting Minutes from July 23, 2024
- PC 4 Housing Element Section 3 Redline-Strikeout
- PC 5 Housing Element Section 4 Redline-Strikeout
- PC 6 Correspondence

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# **Attachment No. PC 1**

Draft Resolution

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**RESOLUTION NO. PC2024-019**

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF NEWPORT BEACH, CALIFORNIA, RECOMMENDING THE CITY COUNCIL ADOPT A NARROWLY FOCUSED AMENDMENT TO THE ADOPTED AND CERTIFIED 6<sup>TH</sup> CYCLE HOUSING ELEMENT FOR THE 2021-2029 PLANNING PERIOD (PA2022-0245)**

THE PLANNING COMMISSION OF THE CITY OF NEWPORT BEACH HEREBY FINDS AS FOLLOWS:

SECTION 1. STATEMENT OF FACTS.

1. Section 65580 *et seq.* of the Government Code requires each city and county adopt a housing element that identifies and analyzes existing and projected housing needs within their jurisdiction and prepare goals, policies, and programs, and quantified objectives to further the development, improvement, and preservation of housing.
2. The City of Newport Beach (“City”) 6<sup>th</sup> Cycle Housing Element for the 2021-2029 period (“Housing Element”) presents a framework for meeting the housing needs of existing and future resident populations within Newport Beach based on the Regional Housing Needs Assessment (“RHNA”) allocation of 4,845 new housing units.
3. The Housing Element was adopted by the City Council on September 13, 2022, and certified as statutorily compliant with State Housing Element Law on October 5, 2022, by the State Department of Housing and Community Development (“HCD”).
4. A public hearing was held on July 23, 2024, by the City Council to consider the Housing Element Implementation, including consideration of certifying the Program Environmental Impact Report (“PEIR”), adoption of CEQA Findings, Mitigation Monitoring and Reporting Program and a Statement of Overriding Considerations. A notice of time, place, and purpose of the hearing was given in accordance with CPUC Section 21676(b), California Sections 54950 *et seq.* (“Ralph M. Brown Act”), Chapter 20.62 (Public Hearings), Chapter 20.66 (Amendments), and Chapter 21.62 (Public Hearings) of the Newport Beach Municipal Code (“NBMC”), and City Council Policy K-1 (General Plan and Local Coastal Program) and City Council Policy K-3 (Implementation Procedures for the California Environmental Quality Act). Evidence both written and oral, was presented to, and considered by, the City Council at this hearing.
5. At the conclusion of the hearing, the City Council adopted Resolution No. 2024-58 to initiate a narrowly focused amendment to the Housing Element to remove the reference to Charter Section 423 based on evidence presented at the hearing that voter approval is precluded because state law mandates the City adopt and implement the Housing Element or else face serious penalties such as loss of state funding and/or lawsuits for failing to comply with the state’s housing element requirements pursuant to Section 65000 *et seq.* of the Government Code in the event voters do not approve the Housing Element Implementation.

6. On July 26, 2024, City staff published and circulated draft revisions to Section 3 (Housing Constraints, Resources, and Affirmatively Furthering Fair Housing) and Section 4 (Housing Plan) of the Housing Element (“Amendment”) that incorporates the legal basis for the removal of Charter Section 423 voter approval requirement to previously interested parties for a seven-day public review period, including The Kennedy Commission, People for Housing Orange County, Still Protecting Our Newport, The Public Law Center, and YIMBY Law.
7. On August 2, 2024, at the conclusion of the seven-day public review period, City staff transmitted the draft Amendment to HCD for a formal review along with one piece of written correspondence received from Jim Mosher. No other correspondence was received in response to the published and circulated Amendment.
8. On August 20, 2024, the City received a letter from HCD, attached hereto and incorporated by reference as Exhibit “A,” confirming the Amendment maintains the City’s compliant status and, with its adoption, the Housing Element will remain certified as statutorily compliant.
9. On September 5, 2024, a public hearing was held in the Council Chambers at 100 Civic Center Drive, Newport Beach, California. A notice of time, place and purpose of the hearing was given in accordance with the Ralph M. Brown Act and 65353 of the Government Code and consistent with City Council Policy K-1 (General Plan and Local Coastal Program). Evidence, both written and oral, was presented to, and considered by, the Planning Commission at this hearing.

**SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.**

The Housing Element Implementation Program Amendments PEIR (SCH No. 2023060699) was prepared for the Housing Element Implementation in compliance with the California Environmental Quality Act (“CEQA”) as set forth in the Public Resources Code Sections 21000 *et seq.*, Title 14, Division 6, Chapter 3 of the California Code of Regulations (“CEQA Guidelines”), and City Council Policy K-3 (Implementation Procedures for the California Environmental Quality Act). On July 23, 2024, the City Council adopted Resolution No. 2024-50, to certify the PEIR as complete and adequate, inclusive of all required findings, a statement of overriding considerations, and a mitigation monitoring reporting program.

**SECTION 3. DECISION.**

**NOW, THEREFORE, BE IT RESOLVED:**

1. The Planning Commission of the City of Newport Beach hereby finds the adoption of this Amendment is covered under the Housing Element Implementation Program Amendments Final Program Environmental Impact Report, certified by the City Council on July 23, 2024, and identified by State Clearinghouse Number 2023060699.

2. The Planning Commission of the City of Newport Beach hereby finds that the Amendment, attached hereto as Exhibit "B" and incorporated by reference, complies with the statutory requirements set forth in Section 65580 *et seq.* of the Government Code.
3. In conformance with City Council Policy K-1, the Planning Commission has reviewed and recommends approval of the Amendment to the City Council by the adoption of this resolution.

**PASSED, APPROVED, AND ADOPTED THIS 5<sup>TH</sup> DAY OF SEPTEMBER, 2024.**

AYES:

NOES:

ABSTAIN:

ABSENT:

BY: \_\_\_\_\_  
Mark Rosene, Chair

BY: \_\_\_\_\_  
David Salene, Secretary

Attachment: Exhibit A – HCD Letter  
Exhibit B – Amendment

**EXHIBIT A  
HCD Letter**

STATE OF CALIFORNIA - BUSINESS, CONSUMER SERVICES AND HOUSING AGENCY

GAVIN NEWSOM, Governor

**DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT  
DIVISION OF HOUSING POLICY DEVELOPMENT**

651 Bannon Street  
Sacramento, CA 95811  
(916) 263-2911 / FAX (916) 263-7453  
[www.hcd.ca.gov](http://www.hcd.ca.gov)



August 20, 2024

Seimone Jurjis, Community Development Director  
Community Development Department  
City of Newport Beach  
100 Civic Center Drive,  
Newport Beach, CA 92660

Dear Seimone Jurjis:

**RE: City of Newport Beach 6<sup>th</sup> Cycle (2021-2029) Draft Housing Element  
Amendment**

Thank you for submitting the City of Newport Beach (City) draft amendment to the adopted housing element that was received for review on August 2, 2024. Pursuant to Government Code section 65585, subdivision (b), the California Department of Housing and Community Development (HCD) is reporting the results of its review.

The City's housing element was found in compliance on October 5, 2022. The draft amendment incorporates modifications to Section 3: Housing Constraints, Resources, and Affirmatively Furthering Fair Housing and Section 4: Housing Plan, Housing Policy 1.1 Implementation Action - Adequate Sites to Accommodate 2021-2029 RHNA and will not negatively impact demonstrating adequate sites to accommodate the regional housing need allocation (RHNA) or the current compliance status of the housing element. Therefore, the element will remain in compliance with State Housing Element Law (Gov. Code, § 65580 et seq) when the draft amendment is adopted, submitted to and approved by HCD, in accordance with Government Code section 65585.

Public participation in the development, adoption and implementation of the housing element is essential to effective housing planning. Throughout the housing element process, the City must continue to engage the community, including organizations that represent lower-income and special needs households, by making information regularly available while considering and incorporating comments where appropriate.

Seimone Jurjis, Director  
Page 2

HCD appreciates the hard work and dedication provided in the preparation of the City's housing element and looks forward to receiving the County's adopted housing element. If you have any questions or need additional technical assistance, please contact me at [Melinda.Coy@hcd.ca.gov](mailto:Melinda.Coy@hcd.ca.gov).

Sincerely,

A handwritten signature in black ink, appearing to read "Melinda Coy", with a long horizontal stroke extending to the right.

Melinda Coy  
Proactive Housing Accountability Chief

## EXHIBIT B Amendment

**REVISION 1: Amend the Subsection entitled “Growth Management Measures” beginning on Page 3-28 within Section 3: Housing Constraints, Resources, and Affirmatively Furthering Fair Housing as follows:**

### **Growth Management Measures**

Growth management measures are techniques used by a government to regulate the rate, amount, and type of development. Growth management measures allow cities to grow responsibly and orderly, however, if overly restricted can produce constraints to the development of housing, including accessible and affordable housing.

On November 7, 2000, the Newport Beach electorate approved Measure S, ~~which, Measure S~~ amended the Newport Beach City Charter by adding Section 423, ~~Charter Section 423, which~~ requires voter approval of certain major amendments of the Newport Beach General Plan, unless state or federal law precludes a vote of the electorate on the amendment. In the case of Charter Section 423, in general, a major amendment to the General Plan is defined as any proposed amendment of the General Plan that significantly increases allowed density or intensity, is first considered and/or approved by the City Council subsequent to December 15, 2000 and that by increasing increases the number of over 100 peak hour trips (traffic), or over 40,000 square feet of floor area (intensity), or over 100 dwelling units (density) when compared to the General Plan prior to approval. These thresholds are calculated, as the sum a result of the amendment itself and eighty percent (80%) of the increases resulting from other amendments affecting the same neighborhood and that, which were adopted within the preceding ten (10) years, when compared to the General Plan prior to approval.

~~Therefore, an amendment shall not take effect unless it has been submitted to the voters and approved by a majority of those voting on it. When the electorate approved Measure S, Charter Section 423 the electorate encourages the City Council to adopt implementing guidelines that are consistent with the purpose and intent of Measure S; however, the Guidelines for Implementing Charter Section 423 do not provide guidance as to when a state or federal law precludes a vote on a major amendment of the General Plan. In the case of Charter Section 423, an amendment to the General Plan is defined as any proposed amendment of the General Plan that is first considered and/or approved by the City Council subsequent to December 15, 2000 and that increases the number of peak hour trips (traffic), floor area (intensity), or dwelling units (density) when compared to the General Plan prior to approval.~~

### **Procedure**

The City Council determines if a proposed a amendment requires voter approval pursuant to Charter Section 423, based on the following conditions:

- The Amendment modifies the allowed use(s) of the property or area that is the subject of the Amendment such that the proposed use(s) generate(s) more than one hundred (100) morning or evening peak hour trips than are generated by the allowed use(s) before the Amendment; or



- The Amendment authorizes an increase in floor area for the property or area that is the subject of the Amendment that exceeds forty thousand (40,000) square feet when compared to the General Plan before approval of the Amendment; or
- The Amendment authorizes an increase in the number of dwelling units for the property or area that is the subject of the Amendment that exceeds one hundred (100) dwelling units when compared to the General Plan before approval of the Amendment; or
- The increase in morning or evening peak hour trips, floor area or dwelling units resulting from the Amendment when added to eighty percent (80%) of the increases in morning or evening peak hour trips, floor area or dwelling units resulting from Prior Amendments, within the preceding ten (10) years (see definition in Section 2J) exceeds one or more of the voter approval thresholds in Section 423 as specified in Subsection 1, 2 or 3.

If the City Council determines a General Plan Land Use Element Amendment requires voter approval, after approving the Amendment, the City Council then adopts a resolution calling an election on the Amendment. The City Council schedules the election at the next regular municipal election, as specified by the City Charter. The City Attorney then prepares an impartial analysis of the Amendment, which contains information about the Amendment, any related project or land use approval, and the environmental analysis conducted that will help the electorate make an informed decision. In the absence of an ordinance or Charter provision that establishes a procedure for submittal of arguments or rebuttals relative to City measures, the City Council will adopt a resolution that authorizes the filing of arguments and rebuttals in accordance with the general procedures specified in the Elections Code.

It is important to understand that Charter Section 423 only applies to General Plan amendments. Individual housing development projects that do not require a General Plan amendment are already accommodated within the General Plan and zoning framework. They would not be subject to Charter Section 423 and would never require a vote of the electorate.

If a housing development project requires a General Plan amendment, any unit and peak hour traffic increases added to the project through bonus units awarded by the Density Bonus process are not counted toward Charter Section 423 thresholds and a determination whether a vote is required. Ultimately projects that require a vote of the electorate pursuant to Charter Section 423 may require additional costs and be subject to delays due to the election process that may yield uncertain election results.

To implement the Housing Element, the City must move forward with adding housing units that would qualify as a major amendment for purposes of Charter Section 423, which raises the question of whether a vote under Charter Section 423 is precluded by state or federal law. In recent legislation, such as Senate Bill 1333, the legislature has specifically found that the lack of affordable housing is a matter of statewide concern and that state housing laws related to land use, planning and zoning apply to charter cities. Similarly, the court in *Anderson v. City of San Jose* (2019) 42 Cal.App.5th 683, found that the lack of affordable housing is a matter of statewide concern.

To comply with state laws, the City must have a general plan, which serves as the long-range plan for future physical development in the community. (Government Code § 65000, et seq.) One of the mandatory elements of a general plan is a housing element, which must be updated by the City every eight (8) years and identify sites sufficient to meet the City's share of the Regional Housing Needs Assessment (RHNA) allocation. (Government Code §§ 65302, 65588, 65863.) In determining the RHNA allocation, the council of governments does not take into consideration any zoning or other local land use restrictions, such as Charter Section 423, but is directed by state law to "consider the potential for increased residential development under alternative zoning ordinances and land use restrictions." (Government Code § 65584.04(e)(2)(B).) Furthermore, the City has a continuing obligation to always ensure that adequate sites exist to accommodate lower-income housing development, not just at the beginning of the eight (8)-year Regional Housing Needs Allocation cycle. (Government Code § 65863.)

In this RHNA cycle, the City has been allocated 4,845 new housing units. To comply with state law, the City must not only plan for these units, but the City must also take action to establish the appropriate zoning designations and development standards to allow the private market to develop these units. After developing a plan for these units, the City must submit the Housing Element to the Department of Housing and Community Development for them to find that the Housing Element is in compliance with state law.

But having the California Department of Housing and Community Development find the City's Housing Element is compliant with state law is only one step of many. The City is then required to implement the Housing Element. Under Government Code Section 65585 (i)(1)(A), implementation is not optional, and the California Department of Housing and Community Development is charged with ensuring the City is implementing the Housing Element and taking action to revoke its finding that the Housing Element complies with state law if the City fails to implement the Housing Element. In addition to the loss of local zoning control, permitting authority, and fines of up to \$600,000 per month for not having a compliant Housing Element, state law provides that the Attorney General may appoint an agent to take all necessary actions to bring the City into compliance with state law. (Government Code § 65585(l).)

Because providing residential housing opportunity sites to accommodate the City's RHNA allocation is mandated by state law and the City is required to implement the Housing Element, a Charter Section 423 vote is precluded, and the City will move forward with implementing the Housing Element without a Charter Section 423 vote.

~~The City will implement Charter Section 423 when it amends the Land Use Element of its General Plan to implement Policy Actions 1A through 1F provided in Section 4 of this Housing Element. The increases in housing units and the peak hour traffic to accommodate the City's high RHNA allocation will exceed Charter Section 423 thresholds requiring a vote of the electorate. However, Charter Section 423 includes a statement that it shall not apply if State or Federal law precludes a vote of the electorate on the amendment. As of the adoption of this Housing Element, it is unclear if the State RHNA mandate to accommodate the City's RHNA allocation would preclude a vote pursuant to Charter Section 423.~~

~~It is the duty of the City Council to place the increases in housing and the traffic generated before the voters of Newport Beach consistent with Charter Section 423. The vote will be scheduled in accordance with the California Elections Code and the City Charter after the City Council carefully reviews and approves the Land Use Element amendment and Zoning Strategies that support Policy Actions 1A through~~

~~16. The City will prepare an Environmental Impact Report (EIR) in accordance with the California Environmental Quality Act (CEQA) prior to acting on the Land Use Element amendment and Zoning Strategies.~~

~~In 2006, the City adopted its comprehensive General Plan Update adding 1,166 housing units within its Land Use Element. The update included the housing unit increases to accommodate the City's share of the 4<sup>th</sup> RNHA cycle. In accordance with Charter Section 423, the update was submitted to the voters and the measure passed. For the 6<sup>th</sup> cycle Housing Element, like the 2006 vote, the City will initiate an election and pay for all costs associated with the ballot measure. The discussion within Housing Goal #1 in Section 4 details the milestones involved in the Land Use Element amendment vote process. The City may choose to submit multiple ballot measures.~~

~~If the ballot measure passes, Charter Section 423 would not be an impediment in any way to housing development projects supported by the Land Use amendment and Zoning implementation strategies stemming from this Housing Element. The increases in housing units and their related peak hour traffic would also not count against future General Plan amendment applications thereby reducing the impediment that Charter Section 423 represents to future housing developments needing a subsequent General Plan Amendment in the future.~~

~~Making any changes to Charter Section 423 is complicated and uncertain. To attempt modifications that would exempt housing units from potentially requiring a vote is not a viable option. Placing a Charter amendment before the voters would require City Council action that would be contrary to the will of the people as expressed through Measure S in 2000 that resulted in Charter Section 423.~~

~~Based upon public comments received during the preparation of this Housing Element, there is no public support to amend Charter Section 423 to accommodate the housing necessary to satisfy the State RHNA mandate. The City Council publicly debated the prospects of amending Charter Section 423 through its review of this Housing Element, and it is universally believed that placing such a Charter amendment before the voters would be a waste of resources. Additionally, any effort to potentially amend Charter Section 423 would potentially and unnecessarily delay the implementation of this Housing Element. It could create voter fatigue reducing the prospects for success of a vote for the required Land Use Element Amendment to implement this Housing Element pursuant to Charter Section 423.~~

**REVISION 2: Amend the Subsection entitled "Implementation Actions" beginning on Page 4-2 within Section 4: Housing Plan as follows:**

**Implementation Actions**

***Adequate Sites to Accommodate 2021-2029 RHNA***

The City of Newport Beach has a total Regional Housing Needs Assessment (RHNA) allocation of 4,845 units. State law requires the City of Newport Beach to identify adequate sites to accommodate its fair share allocation for the 6<sup>th</sup> Cycle Housing Element. This City has identified a variety of candidate sites through extensive analysis in collaboration with the community and stakeholders through Newport Together's "Listen and Learn" process, multiple meetings of the City's Housing Element Update Advisory Committee (Committee), participation by interested residents at a variety of public meetings, workshops, and consultation with property owners. The City of Newport Beach has identified an adequate amount of land that was determined by the Committee as "Feasible" or "Potentially Feasible" for future development. Only a portion of these candidate sites will be necessary to accommodate the City's RHNA planning obligation. These sites have undergone a rigorous process to evaluate site features, development potential, developer/owner interest and other factors to deem them appropriate for housing during the 2021-2029 Planning Period.

As part of the analysis of adequate sites, the City has comprehensively reviewed opportunity sites citywide and ~~have~~ ~~has~~ ~~identify~~ ~~identified~~ eight primary areas of opportunity:

- Airport Area Environs
- West Newport Mesa
- Banning Ranch
- Coyote Canyon
- Dover/Westcliff
- Newport Center
- 5th Cycle Housing Element Sites
- Accessory Dwelling Units

Since the City has identified several opportunity sites in the 5<sup>th</sup> Cycle ~~Housing Element~~ that will be utilized in the 6<sup>th</sup> Cycle Housing Element, additional policy considerations are stated in this Policy Program.

These opportunities sites are described in map and tabular format in Appendix B of this Housing Element. Each of the opportunity areas described in this Housing Element have been assigned a targeted acreage, and a targeted number of new housing units (see following implementing Policy Action statements). Collectively, these targets must meet the unmet RHNA need as required by ~~s~~State law. It is expected there may be deviations from the targets with future implementing zoning actions. New opportunity sites may be identified, and other sites may be deemed ~~unsuitable~~~~unsuitable~~, or densities may be modified, all based on new information received over time. The City may adopt future zoning strategies that are more or less than the identified targets in this Housing Element provided the total unmet RHNA need by income category is accommodated within state-defined deadlines. If future zoning strategies deviate from the targets expressed in this Housing Element but still meet the requirement to identify adequate sites to accommodate unmet RHNA need, no amendment to the Housing Element would be required and deviations of any magnitude may be considered subject to the City Council's review and approval in consultation with the Community.

All sites proposed for rezoning through implementation of Policy Actions 1A through 1F provided in Section 4 of this Housing Element will require a companion Land Use Element amendment that will be subject to a vote of the electorate pursuant to Charter Section 423. The City will initiate an election and conduct community outreach to educate the public on the benefits of higher density housing and pay for all costs associated with the ballot measure(s). The table below presents a timeline for the process including the vote. If the vote fails, the City will propose alternative Policy Actions and call for a second election. If the second vote fails to pass, the City Council will seek a legal opinion from the State Attorney General's Office as to how to proceed.

**Milestones for Housing Element Adoption, Implementation and Charter Section 423 Election**

Anticipated Date	Action	Requirements
February 2022	Housing Element Adoption	Public Hearing
February 2022 - September 2023	Preparation of Land Use Element amendment(s), Zoning to implement Policy Actions 1A - 1F, and completion of Environmental Impact Report	Community meetings and Public Hearings
September 2023	Initiate ballot measure for Charter Section 423 vote	133 days prior to election date
March 2024	Charter Section 423 election date for voter approval on proposed Land Use Element Amendment	
<b>If Charter 423 vote fails:</b>		
	Amend Housing Element for HCD review and amend Land Use Element and adopt corresponding zoning strategies after conducting environmental review	Community meetings and Public Hearings
	Conduct second Charter Section 423 election on revised amendments	
<b>If second Charter 423 fails:</b>		
	Request opinion from State Attorney General's Office as to City's options	

For all Rezone Policy Actions 1A to 1F, Pursuant to Government Code 65583.2, subdivisions (h) & (i), which rezone sites to accommodate the City's shortfall in satisfying the RHNA, the City commits to the following:

- permit owner-occupied and rental multifamily uses by-right for developments in which 20 percent or more of the units are affordable to lower-income households. By-right means local government review must not require a CUP, planned unit development permit, or other discretionary review or approval.
- accommodate a minimum of 16 units per site;
- require a minimum density of 20 units per acre; and
- at least 50 percent of the lower-income need must be accommodated on sites designated
- for residential use only or on sites zoned for mixed uses that accommodate all of the very low and low-income housing need, if those sites:
  - allow 100 percent residential use, and
  - require residential use occupy 50 percent of the total floor area of a mixed-use project.

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# **Attachment No. PC 2**

City Council Resolution No. 2024-058

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**RESOLUTION NO. 2024-58**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEWPORT BEACH, CALIFORNIA, INITIATING A NARROWLY FOCUSED AMENDMENT TO THE ADOPTED AND CERTIFIED 6<sup>TH</sup> CYCLE HOUSING ELEMENT TO REMOVE THE REFERENCE TO CHARTER SECTION 423 VOTER APPROVAL (PA2022-0245)**

**WHEREAS**, City Council Policy K-1 (General Plan and Local Coastal Program) requires amendments to the City of Newport Beach (“City”) General Plan to be initiated by the City Council;

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

**WHEREAS**, every eight years, State Housing Element Law requires the City to update its General Plan Housing Element to identify and analyze existing and projected housing needs for the City along with a housing plan that provides adequate land use capacity to meet those needs;

**WHEREAS**, the City was assigned a Regional Housing Needs Assessment (“RHNA”) allocation of 4,845 new units as its projected housing need for the planning period covering 2021-2029 and, as a result, the City worked diligently to prepare its 6<sup>th</sup> Cycle Housing Element in compliance with state law;

**WHEREAS**, preparation of the 6<sup>th</sup> Cycle Housing Element involved extensive public participation with community groups at numerous workshops, as well as meetings with the Planning Commission and City Council, and was assisted by an ad-hoc committee called the Housing Element Update Advisory Committee (“HEUAC”) formed and appointed by the City Council;

**WHEREAS**, after several meetings with the State Department of Housing and Community Development (“HCD”) and numerous drafts, the City Council adopted the final 6<sup>th</sup> Cycle Housing Element on September 13, 2022;

**WHEREAS**, HCD certified the City’s 6<sup>th</sup> Cycle Housing Element on October 5, 2022, as statutorily compliant with state law;

**WHEREAS**, Section 4 (Housing Plan) of the 6<sup>th</sup> Cycle Housing Element presents a framework and strategy for meeting the needs of existing and future resident populations in Newport Beach based on the RHNA allocation of 4,845 new housing units, the “fair share” of regional housing need and demand, by planning for units within the following site groupings or “focus areas” that are best suited for residential growth: Airport Area Environs, West Newport Mesa, Newport Center, Dover/Westcliff, and Coyote Canyon;

**WHEREAS**, the 6<sup>th</sup> Cycle Housing Element opportunity sites are to be rezoned per Housing Element Policy Actions 1A through 1F to accommodate the City’s RHNA obligation, including a buffer necessary to address future “no net loss” of available sites and to preclude the need to identify replacement sites during implementation;

**WHEREAS**, the rezoning includes the establishment of overlay zoning districts and accompanying development standards, as well as corresponding amendments to the General Plan Land Use Element and the Local Coastal Program;

**WHEREAS**, to comply with state law, the City has been working diligently to implement the 6<sup>th</sup> Cycle Housing Element no later than February 2025 (“6<sup>th</sup> Cycle Housing Element Implementation”), which requires the following amendments and actions:

- General Plan Amendment (“GPA”) - To revise the necessary goals and/or policies within the City’s Land Use Element to support housing production in the focus areas identified by the 6<sup>th</sup> Cycle Housing Element;
- Amendment to Title 20 (Planning and Zoning) (“ZCA”) - To implement the Land Use Element’s policy changes by allowing housing development as an opportunity and establishing appropriate objective design and development standards for multi-unit residential and mixed-use development projects;
- Local Coastal Program Amendment (“LCPA”) - To revise and create new policies within the City’s Coastal Land Use Plan and update Title 21 (Local Coastal Program Implementation Plan) of the Newport Beach Municipal Code (“NBMC”) to support housing production in the focus areas identified by the 6<sup>th</sup> Cycle Housing Element that are within the Coastal Zone; and

- Program Environmental Impact Report (“PEIR”) (SCH No. 2023060699) - To analyze potential environmental impacts under the California Environmental Quality Act (“CEQA”) related to the 6<sup>th</sup> Cycle Housing Element Implementation, a Draft Housing Element Implementation Program Amendments Program Environmental Impact Report (“Draft PEIR”), to address reasonably foreseeable environmental impacts resulting from the 6<sup>th</sup> Cycle Housing Element Implementation;

**WHEREAS**, Charter Section 423 is described as a possible constraint in Section 3 (Housing Constraints, Resources, and Affirmatively Furthering Fair Housing), and further discussed as an implementation action in Section 4 (Housing Plan) of the 6<sup>th</sup> Cycle Housing Element;

**WHEREAS**, the 6<sup>th</sup> Cycle Housing Element Implementation must take effect by February 2025 to avoid significant penalties and loss of local control dictated by state law, which may include, but are not limited to:

- Increased exposure to public and private litigation;
- Loss of permitting authority;
- Financial penalties, including monthly fines of up to \$600,000;
- Loss of eligibility for state and regional funding sources;
- Court receivership;
- Allowing housing developers to bypass the City’s zoning requirements; and
- Increased exposure to monitoring by the newly formed Housing Accountability Unit of HCD;

**WHEREAS**, a study session was held on July 9, 2024, by the City Council to discuss whether a vote of the electorate should be required under Charter Section 423 due to the 6<sup>th</sup> Cycle Housing Element Implementation being mandated under State Housing Element Law and therefore precluding a vote under Charter Section 423;

**WHEREAS**, after public comments and City Council discussion, the City Council directed staff to return on July 23, 2024, with both options to proceed with a vote and to proceed without a vote;

**WHEREAS**, City staff has consulted with HCD to describe the narrowly focused amendment, which would remove the reference to a vote under Charter Section 423 as a constraint in Section 3 and as an implementing action in Section 4, and has been provided feedback that the proposed change would not result in a more expansive review of the 6<sup>th</sup> Cycle Housing Element and would not jeopardize the City's compliant status; and

**WHEREAS**, a public hearing was held on July 23, 2024, by the City Council in the Council Chambers located at 100 Civic Center Drive, Newport Beach, California to consider the 6<sup>th</sup> Cycle Housing Element Implementation. A notice of time, place, and purpose of the hearing was given in accordance with CPUC Section 21676(b) and the Ralph M. Brown Act. Evidence both written and oral, was presented to, and considered by, the City Council at this hearing.

**NOW, THEREFORE**, the City Council of the City of Newport Beach resolves as follows:

**Section 1:** The City Council does hereby initiate a narrowly focused amendment to the adopted and certified statutorily compliant 6<sup>th</sup> Cycle Housing Element of the General Plan to remove the reference to a vote of the electorate pursuant to Charter Section 423 as a constraint or as an implementing action.

**Section 2:** The recitals provided in this resolution are true and correct and are incorporated into the operative part of this resolution.

**Section 3:** If any section, subsection, sentence, clause or phrase of this resolution is, for any reason, held to be invalid or unconstitutional, such decision shall not affect the validity or constitutionality of the remaining portions of this resolution. The City Council hereby declares that it would have passed this resolution, and each section, subsection, sentence, clause or phrase hereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid or unconstitutional.

**Section 4:** The City Council finds the adoption of this resolution is exempt from environmental review under the California Environmental Quality Act ("CEQA") pursuant to Section 15262 of the CEQA Guidelines, California Code of Regulations, Title 14, Division 6, Chapter 3, because it involves feasibility or planning studies on possible future actions, which the agency, board, or commission has not approved or adopted.

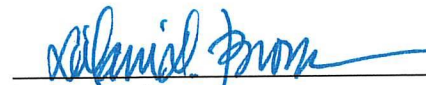
**Section 5:** This resolution shall take effect immediately upon its adoption by the City Council, and the City Clerk shall certify the vote adopting the resolution.

**ADOPTED** this 23rd day of July, 2024.

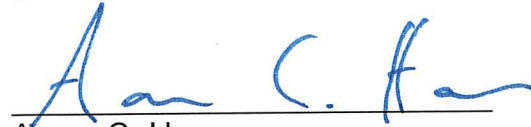


Will O'Neill  
Mayor

**ATTEST:**

  
Leilani I. Brown  
City Clerk

**APPROVED AS TO FORM:**  
CITY ATTORNEY'S OFFICE

  
Aaron C. Harp  
City Attorney

STATE OF CALIFORNIA                    }  
COUNTY OF ORANGE                    }  
CITY OF NEWPORT BEACH                }            ss.

I, Leilani I. Brown, City Clerk of the City of Newport Beach, California, do hereby certify that the whole number of members of the City Council is seven; the foregoing resolution, being Resolution No. 2024-58 was duly introduced before and adopted by the City Council of said City at a regular meeting of said Council held on the 23<sup>rd</sup> day of July, 2024; and the same was so passed and adopted by the following vote, to wit:

- AYES: Mayor Pro Tem Joe Stapleton, Councilmember Brad Avery, Councilmember Noah Blom, Councilmember Robyn Grant, Councilmember Lauren Kleiman, Councilmember Erik Weigand
- NAYS: None
- ABSTAINED: Mayor Will O'Neill

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the official seal of said City this 24<sup>th</sup> day of July, 2024.

  
\_\_\_\_\_  
Leilani I. Brown  
City Clerk  
Newport Beach, California



# **Attachment No. PC 3**

City Council Meeting Minutes from July 23, 2024

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**XVII. PUBLIC COMMENTS ON NON-AGENDA ITEMS**

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**XVIII. PUBLIC HEARING**

**23. Ordinance Nos. 2024-16 and 2024-17, and Resolution Nos. 2024-50 to 2024-57 for the Necessary Amendments to Implement the 6<sup>th</sup> Cycle Housing Element and to Place the Major General Plan Amendment on the November 5, 2024, General Election Ballot Pursuant to City Charter Section 423; or Resolution No. 2024-58 to Initiate an Amendment to the 6<sup>th</sup> Cycle Housing Element**

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Julie Sherwin asked if staff contacted Yorba Linda to inquire about their approach to their Housing Element.

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Mayor Pro Tem Stapleton noted his promise of keeping Newport "*Newport*," thanked staff for their time and effort, relayed the options, expressed his frustrations, listed consequences of the Housing Element falling out of compliance, thought it is all avoidable, and noted one acceptable choice.

Councilmember Avery emphasized that the City cannot afford to have the vote fail, stated that no one is being indiscriminate, expressed respect for the electorate, relayed being prepared to support Option No. 2, but would support Option No. 1 as a resident, and relayed challenges educating the residents and the importance of Greenlight.

Councilmember Grant recognized all the residents who participated in the matter, thanked staff for their time and professionalism, noted the preclusion of a vote with the State housing mandate, preferred to follow the City Charter in another way, and noted the City is mandated to do this and that the City Charter is subject to the State of California. She noted that the decision has not been taken lightly by Council and staff. She preferred a different path to lessen the burden the State has placed on the City, acknowledged undesired and drastic consequences, noted there were no loopholes or workaround, and thought the City must move forward with the State requirements to retain local control. Lastly, she expressed support for legislative action that would relieve the burdensome overreach from the State.

Councilmember Kleiman thanked staff for their work on the matter, expressed her disinterest in the RHNA mandated units, listed actions taken by the City to protect local control and Sacramento's actions to usurp it, and utilized a graphic to demonstrate all the new proposed housing related legislation for this year. She stated that this decision was the most critical and challenging decision in Council's tenure, went on to comment that there is no good option, and acknowledged the level of uncertainty and risk.

Councilmember Weigand referenced the article published today in *Stu News* that he authored, and expressed fear for the actions of HCD and the Attorney General using Newport Beach as an example.

Mayor O'Neill suggested a sequenced approach to the motions.

**Motion by Councilmember Blom, seconded by Councilmember Grant**, to 2a) determine this action is exempt from environmental review under CEQA pursuant to Section 15262 of the CEQA Guidelines, California Code of Regulations, Title 14, Division 6, Chapter 3; and 2b) adopt Resolution No. 2024-58, *A Resolution of the City Council of the City of Newport Beach, California, Initiating a Narrowly Focused Amendment to the Adopted and Certified 6<sup>th</sup> Cycle Housing Element to Remove the Reference to Charter Section 423 Voter Approval (PA2022-0245)*.

**With Mayor O'Neill abstaining, the motion carried 6-0-1.**

**Motion by Mayor O'Neill, seconded by Councilmember Blom**, to 1a) adopt Resolution No. 2024-50, *A Resolution of the City Council of the City of Newport Beach, California, Certifying Environmental Impact Report (State Clearinghouse [SCH] Number 2023060699), Including a Mitigation Monitoring and Reporting Program and Adopting Findings, and a Statement of Overriding Considerations Related to the Implementation of the 6<sup>th</sup> Cycle Housing Element Involving Amendments to the General Plan, Coastal Land Use Plan, and Title 20 (Planning and Zoning) and Title 21 (Local Coastal Program Implementation Plan) of the Newport Beach Municipal Code (PA2022-0245)*.

**The motion carried unanimously.**

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**XIX. MOTION FOR RECONSIDERATION – None**

**XX. ADJOURNMENT – 8:00 p.m.**

The agenda was posted on the City's website and on the City Hall electronic bulletin board located in the entrance of the City Council Chambers at 100 Civic Center Drive on July 18, 2024, at 4:00 p.m.



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Mayor



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Leilani I. Brown  
City Clerk



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# **Attachment No. PC 4**

Housing Element Section 3 Redline-Strikeout

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**Newport,  
Together.**



# **Section 3:**

## **HOUSING CONSTRAINTS, RESOURCES, AND AFFIRMATIVELY FURTHERING FAIR HOUSING**

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As is common in many communities, a variety of constraints affect the provisions and opportunities for adequate housing in the City of Newport Beach. Housing constraints consist of both governmental constraints, including but not limited to land use controls, development fees and permitting fees, development standards, building codes and permitting processes; as well as, nongovernmental or market constraints, including but not limited to land costs, construction costs, and availability of finances. Combined, these factors create barriers to availability and affordability of new housing, especially for lower and moderate-income households.

## **A. Nongovernmental Constraints**

Nongovernmental constraints affect the cost of housing in the City of Newport Beach and can produce barriers to housing production and affordability. These constraints include the availability and cost of land for residential development, the demand for housing, financing, and lending, construction costs, and the availability of labor, which can make it expensive for developers to build any housing, and especially affordable housing. The following highlights the primary market factors that affect the production of housing in Newport Beach.

### ***1. Land Costs and Construction Costs***

Construction costs vary widely according to the type of development, with multi-unit housing generally less expensive to construct than single-unit homes. However, there is variation within each construction type, depending on the size of the unit and the number and quality of amenities provided. An indicator of construction costs is Building Valuation Data compiled by the International Code Council (ICC). The International Code Council was established in 1994 with the goal of developing a single set of national model construction codes, known as the International Codes, or I-Codes. The ICC updates the estimated cost of construction at six-month intervals and provides estimates for the average cost of labor and materials for typical Type VA wood-frame housing. Estimates are based on “good-quality” construction, providing for materials and fixtures well above the minimum required by state and local building codes. In August 2020, the ICC estimated that the average per square-foot cost for good-quality housing was approximately \$118.57 for multi-unit housing, \$131.24 for single-unit homes, and \$148.44 for residential care/assisted living facilities. Construction costs for custom homes and units with extra amenities, run even higher. Construction costs are also dependent upon materials used and building height, as well as regulations set by the City’s adopted Building Code. For example, according to the ICC, an accessory dwelling unit (ADU) or converting a garage using a Type VB wood framed unit would cost about \$123.68 per square foot. Although construction costs are a significant portion of the overall development cost, they are consistent throughout the region and, especially when considering land costs, are not considered a major constraint to housing production in Newport Beach.

Land costs can also pose a significant constraint to the development of affordable and middle-income housing and represents a significant cost component in residential development. Land costs may vary depending on whether the site is vacant or has an existing use that must be removed. Similarly, site constraints such as environmental issues (e.g., steep slopes, soil stability, seismic hazards, flooding) can also be factored into the cost of land. There are approximately 6,000 acres of vacant and non-vacant



residential land (39.3 percent), out of approximately 15,238 acres of land in Newport Beach, which are not currently subject to land use constraints (airport restrictions, flood zone, fire high severity zone, NCCP conservation area, seismic hazard, and sea level rise). However, majority of the acres are developed and may require rezoning, reuse, and redevelopment due to a lack of vacant sites in the City. Additional costs may be associated with redeveloping and/or converting sites which may influence the cost of the rental units or home value.

A September 2020 web search using the Orange County Market report for lots for sale in the City of Newport Beach returned less than five vacant lots listed for sale. Of the lots listed, the costs ranged from \$600,000 for 0.075 acres near Santa Ana Heights (about \$183 per square foot), to \$4,995,000 for 0.27 acres with an ocean view (about \$430 per square foot). Larger vacant lots reached as high as \$9,995,000 for 0.77 acres inland (about \$295 per square foot) to \$10,500,000 for 0.51 acres of land (about \$474 per square foot) closer to the coast. According to the same report, in September coastal lots listed for sale in the City averaged \$8,000,000 for 0.6 acres. The cost of land in Newport Beach is higher than neighboring cities, such as Laguna Beach, where the median cost of land is about \$115 per square foot. Therefore, land and redevelopment costs in Newport Beach create a significant constraint to the development of housing, specifically affordable housing.

## ***2. Availability Financing***

The availability of financing in a community depends on several factors, including the type of lending institutions active in a community, lending practices, rates and fees charged, laws and regulations governing financial institutions, and equal access to such loans. Additionally, availability of financing affects a person's ability to purchase or improve a home. Under the Home Mortgage Disclosure Act (HMDA), lending institutions are required to disclose information on the disposition of loan applications and the income, gender, and race of loan applicants. The primary concern in a review of lending activity is to determine whether home financing is available to residents of a community. The data presented in this section include the disposition of loan applications submitted to financial institutions for home purchase, home improvement, and refinancing in Newport Beach.

**Table 3-1** below displays the disposition of loan applications for the Anaheim-Santa Ana-Irvine Metropolitan Statistical Area/Metropolitan Division (MSA/MD), per the 2016 Home Mortgage Disclosure Act report. According to the data, applicants in the 120 percent median-income or more had the highest rates of loans approved. Of that income category, applicants who reported White had the highest percentage of approval and the number of applications. Applicants in the less than 50 percent of the MSA/MD median-income categories were showed higher percentages of denied loans than loans originated. According to the data, applicants who reported white were, on average, more likely to be approved for a loan than another race or ethnicity.

Given the relatively high rates of approval for home purchase, improvement, and refinance loans, home financing is generally available and not considered a significant constraint to the provision and maintenance of housing in Newport Beach.



**Table 3-1: Disposition of Loan Applications by Race/Ethnicity– Anaheim-Santa Ana-Irvine MSA/MD**

Applications by Race/Ethnicity	Percent Approved	Percent Denied	Percent Other	Total (Count)
<b>LESS THAN 50% OF MSA/MD MEDIAN</b>				
American Indian and Alaska Native	26.2%	52.3%	23.1%	65
Asian	33.9%	42.5%	26.7%	1,382
Black or African American	41.6%	33.7%	25.8%	89
Native Hawaiian or other Pacific Islander	25.0%	44.2%	30.8%	52
White	45.6%	31.2%	26.1%	5,240
Hispanic or Latino	37.9%	38.2%	26.8%	1,566
<b>50-79% OF MSA/MD MEDIAN</b>				
American Indian and Alaska Native	38.1%	34.0%	29.9%	97
Asian	53.3%	25.3%	29.4%	3,153
Black or African American	43.4%	19.1%	41.4%	152
Native Hawaiian or other Pacific Islander	49.4%	39.8%	16.9%	83
White	54.5%	23.3%	27.6%	8,677
Hispanic or Latino	47.6%	27.7%	29.3%	3,245
<b>80-99% OF MSA/MD MEDIAN</b>				
American Indian and Alaska Native	51.4%	25.7%	31.4%	35
Asian	59.5%	19.2%	29.3%	1,495
Black or African American	52.9%	22.1%	30.9%	68
Native Hawaiian or other Pacific Islander	43.5%	13.0%	43.5%	23
White	61.9%	17.2%	26.1%	3,873
Hispanic or Latino	54.0%	21.4%	29.1%	1,347
<b>100-119% OF MSA/MD MEDIAN</b>				
American Indian and Alaska Native	48.9%	22.7%	29.5%	88
Asian	62.3%	15.6%	28.8%	4,820
Black or African American	55.6%	20.1%	28.6%	234
Native Hawaiian or other Pacific Islander	49.4%	27.6%	31.0%	87
White	66.2%	13.8%	25.1%	12,607
Hispanic or Latino	60.8%	16.4%	26.8%	3,398
<b>120% OR MORE OF MSA/MD MEDIAN</b>				
American Indian and Alaska Native	59.2%	13.0%	32.0%	169
Asian	62.8%	12.9%	29.0%	17,800
Black or African American	57.7%	17.3%	27.2%	624
Native Hawaiian or other Pacific Islander	64.2%	11.4%	26.8%	254
White	68.3%	11.3%	24.9%	49,811
Hispanic or Latino	64.6%	13.3%	26.7%	6,095
<i>Source: Consumer Financial Protection Bureau, Disposition of loan applications, by Ethnicity/Race of applicant, 2019.</i>				

### 3. Economic Constraints

Market forces on the economy and the trickle-down effects on the construction industry can act as a barrier to housing construction and especially to affordable housing construction. It is estimated that housing price growth will continue in the City and the region for the foreseeable future. Moving into 2020, the economy was growing, California was seeing a 1.6-percent growth in jobs from 2019 and experiencing all-time lows for unemployment rates. COVID-19 had stalled much of the economy in early 2020, however,



as the California economy regains momentum housing stock and prices in the Newport Beach community remain stable.

A 2020 California Association of Realtors (CAR) report found that homes on the market in Orange County experienced a nine percent year to year increase and cost an average of \$880,000 in February 2020; almost \$300,000 higher than the State median home price in the same month (\$579,770). According to the CAR First Time Buyer Housing Affordability Index, from 2018 to 2019 the median value of a home in Orange County was \$703,800 with monthly payments (including taxes and insurance) of \$3,630, requiring an average qualifying income of \$108,900.

Homes and cost of living in Newport Beach was reported higher than the State median housing and living costs. According to September 2020 data from Zillow, the median home value of single-unit homes and condos in Newport Beach is \$2,407,454. According to Zillow’s methodology, this value is seasonally adjusted to remove outliers and only includes the middle price-tier of homes. Newport Beach home values have gone up 0.7 percent over the past year and Zillow predicts they will rise 3.4 percent within the next year. Newport’s home value index (\$2,407,454) has been on a steep and steady rise since early 2012, and according to a September 2020 forecasts, they are expected to increase slightly (estimated \$2,490,000) in 2021. Orange County by comparison has a median home value index of \$777,000, according to the same September 2020 report, which is significantly lower than the City of Newport. Forecasted home prices in the County, through 2021 are set to see minor increases (\$810,000). The cost of land and home prices in Newport are considered a major constraint to the development of and access to housing, particularly the development of and access to affordable housing.

## **B. Governmental Constraints**

In addition to market constraints, local policies and regulations also affect the price and availability of housing and the provision of affordable housing. For example, State and Federal regulations affect the availability of land for housing and the cost of housing production, making it difficult to meet the demand for affordable housing and limiting supply in a region. Regulations related to environmental protection, building codes, and other topics have significant, often adverse, impacts on housing cost and availability.

While the City of Newport Beach has no control over State and Federal Laws that affect housing, local laws including land use controls, site improvement requirements, fees and exactions, permit processing procedures, and other factors can constrain the maintenance, development, and improvement of housing create barriers to housing.

### **1. Land Use Controls**

In the State of California, cities are required to prepare a comprehensive, long term General Plan to guide future development. The Land Use Element of the General Plan establishes land uses of developments within the City of Newport Beach. The Land Use Element sets for policies and regulations for guiding local development. These policies, together with existing zoning regulations, establish the amount and distribution of land to be allocated for different uses within the City. The Land Use Element of the General Plan identifies the following residential and mixed-use categories:



- **Single Unit Residential Detached (RS-D)**: The RS-D category applies to a range of detached single-unit residential dwelling units on a single legal lot and does not include condominiums or cooperative housing. The RS-D category permits a density range from 0.0 to 29.9 DU/AC.
- **Single Unit Residential Attached (RS-A)**: The RS-A category applies to a range of attached single-unit residential dwelling units on a single legal lot and does not include condominiums or cooperative housing. The RS-A category permits a density range from 0.0 to 29.9 DU/AC.
- **Two Unit Residential (RT)**: The RT category applies to a range of two-unit residential dwelling units such as duplexes and townhomes. The RT permits a density range from 0.0 to 39.9 DU/AC.
- **Multiple Residential (RM)**: The RM designation is intended to provide for multi-unit residential development containing attached dwelling units. The RM permits a density range from 0.0 to 52.0 DU/AC.
- **Multiple Residential Detached (RM-D)**: The RM-D designation is intended to provide primarily for multi-unit residential development exclusively containing detached dwelling units. The RM-D allows a 1.5 FAR where a minimum FAR 0.35 and maximum FAR if .5 may be used for nonresidential.
- **Mixed-Use Vertical (MU-V)**: The MU-V designation is intended to provide for the development of properties for mixed use structures that vertically integrate housing with retail uses including retail, office, restaurant, and similar nonresidential uses. For mixed-use structures, commercial uses characterized by noise, vibration, odors, or other activities that would adversely impact on-site residential units are prohibited. The MU-V allows a 1.5 FAR where a minimum FAR 0.35 and maximum FAR of .5 may be used for nonresidential.
- **Mixed-Use Horizontal (MU-H)**: The MU-H designation is intended to provide for the development of areas for a horizontally distributed mix of uses, which may include general or neighborhood commercial, commercial office, multi-unit residential, visitor-serving and marine-related uses, and/or buildings that vertically integrate residential with commercial uses. The MU-H allows a maximum FAR of 1.0 for residential.
- **Mixed-Use Water Related (MU-W)**: The MU-W designation is intended to provide for commercial development on or near the bay in a manner that will encourage the continuation of coastal-dependent and coastal-related uses in accordance with the Recreational and Marine Commercial (CM) designation, as well as allow for the integrated development of residential. The MU-W permits a density range from 0.0 to 29.9 DU/AC.

These categories accommodate development of a wide range of housing types in Newport Beach. Furthermore, maintaining the existing residential categories is important for ensuring compatibility between the new and existing housing.



## Local Coastal Program and Land Use Plan

The Local Coastal Program (LCP) is a coastal management plan that contains land use, development, public access, and resource protection policies and regulation to implement the California Coastal Act (Coastal Act). The LCP is comprised of a Land Use Plan (LUP) and an Implementation Plan (IP). The LUP serves in conjunction with, and is considered a legislative equivalent to, the City’s General Plan Land Use Element to identify land uses in the Coastal Zone. The intent of this plan is to provide for land uses and residential density limits that protect coastal resources and public access. The LUP identifies the residential categories and densities provided in **Table 3-2**.

**Table 3-2: Coastal Land Use Plan Densities**

Land Use	Maximum Density Range per Lot
<b>Single-Unit Residential Detached – RSD</b>	
RSD-A	0 – 5.9 units per acre
RSD-B	6 – 9.9 units per acre
RSD-C	10 – 19.9 units per acre
RSD-D	20 – 29.9 units per acre
<b>Single-Unit Residential Attached – RSA</b>	
RSA-A	0 – 5.9 units per acre
RSA-B	6 – 9.9 units per acre
RSA-C	10 – 19.9 units per acre
RSA-D	20 – 29.9 units per acre
<b>Two Unit Residential - RT</b>	
RT-A	0 – 5.9 units per acre
RT-B	6 – 9.9 units per acre
RT-C	10 – 19.9 units per acre
RT-D	20 – 29.9 units per acre
RT-E	30 – 39.9 units per acre
<b>Multiple Unit Residential – RM</b>	
RM-A	0 – 5.9 units per acre
RM-B	6 – 9.9 units per acre
RM-C	10 – 19.9 units per acre
RM-D	20 – 29.9 units per acre
RM-E	30 – 39.9 units per acre
RM-F	40 – 52 units per acre
<i>Source: City of Newport Beach Municipal Code</i>	

The Coastal Act is administered by the California Coastal Commission. Over 63 percent of the City of Newport Beach is within the Coastal Zone and subject to oversight by the Coastal. Although the City retains permit authority in most of the Coastal Zone, development projects located near sensitive coastal resources, such as the bay, ocean, wetlands, and environmentally sensitive habitat areas, require the processing of coastal development permits and are subject to appeal by the California Coastal Commission. This additional level of review and approval process may extend the review period of development projects and increase the application and discretionary review costs. In addition, any





request to increase residential densities or allow new residential housing opportunities requires the processing of a Local Coastal Program amendment through the California Coastal Commission. An illustrative example is the Master Development Plan for Banning Ranch, a housing development project that included 1,375 dwelling units, including an affordable housing component, that was adopted by the City in 2012, but denied by the California Coastal Commission in 2016 components but due to potential impacts to environmentally sensitive habitats and coastal resources. The Coastal Land Use Plan and Coastal Commission’s additional review may inhibit development due to the added review time and costs, and uncertainty of approvals.

### **Housing in the Coastal Zone**

The City of Newport Beach uses Chapters 20.34 and 21.34 (Conversion or Demolition of Affordable Housing) of the Municipal Code to implement Government Code Section 65590 et seq. Between April 3, 2000, and June 30, 2020, 3,428 new residential units were permitted for construction within the California Coastal Zone. Of these new units, 120 were developed as housing affordable to low-income individuals and/or families (Bayview Landing project). During the same time period, the City issued demolition permits for a total of 1,857 residential units within the Coastal Zone, resulting in a net increase of 1,571 units. Of the units demolished, six units were known to be occupied by low-income persons and/or families and were required to be replaced. The replacement units were provided off-site and rent restricted for a term of 30-year at rents affordable to very low and low-income households. Lastly, the City assisted with the acquisition, rehabilitation and conversion of an existing 12-unit apartment building located at 6001 Coast Boulevard for affordable housing – 6 for low-income veterans and 6 with a priority for low-income seniors and veterans (The Cove, Project).

### **John Wayne Airport Environs Land Use Plan (AELUP)**

The City’s Airport Area may be considered as an opportunity zone to add residential neighborhoods. However, land located within the Airport Planning Area for John Wayne Airport are subject to the development restrictions of the John Wayne Airport Environs Land Use Plan (AELUP), which limits the ability to develop residential units. Approximately 391 acres are subject to these residential restrictions. An amendment to the City’s General Plan or rezoning for residential use requires review and approval by the Airport Land Use Commission (ALUC) and extends the total review period of a proposed housing development and subsequently increases the cost of development. The added review time and additional costs may dissuade housing developers, and particularly affordable housing developers, from developing housing in this area.

### **Overlay Districts**

An overlay district is a regulatory tool that adds special provisions and regulations to an area in the City. An overlay district may be added to a neighborhood or corridor on a map or it may apply to the City as whole and be applied under certain circumstances. An overlay district may be initiated as a Zoning Map amendment. All proposed developments within the overlay district must comply with the district’s applicable development standards in addition to the Zoning Code standards. Overlay Districts, which affect housing in Newport Beach, include the Mobile Home Park (MHP) Overlay Zoning District, Bluff



Overlay Zoning District, and the Height Overlay District. Overlay Districts may be a constraint to the development of housing when it sets standards which are more restrictive than the Zoning Code.

### ***Overlay Coastal Districts***

The purposes of the individual overlay coastal zoning districts and the way they are applied are detailed below. An overlay district may be initiated as a Coastal Zoning Map amendment in compliance with Chapter 21.14 of the City’s Municipal Code. All development within these zones must comply with the applicable development standards (e.g., setbacks, height) of the underlying coastal zoning district in addition to the standards provided by the respective zone as outline in the Municipal Code, where applicable.

### ***Mobile Home Park Overlay Coastal Zoning District***

The MHP Overlay Coastal Zoning District is intended to establish a mobile home district on parcels of land developed with mobile home parks. The regulations of this district are designed to maintain and protect mobile home parks in a stable environment with a desirable residential character. However, such regulations may pose a constraint to the redevelopment of existing mobile home parks and increasing density. Uses allowed in the MHP Overlay include the following:

- Mobile Home Parks
- Accessory Structures incidental to the operation of Mobile Home Parks

### ***Bluff Overlay District***

The Bluff (B) Overlay District is intended to establish special development standards for areas of the City where projects are proposed on identified bluff areas. The Bluff Overlay District intends to provide additional regulations and requirements in order to establish safety standards for developments in the overlay District. Specific permitted uses, development standards, and requirements are outlined in the City’s Municipal Code, Chapter 21.28.040. Additional regulations and development standards may prevent increased density or intensity in areas within the Bluff Overlay District.

### ***Canyon Overlay District***

The Canyon (C) Overlay District is intended to establish development setbacks based on the predominant line of existing development for areas that contain a segment of the canyon edge of Buck Gully or Morning Canyon. In order to ensure safe development of housing within the Canyon Overlay Districts, development standards and requirements include the following:

- Development Stringline Setback: Development may not extend beyond the predominant line of existing development on canyon faces by establishing a development stringline where a line is drawn between nearest adjacent corners of existing structures on either side of the subject property.
- Swimming Pools require a double wall construction
- Coastal Hazards and Geologic Stability Report
- Erosion Control Plan



Additional specific development standards and requirements are outlined in the City’s Municipal Code, Chapter 21.28.050. The Canyon Overlay District may inhibit added density or intensity of uses to residential properties within the overlay.

### ***Height Overlay***

The Height (H) Overlay District is intended to establish standards for review of increased building height in conjunction with the provision of enhanced project design features and amenities. The Height Overlay District includes properties located in the Multiple Residential (RM) Zoning District within Statistical Area A2. The maximum height limit is 40 feet for a flat roof and 45 feet for a sloped roof with a three-story maximum. Additional standards, regulations, and eligibility requirements are outline in the City’s Municipal Code, Chapter 21.28.060. The Height Overlay District is not considered a constraint to development as it provides for higher height limits.

### **State Density Bonus Law**

Density bonuses are an additional way to increase the number of dwelling units otherwise allowed in a residentially zoned area. The City’s Zoning Ordinance identifies the purpose of the Density Bonus Ordinance is to grant density bonuses and incentives for the development of housing that is affordable to very low-, low-, and moderate-income households and senior citizens. Under the Density Bonus Law, developers are entitled to a density bonus corresponding to specified percentages of units set aside for very low-income, low-income, or moderate-income households.

Effective January 1, 2021, California State Assembly Bill 2345 amends the Density Bonus Law to expand and enhance development incentives for projects with affordable and senior housing components. AB 2345 amends the Density Bonus Law to increase the maximum density bonus from 35 percent to 50 percent. To be eligible for the maximum bonus, a project must set aside at least (i) 15 percent of total units for very low-income households, (ii) 24 percent of total units for low-income households, or (iii) 44 percent of for-sale units for moderate-income households. Levels of bonus density between 35 percent and 50 percent are granted on a sliding scale. The City’s currently adopted Density Bonus Ordinance is no longer consistent with State law and must be amended to comply with new statutory requirement. Implementing Action 3.1.2 of Section 4: Housing Plan outlines the City’s plan to maintain compliance with State legislation.

### ***Density Bonus Programs***

The currently adopted density bonuses are eligible for developments which contain five or more dwelling units and meet the requirements outlined in Chapter 20.32 of the Newport Beach Municipal Code. Units that are not eligible for density bonus include developments where affordable housing is required under the provisions of Title 19.

When a development which meets the requirements, density bonuses are applicable as shown in **Table 3-3** and **Table 3-4** below for different income categories. Developments which meet the requirements for Senior housing will be entitled to a density bonus of twenty percent of the number of senior housing units.



**Table 3-3: Density Bonus Calculations**

Very Low-Income	
Percentage of Base Units Proposed	Density Bonus Percentage
5	20
6	22.5
7	25
8	27.5
9	30
10	32.5
11	35
Low-Income	
10	20
11	21.5
12	23
13	24.5
14	26
15	27.5
17	30.5
18	32
19	33.5
20	35
<i>Source: City of Newport Beach Municipal Code Chapter 20.32</i>	

**Table 3-4: Density Bonus Calculations**

Moderate-Income	
Percentage of Base Units Proposed	Density Bonus Percentage
10	5
11	6
12	7
13	8
14	9
15	10
16	11
17	12
18	13
19	14
20	15
21	16
22	17
23	18
24	19
25	20
26	21
27	22
28	23



Moderate-Income	
Percentage of Base Units Proposed	Density Bonus Percentage
29	24
30	25
31	26
32	27
33	28
34	29
35	30
36	31
37	32
38	33
39	34
40	35

*Source: City of Newport Beach Municipal Code Chapter 20.32*

Additionally, when an applicant for a residential development agrees to donate land to the City for very low-income households, the applicant is then entitled to a density bonus for the entire market rate development, if the conditions specified in the City’s Municipal Code Section 20.32.030 are met.

An applicant is entitled to an increase above the maximum allowed residential density as outline in **Table 3-5**.

**Table 3-5: Density Bonus Calculations**

Very Low-Income	
Percentage of Base Units Proposed	Density Bonus Percentage
10	15
11	16
12	17
13	18
14	19
15	20
16	21
17	22
18	23
19	24
20	25
21	26
22	27
23	28
24	29
25	30
26	31
27	32
28	33



Very Low-Income	
Percentage of Base Units Proposed	Density Bonus Percentage
29	34
30	35
<i>Source: City of Newport Beach Municipal Code Chapter 20.32</i>	

Additional regulations for density Bonuses include the following:

- Fractional Units: The calculation of a density bonus, in compliance with any of the above requirements, that results in fractional units shall be rounded up to the next whole number.
- Mixed Income Development: If the applicant desires to develop a density bonus project available to a mix of income levels, the Director determines the amount of density bonus to be granted up to a maximum of 35 percent.

### Concessions and Incentives

When qualified for a density bonus, an applicant may request additional parking incentives beyond those provided above. When requested, the City may grant the following (inclusive of handicap and guest parking):

- Zero to one bedroom: one on-site parking space per unit; or
- Two or more bedrooms: two on-site parking spaces per unit.

In addition to a request for parking incentives, an applicant who meets the density bonus requirements may also submit a proposal for a reduction in the site development standards or architectural design requirements; approval of mixed-use zoning in conjunction with the housing development; other regulatory incentive proposed by the client or the City that will result in identifiable, financially sufficient, and actual cost reductions; and/or a direct financial contribution granted by the Council at its sole discretion.

Additional Incentives may also apply for developments with a childcare component, requirements and applicable incentives are outlined in detailed in the City’s Municipal Code Section 20.32.060. Incentives and density bonuses allow for increased opportunity and feasibility for the production of affordable housing in a community, the City of Newport Beach’s Incentives and Density Bonus programs are comparable to similar Southern California communities and are a constraint to the development of housing for all income levels.

### Residential Development Standards

Citywide, outside the specific plan areas, the City regulates the type, location, density, and scale of residential development primarily through the Zoning Code. The following summarizes the City’s existing residential zoning districts:

- **Residential-Agricultural (R-A)** – Residential-Agricultural is intended to provide for single lots appropriate for detached single-unit residential dwelling units and light farming.



- **Single-Unit Residential (R-1)** – Single-Unit Residential is intended to provide for a range of detached single-unit residential dwelling units on single lots. This land use designation does not include condominiums or cooperative housing.
- **Two-Unit Residential, Balboa Island (R-BI)** – Two-Unit Residential Balboa Island is intended to provide for a maximum of two residential dwelling units, or duplexes. This designation is reserved to single lots on Balboa Island.
- **Two-Unit Residential (R-2)** – Two-Unit Residential is intended to provide for single lots appropriate for a maximum of two residential dwelling units, or duplexes.
- **Multiple Residential (RM)** – Multiple Residential is intended to provide for area appropriate for multi-unit residential developments containing attached or detached dwelling units.
- **Medium Density Residential (RMD)** – Medium Density Residential is intended to provide for areas appropriate for medium density residential developments containing attached or detached units.
- **Mixed-Use Vertical (MU-V)** – Mixed-Use Vertical is intended to provide for area appropriate for the development of mixed-use structures that vertically include residential dwelling units. Residential dwelling units are located above the ground floor, which includes office, restaurant, retail, and similar nonresidential uses.
- **Mixed-Use Mariners’ Mile (MU-MM)** – Mixed-Use Mariners’ Mile is intended to provide for areas appropriate for commercial and residential uses. Mariners’ Mile is located on the inland side of Coast Highway in the Mariners’ Mile Corridor. Properties that front Coast Highway may only be developed for nonresidential purposes. Properties to the rear of the commercial frontage may be developed for freestanding nonresidential uses, multi-unit residential dwelling units, or mixed-use structures that integrate residential above the ground floor with nonresidential uses on the ground floor.
- **Mixed-Use Cannery Village and 15<sup>th</sup> Street (MU-CV/15<sup>th</sup> St.)** – Mixed-Use Cannery Village and 15<sup>th</sup> Street is intended to establish a cohesive district or neighborhood containing multi-unit residential dwelling units with clusters of mixed-use and/or commercial structures on interior lots of Cannery Village and 15<sup>th</sup> Street on Balboa Peninsula. Allowed uses include multi-unity dwelling units; nonresidential uses; and/or mixed-use structures, where the ground floor is restricted to nonresidential uses along the street frontage. Residential uses and overnight accommodations are allowed above the ground floor and to the rear of uses along the street frontage. Mixed-Use or nonresidential structures are required on lots at street intersections and are allowed, but not required, on other lots.
- **Mixed-Use Water (MU-W1)** – Mixed-Use Water is intended to be applied to waterfront properties along the Mariners’ Mile Corridor in which nonresidential uses and residential dwelling units may be intermixed. A minimum of 50 percent of the allowed square footage in a mixed-use development shall be used for nonresidential uses in which marine-related and victor-serving land uses are mixed. An approved site development review is required prior to any development to



ensure uses are fully integrated and that potential impacts from their differing activities are fully mitigated. Design of nonresidential space to facilitate marine-related uses is encouraged.

- **Mixed-Use Water (MU-W2)** – This second Mixed-Use Water designation is intended to apply to waterfront properties in which marine-related uses may be intermixed with general commercial, visitor-related commercial and residential dwelling units on the upper floors.

The City’s Zoning Code also regulates the development on land through minimum and maximum standards on lot size, lot width and depth, setbacks, and on lot coverage and floor-area ratio (FAR). **Table 3-6** below provides the development standards for each residential zoning district in Newport Beach:

**Table 3-6: Development Standards in Newport Beach – Dimensions**

Zone	Dimensions			Min. Yard Setbacks			Construction Standards		
	Min. Lot Size (square feet)	Min. Lot Width (feet)	Min. Lot Depth (feet)	Front (feet)	Side (feet)	Rear (feet)	Max. Height (feet)*	Max. FAR	Max. Site Coverage
<b>Residential Districts</b>									
R-A	87,120	125	N/A	20	5	25	24, 29 <sup>6</sup>	N/A	40%
R-1	6,000, 5,000 <sup>1</sup>	60, 50 <sup>1</sup>	N/A	20	3, 4 <sup>2</sup>	10	24, 29 <sup>6</sup>	2.0 (Citywide) 1.5 (Corona del Mar)	N/A
R-1-6,000	6,000	60	80	20	6	6	24, 29 <sup>6</sup>	N/A	60%
R-1-7,200	7,200	70	90	20	5	20	35, 40 <sup>6</sup>	N/A	60%
R-1-10,000	10,000	90	100	15	10	10	24, 29 <sup>6</sup>	N/A	60%
R-BI	2,375	60, 50 <sup>1</sup>	N/A	20	See Note 3.	10 ft.	24, 29 <sup>6</sup>	1.5 plus 200 sq.ft.	N/A
R-2	6,000, 5,000 <sup>1</sup>	60, 50 <sup>1</sup>	N/A	20	See Note 3.	10 ft.	24, 29 <sup>6</sup>	2.0 (Citywide) 1.5 (Corona del Mar)	N/A
R-2-6,000	6,000	60	80 ft.	20	6 ft.	6 ft.	24, 29 <sup>6</sup>	N/A	60%
RM	6,000, 5,000 <sup>1</sup>	60, 50 <sup>1</sup>	N/A	20	See Note 3.	10 ft.	28, 33 <sup>6</sup>	1.74	N/A
RMD	6,000, 5,000 <sup>1</sup>	60, 50 <sup>1</sup>	N/A	20	See note 4.	25 ft.	28, 33 <sup>6</sup>	N/A	N/A
RM-6,000	60	60	80	20	6 ft.	6 ft.	28, 33 <sup>6</sup>	N/A	60%
<b>Mixed-Use Zoning Districts</b>									
MU-V	2,500	25		0	0-5 <sup>5</sup>	0-5 <sup>5</sup>	26, 31 <sup>6</sup>	1.0 (Mixed-Use)	
MU-MM	10,000	50		0	0-5 <sup>5</sup>	0-5 <sup>5</sup>	26, 31 <sup>6</sup>	1.0 (Mixed-Use)	





Zone	Dimensions			Min. Yard Setbacks			Construction Standards		
	Min. Lot Size (square feet)	Min. Lot Width (feet)	Min. Lot Depth (feet)	Front (feet)	Side (feet)	Rear (feet)	Max. Height (feet)*	Max. FAL	Max. Site Coverage
MU-DW	40,000	100		0	0-5 <sup>5</sup>	0-5 <sup>5</sup>	32, 37 <sup>6</sup>	1.0 (Mixed-Use)	
MU-CV/15 <sup>th</sup> St.	5,000	40		0	0-5 <sup>5</sup>	0-5 <sup>5</sup>	26, 31 <sup>6</sup>	1.0, 1.5 <sup>7</sup>	
MU-W1	20,000	200		0	0-5 <sup>5</sup>	0-5 <sup>5</sup>	26, 31 <sup>6</sup>	1.0, 1.5 <sup>7</sup>	
MU-W2	2,500	25		0	0-5 <sup>5</sup>	0-5 <sup>5</sup>	26, 31 <sup>6</sup>	0.75, 0.8 <sup>7</sup>	
Notes: (1) Corner Lot, Interior Lot respectively (2) lots <40 wide, lots >40 wide respectively (3) 3 ft. for lots > 40ft. wide, 4 ft. for lots 40'1" – 49'11" wide, and 8% of Average Lot Width for lots > 50 ft. respectively, (4) N/A for lots > 40ft. wide, 5 ft. for lots 40'1" – 49'11" wide, and N/A for lots > 50 ft. (5) Adjoining residential district (6) Flat roof, Sloped roof respectively (7) Mixed Use, Residential respectively									

### Yard Requirements

Yards allow for open space, landscaping and greenery, emergency access, and pedestrian and vehicular circulation on a site. Requirements are set in order to ensure there is adequate available space designated to these elements on a property when considering new development or improvements. Included in these requirements are setbacks areas that are located between a setback line and the property line and must remain unobstructed. Setbacks provide the following:

- Visibility and traffic safety
- Access to and around structures
- Access to natural light and ventilation
- Separation of incompatible land uses
- Space for privacy, landscaping, and recreation
- Protection of natural resources
- Safety from fire and geologic hazard

The City’s yard requirements do not prohibit residential developments from reaching the maximum density on varying lands/sites, it therefore is not a constraint to the development of housing, specifically housing affordable to low and very low-income households. Additionally, the City’s Density Bonus programs provides incentives for the development of affordable housing, including a reduction in the site development standards (e.g., site coverage, setbacks, increased height up to the maximum allowed, reduced lot sizes, and/or parking requirements).

### Site Coverage and Floor Area Limit

Site coverage and Floor Area Limit (FAL) requirements maintain mass and intensity of a use for residential uses. The Newport Beach Zoning Code defines site coverage as the percentage of a site covered by



structures and accessory structures, as well as decks that exceed 30 inches in height. Maximum site coverage standards limit the footprint of a building and calculates it as a percentage between the ground floor area of a building and the net area of a lot.

The FAL refers to the gross floor area allowed on a residential lot and is determined by multiplying the allowed buildable area of the lot times the applicable multiplier for the lot. FAL requirements limit the total usable floor area to limit the bulk of a building to the land, other buildings, and public facilities.

### **Maximum Building Height**

Maximum building heights are set and defined in the City's Zoning Code to maintain symmetry and compatibility between existing and proposed developments. The height is measured as the vertical distance from the grade of the pad to the highest part of the structure, including protective guardrails and parapet walls. The height limit may be increased within specific areas through the adoption of a Planned Community Development, a specific plan, a planned development permit, a coastal development permit in the coastal zone, or a site development review. The deviation in maximum height limit requires approval of a discretionary action.

- R-A, R-1, R-BI, and R-2 Zoning Districts have height limits of 24 feet for structures with flat roofs (including guard rails and parapet walls) and 29 feet for sloped roofs. A discretionary approval may permit height up to 28 feet for flat roofs and 33 feet for sloped roofs.
- RM and RMD Zoning Districts have height limits of 28 feet for structures with flat roofs and 33 feet for sloped roofs. The height of the structure may be increased to 32 feet for foot roof and 37 feet for sloped roofs through discretionary approval. Properties located in the Height (H) Overlay District may increase height limits to 40 feet for flat roofs and 45 feet for sloped roofs.
- Planned Community Districts may also propose and regulate their own height limits.

The City's building height requirements do not prohibit residential developments from reaching the maximum density on varying lands/sites, it therefore is not a constraint to the development of housing, specifically housing affordable to low and very low-income households. Additionally, the City's Density Bonus programs provides incentives for the development of affordable housing, including a reduction in the site development standards (e.g., site coverage, setbacks, increased height up to the maximum allowed, reduced lot sizes, and/or parking requirements).

Additionally, the City has identified sites in the RM and MU zones (listed in Appendix B) which can accommodate a portion of the City's RHNA allocation. The heights identified for the Multiple Residential (RM) and Mixed-Use (MU) Zones are considered base height limits and can be altered through a discretionary approval process.

- However, most of the denser residential development projects are within planned communities where the developer sets the identified height limitation. Examples of this include:
- Uptown Newport Planned Community Zoning District (PC-58), which allows for heights up to 150 feet



- Residential Overlay within the Newport Place Planned Community Zoning District (PC-11), which has a base height limit of 55 feet that can be increased up to the maximum allowable under Federal Aviation Regulation (FAR) Part 77
- San Joaquin Plaza Planned Community Zoning District (PC-19) allows heights up to 69 feet

The City will establish housing overlay zones that will apply to all opportunity sites in each focus area. Like the Residential Overlay within the Newport Place Planned Community Zoning District (PC-11) and other planned communities, the future housing overlay will establish increased height limits appropriate to accommodate the proposed densities. The details of the housing overlay zones are yet to be determined.

**Usable Open Space**

The City’s Zoning Code defines Usable Open Space as an outdoor or enclosed area on the ground, roof, balcony, deck, porch, or terrace, used for outdoor living, active or passive recreation, pedestrian access, or landscaping. This does not include parking facilities, driveways, utility, or service areas, required setbacks, and sloped or submerged land. All residential districts in Newport Beach have a maximum site coverage to allow for open space. Mixed-Use districts require 75 square feet per dwelling unit of common open space and 5 percent of the gross floor area of private open space for each unit.

The City’s usable open spaces requirements do not prohibit residential developments from reaching the maximum density on varying lands/sites, it therefore is not a constraint to the development of housing, specifically housing affordable to low and very low-income households. Additionally, the City’s Density Bonus programs provides incentives for the development of affordable housing, including a reduction in the site development standards (e.g., site coverage, setbacks, increased height up to the maximum allowed, reduced lot sizes, and/or parking requirements.

**Parking Standards**

Adequate off-street parking shall be provided to avoid street overcrowding and maintain parking opportunities for the public to visit the coast. This is maintained through the City’s parking requirements for each housing unit type, as shown in **Table 3-7**. Parking requirements may add to the development cost of a property and project as spaces and garage parking create additional costs and remove potentially livable space.

**Table 3-7: Parking Requirements for Residential Uses**

Unit Type	Number of Spaces Required
Accessory Dwelling Unit	1 parking space, with exceptions <sup>(1)</sup>
Junior Accessory Dwelling Unit	No additional parking required
Single-Unit Dwellings – Attached	2 per unit in a garage
Single-Unit Dwellings – Detached and less than 4,000 sq. ft. of floor area	2 per unit in a garage
Single-Unit Dwellings – Detached and 4,000 sq. ft. of floor area	3 per unit in a garage
Single-Unit Dwellings – Balboa Island	2 per unit in a garage
Multi-Unit Dwellings – 3 units	2 per unit covered, plus guest parking 1-2 units, no guest parking required



Unit Type	Number of Spaces Required
	3 units, 1 guest parking space
Multi-Unit Dwellings – 4 units or more	2 per unit covered, plus 0.5 space per unit for guest parking
Two-Unit Dwellings	2 per unit; 1 in a garage and 1 covered or in a garage
Live/Work Units	2 per unit in a garage, plus 2 for guest/customer parking
Senior Housing – Market Rate	1.2 per unit
Senior Housing – Affordable	1 per unit
<p>Note:</p> <p>1. Parking is waived for ADUs if the property is within ½ mile walking distance to transit (including ferry); within an architecturally or historically significant district; on-street parking permits are required and not provided to the occupant of the ADU; or within one block of a car-share vehicle pick-up/drop-off location</p> <p>Source: City of Newport Beach Municipal Code</p>	

The City’s parking requirements vary depending on type of unit. As shown in **Table 3-7**, the City’s parking requirements are similar to those throughout the region and are based on generation rates by use type. Multiple family parking requirements are not overly restrictive and the City may grant exceptions to these standards through state-required density bonus provisions and other provisions in the Municipal Code.

As part of the city’s rezone program to accommodate future housing growth, development standards, such as parking requirements, will be evaluated to potentially provide additional incentives, concessions reductions or modifications, as appropriate. The City’s Density Bonus program also provides incentives for the development of affordable housing, including a reduction in the site development standards (e.g., site coverage, setbacks, increased height up to the maximum allowed, reduced lot sizes, and/or parking requirements.

Additionally, the City has not denied any residential projects based upon a lack of required parking. Parking has also not been identified by prospective residential development proponents as a constraint.

If, however, parking is identified as an issue, then the City’s Zoning Code offers alternative means of compliance through off-site parking, demonstrative a reduced-parking demand, or a shared-parking arrangement. This is accomplished through review and approval of a use permit (see NBMC Sections 20.40.100 (Off-Site Parking) and 20.40.110 (Adjustments to Off-Street Parking Requirements) or their successor sections.

Furthermore, parking standards can be modified through projects taking advantage of a density bonus, if deemed necessary.

**Variety of Housing Types Permitted**

Housing Element Law requires jurisdictions to identify sites to be made available through zoning and development standards in order to facilitate development of a variety of housing types for all socioeconomic levels of the population. Housing types include single-unit dwellings, multi-unit housing, accessory dwelling units, factory-built housing, mobile homes, employee and agricultural work housing, transitional and supportive housing, single-room occupancy units (SROs), and housing for persons with disabilities. **Table 3-8** below identifies the various housing types permitted within each residential and **Table 3-9** identified housing types permitted in mixed-use zoning district in Newport Beach.

Table 3-8: Various Housing Types Permitted in Residential Zones

Housing Type	Residential Zones						Nonresidential Zones															
	R-A	R-1*	R-BI	R-2	RM	RMD	OS	PF	PR	PI	IG	OA	OG	OM	OR	CC	CG	CM	CN	CV	CV-LV	
Single-Unit Dwellings – Attached	--	--	P	P	P	P	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
Single-Unit Dwellings – Detached	P	P	P	P	P	P	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
Multi-Unit Dwellings	--	--	--	--	P	P	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
Two-Unit Dwellings	--	--	P	P	P	P	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
Accessory Dwelling Unit(s)	P	P	P	P	P	P	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
Junior Accessory Dwelling Unit(s)	P	P	P	P	P	P	NA	NA	NA	--	NA	--	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
Live-Work Units	--	--	--	--	--	--	NA	NA	NA	--	NA	--	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
Short-Term Lodging	--	--	P	P	P	P	NA	NA	NA	--	NA	--	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
Residential Care Facilities – Limited (6 or fewer) Licensed	P	P	P	P	P	P	NA	NA	NA	--	NA	--	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
Residential Care Facilities – Limited (6 or fewer) Unlicensed	--	--	--	--	CUP-HO	CUP-HO	NA	NA	NA	--	NA	--	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
Residential Care Facilities – General (7 or More) Licensed	--	--	--	--	CUP-HO	CUP-HO	NA	NA	NA	--	NA	--	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
Residential Care Facilities – General (7 or More) Unlicensed	--	--	--	--	CUP-HO	CUP-HO	NA	NA	NA	--	NA	--	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
Residential Care Facilities – Integral Facilities/Integral Uses	--	--	--	--	CUP-HO	CUP-HO	NA	NA	NA	--	NA	--	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
Residential Care, Accessory Use Only	NA	NA	NA	NA	NA	NA	--	MUP	--	MUP	NA		NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
Caretaker Residence	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	P		NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
Congregate Care Home	NA	NA	NA	NA	NA	NA	--	--	--	MUP	NA		NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
Convalescent Facilities	NA	NA	NA	NA	NA	NA	--	--	--	MUP	NA		NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
Parolee-Probationer Home	--	--	--	--	--	--	NA	NA	NA	--	NA	--	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA

# City of Newport Beach

## 2021-2029 HOUSING ELEMENT



Housing Type	Residential Zones						Nonresidential Zones															
	R-A	R-1*	R-BI	R-2	RM	RMD	OS	PF	PR	PI	IG	OA	OG	OM	OR	CC	CG	CM	CN	CV	CV-LV	
Farmworker Housing	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
Supportive Housing	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
Transitional Housing	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
Emergency Shelters	--	--	--	--	--	--	--	--	--	P	NA	P	--	--	--	NA	NA	NA	NA	NA	NA	NA
Low Barrier Navigation Centers	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
SRO Residential Hotel	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	CUP	CUP	CUP	CUP	CUP	CUP	CUP	CUP	CUP	CUP	--

Notes:  
P – Permitted by Right  
A – Allowed  
MUP – Minor Use Permit  
CUP-HO – Conditional Use Permit in Residential Zoning Districts  
(--)- Not Allowed  
NA – Not Listed/Stated  
\*Located above 1<sup>st</sup> floor  
Source: City of Newport Beach Municipal Code



**Table 3-9: Mixed-Use Housing Types Permitted in Mixed-Use Zones**

Housing Type	Zones					
	MU-V	MU-MM	MU-DW	MU-CV/ 15 <sup>th</sup> St.	MU-W1	MU-W2
Single-Unit Dwellings – Attached	P* (1)	--	--	P (3)	P* (1)	P* (2)
Single-Unit Dwellings – Detached	--	--	--	--	--	--
Multi-Unit Dwellings	P* (1)	P (1)(2)	P (1)	P (3)	--	--
Two-Unit Dwellings	P* (1)	--	--	P (3)	--	--
Accessory Dwelling Unit(s)	P	P	P	P	P	P
Junior Accessory Dwelling Unit(s)	P	P	P	P	P	P
Live-Work Units	P	P (1)(2)	P	P (3)	--	--
Notes: *Located above 1 <sup>st</sup> floor (1) Allowed only as part of a mixed-use development. Refer to Section 20.48.130 (Mixed-Use Projects) for additional development standards. (2) Not allowed to front onto Coast Highway. Not allowed on lots at street intersections unless part of a mixed-use or live-work structure. Source: City of Newport Beach Municipal Code						

**Single-Unit Dwelling**

A Single-Unit Dwelling is defined as a structure on a single lot containing one dwelling unit and one housekeeping unit. The structure shall be constructed in compliance with the California Building Code (CBC) and placed on a permanent foundation. Single-Unit Dwellings may be attached or detached. An attached dwelling is owned in fee, located on an individual lot, and shares a wall or roof with another structure. A detached dwelling is also owned in fee and located on an individual but is not connected to another structure in any way.

**Multi-Unit Dwelling**

A Multi-Unit Dwelling contains three or more dwelling units within the same structure occupied on a single lot. Each dwelling unit is occupied by separate housekeeping units. This housing type includes triplexes (3 dwelling units in one structure), fourplexes (four dwelling units in one structure), and apartments (5 or more dwelling units in one structure), where each structure is owned by one entity and each dwelling unit is rented out. Condominiums are also multi-unit dwellings, but each individual dwelling unit is owned by separate entities. The structure must be placed on a permanent foundation and constructed in compliance with the California Building Code (CBC).

**Two-Unit Dwelling**

A Two-Unit Dwelling contains two dwelling units, each occupied by their own housekeeping unit, and located within the same structure. This may be referred to as a duplex. The structure must be placed on a permanent foundation and constructed in compliance with the California Building Code (CBC).



### ***Accessory Dwelling Unit (ADU)***

An Accessory Dwelling Unit is a secondary dwelling unit, attached or detached, to the primary residence(s) on a single lot. This may be referred to as a “granny flat,” “in-law unit,” or “carriage house.” An ADU must include a kitchen, a full bathroom, a living area, and a separate entrance. The Newport Beach Zoning Code includes efficiency units and manufactured homes as ADUs. Junior ADUs (JADUs) are defined by the City’s Municipal Code as a dwelling unit accessory to and entirely contained within an existing or proposed single-unit dwelling. A JADU may not be greater than 500 square feet, and it must either include its own sanitation facilities or share facilities with the single-unit dwelling. A JADU must also include its own efficiency kitchen.

### ***Live-Work Unit***

Live-Work Units refer to structures that include both a commercial and a single dwelling unit. Commercial uses are generally located on the ground floor, with the dwelling unit located one to two stories above.

### ***Short-Term Lodging***

Short-Term Lodging refers to a dwelling unit that is rented or leased as a single housekeeping unit for 30 days or less.

### ***Single-Room Occupancy (SRO)***

Within the Zoning Code, SROs fall under the classification of Visitor Accommodations and are defined as buildings with six or more guest rooms without kitchen facilities in individual rooms, or kitchen facilities for the exclusive use of guests, and which are also the primary residences of the hotel guests. SROs are permitted in all commercial (CC, CM, CN, CV) and office (OG, OM, OR) zoning districts with the approval of a conditional use permit. To facilitate the development of SROs within these districts, the City will not develop, nor impose, any special set of conditions or use restrictions on SROs; instead, each application would be evaluated individually and approved based upon its own merits and circumstances. Additionally, the Housing Element includes a Policy Action 30 to encourage and facilitate the development of at least one SRO development, or the preservation and rehabilitation of an SRO development, within the Planning Period.

### ***Residential Care Facilities***

On January 22, 2008, the City Council approved Ordinance No. 2008-5 (“Ordinance”) with the intent of maintaining zoning protections for residential districts, while benefiting disabled persons who wished to live in those districts. This Ordinance balances the protections granted under the federal Fair Housing Act, Fair Housing Act Amendments (42 U.S.C. Section 3601) and other state and federal laws (i.e. Americans with Disabilities Act) to persons with disabilities, while also ensuring the residential character of the neighborhood is maintained.

As defined by the City, Residential Care Facilities provide housing for individuals with a disability and are commonly referred to as group homes, sober living homes, and state licensed alcoholism or drug abuse recovery or treatment facilities. Facilities that provide treatment services are required to be licensed by the State of California Department of Social Services or Department of Health Care Services (“DHCS”). Unlicensed facilities are not allowed to provide treatment services, but rather are meant to provide an





interim environment between rehabilitation and stabilized living. Depending on the number of persons residing within the facility and treatment provided, residential care facilities are further classified as follows:

- **General Licensed (Seven or More Persons)**
- **General Unlicensed (Seven or More Persons)**
- **Limited Licensed (Six or Fewer Persons)**
- **Small Unlicensed (Six or Fewer Persons)**

The purpose of the Ordinance is to allow disabled persons to live in a residential setting while ensuring that the residential care facilities are operated in a manner consistent with the residential character of surrounding neighborhoods, do not recreate an institutional environment that would defeat the purpose of community-based care, and that residential care facilities serving the disabled are operating in compliance with City and state laws/regulations. To achieve these purposes and to provide disabled persons with an equal opportunity to use and enjoy a dwelling in the City's residential zoning districts, the City treats licensed residential care facilities for six or fewer persons as single-unit residence permitted by-right in all residential-zones (R-A, R-1, R-BI, R-2, RM, and RMD). Also, residential care facilities for seven or more persons and unlicensed residential care facilities are permitted in the following zoning districts, with a Conditional Use Permit:

- **Residential Districts**— RM and RMD zoning districts.
- **Planned Community Districts**—Property development regulations applicable to residential districts, related to residential care facilities, shall also apply to the corresponding portions of the PC Districts.

The location and permitting requirements applicable to larger and unlicensed residential care facilities are intended to avoid overconcentration so as to maintain the residential character of a neighborhood, which if lost would have an adverse effect on the welfare of the individuals' receiving services from the residential care facility and defeat the purpose of community-based recovery. The American Planning Association's Policy Guide on Community Residences, which supports residential care facilities, states that residential care facilities should be scattered throughout residential districts rather than being concentrated on any single block or in any single neighborhood. If several residential care facilities are located next to one another, or are placed on the same block, the ability of the residential care facilities to achieve normalization and community integration would be compromised.

Also, the Departments of Justice and Housing Urban Development have stated that a neighborhood composed largely of residential care facilities could adversely affect individuals with disabilities and would be inconsistent with the objective of integrating persons with disabilities into the community. The California Research Bureau similarly found that facilities should be scattered throughout residential districts, and facilities so densely clustered as to recreate an institutional environment would defeat the purpose of community-based care.



Newport Beach has a significant number of residential care facilities compared to other communities. According to DHCS and City records, there are currently 21 state-licensed residential treatment facilities and an additional 8 City-permitted unlicensed residential facilities in Newport Beach, a community which as of 2019 had a total resident population of 85,694. As a measure of comparison, there are currently only 8 state-licensed residential treatment facilities in Sacramento which had a total residential population of 500,930 people, as of 2019.

As set forth above, the City has a significant number of residential care facilities, when compared to other cities, and, under the current regulations, there are significant portions of the City that can accommodate additional facilities. In addition, the City's has a well-defined Reasonable Accommodation procedure, which further ensures individuals with disabilities are protected. Specifically, Section 20.52.070 of the Newport Beach Municipal Code provides procedures for obtaining reasonable accommodation from the City's zoning and land use regulations, policies, and practices when necessary to provide an individual with a disability an equal opportunity to use and enjoy a dwelling. With a reasonable accommodation, a group of disabled individuals can reside in any district zoned for residential use within the City.

Section 20.52.070 ensures that reasonable accommodation requests are processed efficiently without imposing costs on the applicant. The City does not assess a fee for reasonable accommodation requests. Although a public hearing is required, the matter is heard before a Hearing Officer rather than the Planning Commission, which helps establish an apolitical and more objective decision-making authority, and results in a more expedited processing. As described in more detail in the *Reasonable Accommodation* Section of the Housing Element, the findings are based on the objective need to provide an individual with a disability an equal opportunity to use and enjoy a dwelling. To date, the City has approved three conditional use permits and six reasonable accommodations for general and unlicensed residential care facilities, which shows that these processes are not a significant constraint.

It is also important to note that these types of facilities are the only groups not living as a single housekeeping unit that may be established in a residential district. Other types of group residential uses occupied by two or more persons not living as a single housekeeping unit (e.g. dormitories, fraternities, sororities, and private residential clubs) are not permitted within residential districts. By providing an opportunity to establish residences with a conditional use permit or reasonable accommodation to disabled groups, the Municipal Code gives more favorable treatment to disabled groups not living as single housekeeping units than it gives to non-disabled groups that are not living as a single housekeeping unit. Therefore, groups of disabled individuals are distinguished only to the extent they are treated preferentially.

### ***Residential Care Facilities – General Licensed (Seven or More Persons)***

General Licensed Residential Care Facilities provide a single housekeeping unit for individuals with a disability who reside at the facility. There may be 7 or more individuals residing at the facility, but they each reside in separate dwelling units. The facility may include a place, site or building, or groups of places, sites, or buildings, licensed by the State.



### ***Residential Care Facilities – General Unlicensed (Seven or More Persons)***

General Unlicensed Residential Care Facilities include a place, site or building, or groups of places, sites, or buildings, which are not licensed by the State and provide housing to 7 or more individuals with disabilities in separate dwelling units. The facility is not required by law to be licensed by the State.

### ***Residential Care Facilities – Limited Licensed (6 or Fewer Persons)***

Limited Licensed Residential Care Facilities provide care, services, and/or treatment in a community residential setting for six or fewer individuals. Individuals may include adults, children, or adults and children. The facility shall be considered a single housekeeping unit and must therefore be in compliance with all land use and property development regulations applicable to single housekeeping units.

### ***Residential Care Facilities – Small Unlicensed (6 or Fewer Persons)***

Small Unlicensed Residential Care Facilities include a place, site or building, or groups or places, sites, or buildings in which 6 or fewer individuals with disabilities reside in separate dwelling units. The facility is not required by law to be licensed by the State.

### ***Parolee-Probationer Home***

Parolee-Probationer Home refers to a structure or dwelling unit which houses 2 or more parolees-probationers who are unrelated by blood, marriage, or legal adoption. The parolees-probationers reside here in exchange for monetary or nonmonetary consideration given and/or paid by the parolee-probationer and/or any public or private entity or person on behalf of the parolee-probationer. The residential structure may be operated by an individual, a for-profit entity, or a nonprofit entity.

### ***Mobile Home Park***

A Mobile Home refers to a transportable trailer that is certified under the National Manufactured Housing Construction and Safety Standards Act of 1974. The mobile home is over 8 feet in width and 40 feet in length and may or may not include a permanent foundation. A mobile home on a permanent foundation is considered a single-unit dwelling.

### ***Convalescent Home***

Convalescent Home refers to an establishment that provides 24-hour care for persons requiring regular medical attention. A convalescent home may be referred to as a “nursing home” or “hospice.” This facility does not provide emergency medical services or surgical services.

### ***Common Interest Development***

Common Interest Developments include community apartment projects, condominium projects, planned developments, and stock cooperative.

### ***Farmworker Housing***

Farmworkers are considered a special needs interest group by HCD. Farmworkers are traditionally defined as people whose primary incomes are earned through permanent or seasonal agricultural labor. Farmworkers are generally considered to have special housing needs due to their limited income and the often-unstable nature of their employment. In addition, farmworker households tend to have high rates of poverty, live disproportionately in housing that is in the poorest condition, have extremely high rates



of overcrowding, and have low homeownership rates. There is a total of 1,772 farmworkers in the County of Orange, though few may reside in Newport Beach the City must consider the housing needs of this community. The Newport Beach Municipal Code does not explicitly define Farmworker Housing or outline it as a permitted use in residential or nonresidential zones. Policy **Action 30** of the **Section 4: Housing Plan** outlines the City’s strategy to update the Municipal Code in accordance with state legislation.

### ***Supportive Housing***

California State Assembly Bill 2162 amended Section 65583, Planning and zoning law to specify that supportive housing is a residential use of property, subject only to those restrictions that apply to other residential dwellings of the same type in the same zone. The City of Newport Beach’s Municipal Code does not explicitly define Supportive Housing or identify zones where it is a permitted use. **Policy Action 7B** of the **Section 4: Housing Plan** outlines the City’s strategy to update the Municipal Code in accordance with state legislation.

### ***Transitional Housing***

The City of Newport Beach defines Transitional Housing as rental housing operating under program requirements that call for the termination of assistance and recirculation of the assisted unit to another eligible program recipient program at some predetermined future point in time, which shall be no less than six months. Transitional housing that is provided in single-, two- or multi-unit dwelling units, group residential, parolee-probationer home, residential care facilities, or boarding house uses shall be permitted, conditionally permitted or prohibited in the same manner as the other single-, two-, or multi-unit dwelling units, group residential, parolee-probationer home, residential care facilities, or boarding house uses under this code.

The City of Newport Beach’s Municipal Code does not explicitly identify Transitional Housing as a permitted use within the appropriate zones as required by state law. **Policy Action 7B** of the **Section 4: Housing Plan** outlines the City’s strategy to update the Municipal Code in accordance with state legislation.

### ***Emergency Shelters***

State Law existing law authorizes a political subdivision to allow persons unable to obtain housing to occupy designated public facilities, as defined, during the period of a shelter crisis. Existing law provides that certain state and local laws, regulations, and ordinances are suspended during a shelter crisis, to the extent that strict compliance would in any way prevent, hinder, or delay the mitigation of the effects of the shelter crisis. The City of Newport beach permits Emergency shelters in the OA – Office Airport zoning district and the PI – Private Institutions Coastal zoning district.

Properties designated for PI are distributed throughout the City, but primarily located along major transportation corridors and offer easy access to public transportation. The PI zoning district is intended to provide for areas appropriate for privately owned facilities that serve the public, including places for assembly/meeting facilities (e.g., religious assembly), congregate care homes, cultural institutions, health care facilities, marinas, museums, private schools, yacht clubs, and comparable facilities. There are over 44 parcels totaling approximately 135 acres in the proposed PI zoning district. Several of the existing uses on these properties are religious assembly uses, many of which consist of large campuses. Given the high



land costs in the City, these religious assembly facilities could provide the best means to facilitate the development and management of emergency shelters in the City.

Additionally, properties designated for OA are located within three large blocks east of John Wayne Airport, west of Birch Street, north of Bristol Street/73 Freeway, and south of MacArthur Boulevard. These properties are also located along major transportation corridors and offer easy access to public transportation. The AO zoning district is intended to provide for areas appropriate for the development of properties adjoining the John Wayne Airport for uses that support or benefit from airport operations. These may include corporate and professional offices; automobile sales, rental and service; aviation sales and service; hotels; and accessory retail, restaurant, and service uses. There are over 56 parcels totaling approximately 54 acres in the AO zoning district. Several of the existing uses on these properties are low and medium density professional office buildings, many of which are aging and offer affordable rents compared to most other parts of the City. These properties should provide realistic opportunities for reuse of these structures for the development and management of emergency shelters in the City. Combined, the PI and AO zoning districts consist of over 98 parcels and 189 acres. By allowing emergency shelters as permitted uses within these districts, adequate sites are available for the potential development of emergency shelters in the City.

### ***Low Barrier Navigation Centers***

AB 101 states that “The Legislature finds and declares that Low Barrier Navigation Center developments are essential tools for alleviating the homelessness crisis -.” Low Barrier Navigation Centers are defined as a Housing First, low-barrier, service-enriched shelter focused on moving people into permanent housing that provides temporary living facilities while case managers connect individuals experiencing homelessness to income, public benefits, health services, shelter, and housing. Low Barrier Navigation Centers are required as a use by right in areas zoned for mixed uses and nonresidential zones permitting multi-unit uses if it meets specified requirements. The City of Newport Beach’s Municipal Code does not address Low Barrier Navigations Centers by definition. A program will be adopted to ensure the City’s development standards allow Low Barrier Navigation Centers By-Right in all zones that permit mixed-uses and non-residential uses. **Policy Action 7A** of the **Section 4: Housing Plan** outlines the City’s strategy to update the Municipal Code in accordance with state legislation.

### ***Planned Community District***

The Planned Community (PC) District is intended allow for a coordinated variety of uses and allows projects to benefit from large-scale community building. PC Districts allow for greater flexibility and less restrictive development regulations, while also maintaining compliance with the intent and provisions of the Zoning Code. The Newport Beach Municipal Code states that a PC District may include various types of uses given they are consistent with the General Plan through the adoption of a development plan and text materials that identify land use relationships and associated development standards.

PC Districts allow for large scale housing projects on land areas no less than 25 acres of unimproved land area or 10 acres of improved land area; however, the City Council may waive the minimum acreage requirements. Improved land area refers to parcels of land with existing permanent structures occupying at least 10 percent of the total PC District. The subject property must be reclassified as a PC District and a



Development Plan must be filed with the City to initiate the development process. The Development Plans are reviewed by the Director, scheduled for a public hearing before the Planning Commission for a recommendation, and approved by the City Council. A Planned Community District must also go through an environmental review.

The Development Plan must contain:

- A land use map containing the distribution, location, and extent of uses proposed
- Land use tables designating permitted uses
- Development standards
- Protection measures for landforms and public views
- Sustainable improvement standards
- Location and extent of essential facilities including circulation and transportation, drainage, energy, sewage and waste disposal, and water
- Development standards for conservation, development, and utilization of natural resources
- A program of implementation measures, programs, regulations, and public works projects
- A topographical map to illustrate the character of the terrain and condition of existing vegetation
- A summary of the relationship between the proposed development plan and the goals, policies, and actions of the General Plan

### **Growth Management Measures**

Growth management measures are techniques used by a government to regulate the rate, amount, and type of development. Growth management measures allow cities to grow responsibly and orderly, however, if overly restricted can produce constraints to the development of housing, including accessible and affordable housing.

On November 7, 2000, the Newport Beach electorate approved Measure S, ~~which-~~ ~~Measure S~~ amended the Newport Beach City Charter by adding Section 423. ~~Charter Section 423, which~~ requires voter approval of certain major amendments of the Newport Beach General Plan, unless state or federal law precludes a vote of the electorate on the amendment. In the case of Charter Section 423, in general, a major amendment to the General Plan is defined as defined as any proposed amendment of the General Plan one that significantly increases allowed density or intensity -is first considered and/ or approved by the City Council subsequent to December 15, 2000 and that by increasingincreases the number of over 100 peak hour trips (traffic), or over 40,000 square feet of, floor area (intensity), or over 100 dwelling units (density) when compared to the General Plan prior to approval. These thresholds are calculated, as the sum a result of the amendment itself and or eighty percent (80%) of the increases resulting from other amendments affecting the same neighborhood and that, which were adopted within the preceding ten (10) years., when compared to the General Plan prior to approval.



~~Therefore, an amendment shall not take effect unless it has been submitted to the voters and approved by a majority of those voting on it.—When the electorate approved Measure S, Charter Section 423 the electorate encouraged the City Council to adopt implementing guidelines that are consistent with the its purpose and intent of Measure S; however, the Guidelines for Implementing Charter Section 423 do not provide guidance as to when a state or federal law precludes a vote on a major amendment of the General Plan. In the case of Charter Section 423, an amendment to the General Plan is defined as any proposed amendment of the General Plan that is first considered and/ or approved by the City Council subsequent to December 15, 2000 and that increases the number of peak hour trips (traffic), floor area (intensity), or dwelling units (density) when compared to the General Plan prior to approval.~~

### **Procedure**

The City Council determines if an proposed amendment requires voter approval pursuant to Charter Section 423, based on the following conditions:

- The Amendment modifies the allowed use(s) of the property or area that is the subject of the Amendment such that the proposed use(s) generate(s) more than one hundred (100) morning or evening peak hour trips than are generated by the allowed use(s) before the Amendment; or
- The Amendment authorizes an increase in floor area for the property or area that is the subject of the Amendment that exceeds forty thousand (40,000) square feet when compared to the General Plan before approval of the Amendment; or
- The Amendment authorizes an increase in the number of dwelling units for the property or area that is the subject of the Amendment that exceeds one hundred (100) dwelling units when compared to the General Plan before approval of the Amendment; or
- The increase in morning or evening peak hour trips, floor area or dwelling units resulting from the Amendment when added to eighty percent (80%) of the increases in morning or evening peak hour trips, floor area or dwelling units resulting from Prior Amendments, within the preceding ten (10) years (see definition in Section 2J) exceeds one or more of the voter approval thresholds in Section 423 as specified in Subsection 1, 2 or 3.

If the City Council determines a General Plan Land Use Element Amendment requires voter approval, after approving the Amendment, the City Council then adopts a resolution calling an election on the Amendment. The City Council schedules the election at the next regular municipal election, as specified by the City Charter. The City Attorney then prepares an impartial analysis of the Amendment, which contains information about the Amendment, any related project or land use approval, and the environmental analysis conducted that will help the electorate make an informed decision. In the absence of an ordinance or Charter provision that establishes a procedure for submittal of arguments or rebuttals relative to City measures, the City Council will adopt a resolution that authorizes the filing of arguments and rebuttals in accordance with the general procedures specified in the Elections Code.

It is important to understand that Charter Section 423 only applies to General Plan amendments. Individual housing development projects that do not require a General Plan amendment are already



accommodated within the General Plan and zoning framework. They would not be subject to Charter Section 423 and would never require a vote of the electorate.

If a housing development project requires a General Plan amendment, any unit and peak hour traffic increases added to the project through bonus units awarded by the Density Bonus process are not counted toward Charter Section 423 thresholds and a determination whether a vote is required. Ultimately projects that require a vote of the electorate pursuant to Charter Section 423 may require additional costs and be subject to delays due to the election process that may yield uncertain election results.

To implement the Housing Element, the City must move forward with adding housing units that would qualify as a major amendment for purposes of Charter Section 423, which raises the question of whether a vote under Charter Section 423 is precluded by state or federal law. In recent legislation, such as Senate Bill 1333, the legislature has specifically found that the lack of affordable housing is a matter of statewide concern and that state housing laws related to land use, planning and zoning apply to charter cities. Similarly, the court in *Anderson v. City of San Jose* (2019) 42 Cal.App.5th 683, found that that the lack of affordable housing is a matter of statewide concern.

To comply with state laws, the City must have a general plan, which serves as the long-range plan for future physical development in the community. (Government Code § 65000, et seq.) One of the mandatory elements of a general plan is a housing element, which must be updated by the City every eight (8) years and identify sites sufficient to meet the City's share of the Regional Housing Needs Assessment (RHNA) allocation. (Government Code §§ 65302, 65588, 65863.) In determining the RHNA allocation, the council of governments does not take into consideration any zoning or other local land use restrictions, such as Charter Section 423, but is directed by state law to "consider the potential for increased residential development under alternative zoning ordinances and land use restrictions." (Government Code § 65584.04(e)(2)(B).) Furthermore, the City has a continuing obligation to always ensure that adequate sites exist to accommodate lower-income housing development, not just at the beginning of the eight (8)-year Regional Housing Needs Allocation cycle. (Government Code § 65863.) In this RHNA cycle, the City has been allocated 4,845 new housing units. To comply with state law, the City must not only plan for these units, but the City must also take action to establish the appropriate zoning designations and development standards to allow the private market to develop these units. After developing a plan for these units, the City must submit the Housing Element to the Department of Housing and Community Development for them to find that the Housing Element is in compliance with state law. But having the California Department of Housing and Community Development find the City's Housing Element is compliant with state law is only one step of many. The City is then required to implement the Housing Element. Under Government Code Section 65585 (i)(1)(A), implementation is not optional, and the California Department of Housing and Community Development is charged with ensuring the City is implementing the Housing Element and taking action to revoke its finding that the Housing Element complies with state law if the City fails to implement the Housing Element. In addition to the loss of local zoning control, permitting authority, and fines of up to \$600,000 per month for not having a compliant





Housing Element, state law provides that the Attorney General may appoint an agent to take all necessary actions to bring the City into compliance with state law. (Government Code § 65585(l).)

Because providing residential housing opportunity sites to accommodate the City’s RHNA allocation is mandated by state law and the City is required to implement the Housing Element, a Charter Section 423 vote is precluded, and the City will move forward with implementing the Housing Element without a Charter Section 423 vote.

~~The City will implement Charter Section 423 when it amends the Land Use Element of its General Plan to implement Policy Actions 1A through 1F provided in Section 4 of this Housing Element. The increases in housing units and the peak hour traffic to accommodate the City’s high RHNA allocation will exceed Charter Section 423 thresholds requiring a vote of the electorate. However, Charter Section 423 includes a statement that it shall not apply if State or Federal law precludes a vote of the electorate on the amendment. As of the adoption of this Housing Element, it is unclear if the State RHNA mandate to accommodate the City’s RHNA allocation would preclude a vote pursuant to Charter Section 423.~~

~~It is the duty of the City Council to place the increases in housing and the traffic generated before the voters of Newport Beach consistent with Charter Section 423. The vote will be scheduled in accordance with the California Elections Code and the City Charter after the City Council carefully reviews and approves the Land Use Element amendment and Zoning Strategies that support Policy Actions 1A through 1G. The City will prepare an Environmental Impact Report (EIR) in accordance with the California Environmental Quality Act (CEQA) prior to acting on the Land Use Element amendment and Zoning Strategies.~~

~~In 2006, the City adopted its comprehensive General Plan Update adding 1,166 housing units within its Land Use Element. The update included the housing unit increases to accommodate the City’s share of the 4<sup>th</sup> RNHA cycle. In accordance with Charter Section 423, the update was submitted to the voters and the measure passed. For the 6<sup>th</sup> cycle Housing Element, like the 2006 vote, the City will initiate an election and pay for all costs associated with the ballot measure. The discussion within Housing Goal #1 in Section 4 details the milestones involved in the Land Use Element amendment vote process. The City may choose to submit multiple ballot measures.~~

~~If the ballot measure passes, Charter Section 423 would not be an impediment in any way to housing development projects supported by the Land Use amendment and Zoning implementation strategies stemming from this Housing Element. The increases in housing units and their related peak hour traffic would also not count against future General Plan amendment applications thereby reducing the impediment that Charter Section 423 represents to future housing developments needing a subsequent General Plan Amendment in the future.~~

~~Making any changes to Charter Section 423 is complicated and uncertain. To attempt modifications that would exempt housing units from potentially requiring a vote is not a viable option. Placing a Charter amendment before the voters would require City Council action that would be contrary to the will of the people as expressed through Measure S in 2000 that resulted in Charter Section 423.~~



~~Based upon public comments received during the preparation of this Housing Element, there is no public support to amend Charter Section 423 to accommodate the housing necessary to satisfy the State RHNA mandate. The City Council publicly debated the prospects of amending Charter Section 423 through its review of this Housing Element, and it is universally believed that placing such a Charter amendment before the voters would be a waste of resources. Additionally, any effort to potentially amend Charter Section 423 would potentially and unnecessarily delay the implementation of this Housing Element. It could create voter fatigue reducing the prospects for success of a vote for the required Land Use Element Amendment to implement this Housing Element pursuant to Charter Section 423.~~

### **Short-Term Lodging Ordinance**

Short-term lodging refers to the rental and leasing of a dwelling unit to a single household for less than 30 consecutive days. Short-term lodging is predominantly used by tourists to the City and the homeowner may or may not reside on the property.

The City of Newport Beach adopted Ordinance 2020-15 on July 15, 2020, which set permitting regulations for short-term lodging throughout Newport Beach. The Ordinance allows short-term lodging in all residential districts in the City with the approval of a permit and related fees. Ordinance 2020-15 is not considered a constraint to housing in the City as the intent is to control short-term lodging and collect Transient Occupancy Tax. The City provides information online for interested homeowners, Frequently Asked Questions, and permit application processes.

### **Specific Plans**

The purpose of a Specific Plan is to implement the goals and objectives of a city's General Plan in a more focused and detailed manner that is area and project specific. The Specific Plan promotes consistency and an enhanced aesthetic level throughout the project community. Specific Plans contain their own development standards and requirements that may be more restrictive than those defined for the city as a whole.

#### ***Santa Ana Heights***

The Santa Ana Heights Community is located to the north of Newport Beach between East Side Costa Mesa and the Upper Newport Bay. The area was previously within County of Orange's permitting jurisdiction and the redevelopment project area was designated to eliminate blight. The land has since been annexed into Newport Beach.

The principal objectives of the Santa Ana Heights Specific Plan include:

- Encourage the upgrading of existing residential neighborhoods and business development areas
- Ensure well-planned business park and commercial developments which are adequately buffered from adjacent residential neighborhoods
- Encourage the consolidation of smaller contiguous lots in the business park area
- Ensure that business park and residential traffic are separated to the maximum extent possible, while minimizing impact upon existing parcels



- Ensure adequate provision of public works facilities as development occurs
- Enhance equestrian opportunities with the residential equestrian neighborhood
- Enhance the overall aesthetic character of the community

The Santa Ana Heights Specific Plan identifies design and landscaping guidelines in Section 20.90.030 of the Newport Beach Zoning Code; the development standards are provided in **Table 3-6**. **Table 3-8** also identifies the housing types permitted in each zoning district. Zoning district designations within the project area include the following:

- **Open Space and Recreational District: SP-7 (OS/R)** – Open Space and Recreational District is intended to establish the long-term use and viability of the Newport Beach Golf Course.
- **Residential Equestrian District: SP-7 (REQ)** Residential Equestrian District is intended to provide for the development and maintenance of a single-unit residential neighborhood in conjunction with limited equestrian uses. The zoning district is intended to maintain a rural character with an equestrian theme.
- **Residential Kennel District: SP-7 (RK)** – Residential Kennel District is intended to provide for the development of a single-unit residential neighborhood in conjunction with commercial kennel businesses.
- **Residential Single-Family District: SP-7 (RSF)** – Residential Single-Family District is intended to provide for the development of medium density single-unit detached residential neighborhoods. Permitted uses should complement and be compatible with residential neighborhoods.
- **Residential Multiple-Family District: SP-7 (RMF)** – Residential Multiple-Family District is intended to provide for the development of high-density multi-unit residential neighborhoods with a moderate amount of open space. Permitted uses should complement and be compatible with residential neighborhoods.
- **Horticultural Nursery District: SP-7 (HN)** – Horticultural Nursery District is intended to ensure the long-term use and viability of the horticultural nursery uses located along Orchard Drive in the western section of Santa Ana Heights.
- **General Commercial District: SP-7 (GC)** – General Commercial District is intended to provide regulations for the commercial areas along South Bristol Street and ensure the continuation of commercial uses which offer a wide range of goods and services to both the surrounding residential and business communities. This district is intended to promote the upgraded aesthetic image of the community and reduce conflicts between commercial and residential uses.
- **Business Park District: SP-7 (BP)** – Business Park District is intended to provide for the development and maintenance of professional and administrative offices, commercial uses, specific uses related to product development, and limited light industrial uses. The district shall protect the adjacent residential uses through regulation of building mass and height, landscape buffers, and architectural design features.



- **Professional and Administrative Office District: SP-7 (PA)** – Professional and Administrative Office District is intended to provide for the development of moderate intensity professional and administrative office uses and related uses on sites with large landscaped open spaces and off-street parking facilities. This district is intended to be located along heavily trafficked streets or adjacent to commercial or industrial districts. This district may also be used to buffer residential areas.
- **Professional, Administrative, and Commercial Consolidation District: SP-7 (PACC)** – Professional, Administrative, and Commercial Consolidation District is intended to provide for the development of professional and administrative office uses and commercial uses on lots located between South Bristol Street and Zenith Avenue in a manner which ensures lot consolidation and vehicular access to and from South Bristol Street.
- **Planned Development Combining District (PD)** – Planned Development Combining District is intended to provide a method for land to be developed using design features which take advantage of modern site planning techniques to produce an integrated development project amongst existing and potential development of the surrounding neighborhoods.

## **Housing for Persons with Disabilities**

Both the Federal Fair Housing Act and the California Fair Employment and Housing Act direct local governments to make reasonable accommodations (that is, modifications or exceptions) to their zoning laws and other land use regulations when such accommodations may be necessary to afford disabled persons an equal opportunity to use and enjoy a dwelling.

The Housing Element Update must also include programs that remove constraints or provide reasonable accommodations for housing designed for persons with disabilities. The analysis of constraints must touch upon each of three general categories: 1) zoning/land use; 2) permit and processing procedures; and 3) building codes and other factors, including design, location and discrimination, which could limit the availability of housing for disabled persons.

### ***Reasonable Accommodation***

Reasonable accommodation in the land use and zoning context means providing individuals with disabilities or developers of housing for persons with disabilities, flexibility in the application of land use and zoning and building regulations, policies, practices and procedures, or even waiving certain requirements, when it is necessary to eliminate barriers to housing opportunities. For example, it may be reasonable to accommodate requests from persons with disabilities to waive a setback requirement or other standard of the Newport Beach Municipal Code to ensure that homes are accessible for the mobility impaired. Whether a particular modification is reasonable depends on the circumstances.

Section 20.25.070 (Reasonable Accommodation) of the Newport Beach Municipal Code provides a procedure and sets standards for disabled persons seeking a reasonable accommodation in the provision of housing and is intended to comply with federal and state fair housing laws. A request for reasonable accommodation may be made by any person with a disability, their representative, or a developer or provider of housing for individuals with a disability, and a reasonable accommodation may



be approved only for the benefit of one or more individuals with a disability. Section 20.52.070 ensures that reasonable accommodation requests are processed efficiently without imposing costs on the applicant. The City does not assess a fee for reasonable accommodation requests. Although a public hearing is required, the matter is heard before a Hearing Officer rather than the Planning Commission, which helps establish an apolitical and more objective decision-making authority, and results in a more expedited processing. Once an applicant requests reasonable accommodation via all appropriate forms and submittals (as outline in Section 20.25.070 of the Newport Beach Municipal Code), the following actions may be taken by the Hearing Office:

- The Hearing Officer shall issue a written determination to approve, conditionally approve, or deny a request for reasonable accommodation, and the associated modification or revocation.
- The reasonable accommodation request shall be heard with, and subject to, the notice, review, approval, call for review, and appeal procedures identified for any other discretionary permit.
- On review the Council may sustain, reverse, or modify the decision of the Hearing Officer or remand the matter for further consideration, which remand shall include specific issues to be considered or a direction for a de novo hearing.

The written decision to approve or deny a request for reasonable accommodation must be consistent with all the applicable Federal and State laws and is be based on consideration of the following findings, all of which are required for approval:

- The reasonable accommodation request is made by or on the behalf of one or more individuals with a disability protected under the Fair Housing Laws.
- The reasonable accommodation request is necessary to provide one or more individuals with a disability an equal opportunity to use and enjoy a dwelling.
- The reasonable accommodation request will not impose an undue financial or administrative burden on the City as “undue financial or administrative burden” is defined in Fair Housing Laws and interpretive case law.
- The reasonable accommodation request will not result in a fundamental alteration in the nature of a City program, as “fundamental alteration” is defined in Fair Housing Laws and interpretive case law; and
- The reasonable accommodation request will not, under the specific facts of the case, result in a direct threat to the health or safety of other individuals or substantial physical damage to the property of others.

In considering a request for reasonable accommodation, the hearing officer may consider a variety of factors; factors for consideration by the hearing officer are listed (but limited to) in Section 20.52.070 of the Newport Beach Municipal Code. Reasonable accommodation generates practical opportunity and increased feasibility for the creation of accessible housing and the Newport Beach’s City process is not considered a constraint to the development of housing for all persons.



### **Definition of Family**

A restrictive definition of “family” that limits the number of unrelated persons and differentiates between related and unrelated individuals living together is inconsistent with the right of privacy established by the California Constitution. The City’s Municipal Code defines “family” as one or more persons living together as a single housekeeping unit in a dwelling unit. The Code also defines a single housekeeping unit as the functional equivalent of a traditional family, whose members are an interactive group of persons jointly occupying a single dwelling unit, including the joint use of and responsibility for common areas, and sharing household activities and responsibilities (e.g., meals, chores, household maintenance, expenses, etc.) and where, if the unit is rented, all adult residents have chosen to jointly occupy the entire premises of the dwelling unit, under a single written lease with joint use and responsibility for the premises, and the makeup of the household occupying the unit is determined by the residents of the unit rather than the landlord or property manager. The City’s definition of family does not limit the number of unrelated persons living together, however the definition for single housekeeping unit, as it relates to family, may require an update by the City as it considers a unit the equivalent to a traditional family.

### **Development Fees**

Residential developers are subject to a variety of permitting, development, and impact fees in order to access services and facilities as allowed by State law. The additional cost to develop, maintain, and improve housing due to development fees result in increased housing unit cost, and therefore is generally considered a constraint to housing development. However, fees are necessary to provide planning and public services in Newport Beach.

The location of projects and housing type result in varying degrees of development fees. The presumed total cost of development is also contingent on the project meeting city policies and regulations and the circumstances involved in a particular development project application. **Table 3-10** provides the planning and land use fees assessed by City of Newport Beach and **Table 3-11** provides the engineering and development services fees required for development projects. All fees are available on the City’s website in compliance with (GC 65940.1(a)(1)(A)).

Estimated total development and impact fees for a typical single-unit residential project, assuming it is not part of a subdivision and is consistent with existing city policies and regulations can range from \$63,304 to \$68,304. Estimated total development and Impact fees for a typical multi-unit residential project with ten units, assuming it is consistent with existing City policies and regulations range from \$429,600 to \$434,600.

These estimates are illustrative in nature and that actual costs are contingent upon unique circumstance inherent in individual development project applications. Considering the high cost of land in Newport, and the International Code Council (ICC) estimates for cost of labor and materials, the combined costs of permits and fees range from approximately 12.5 percent to 13.5 percent of the direct cost of development for a single-unit residential project and 9.6 percent to 9.3 percent for a multi-unit residential project. Direct costs do not include, landscaping, connection fees, on/off-site improvements, shell construction or amenities, therefore the percentage of development and impact fees charged by the City may be smaller if all direct and indirect costs are included.

**Table 3-10: Planning and Land Use Fees**

Type	Fee	Deposit	Hourly Rate
Amateur Radio and Satellite Dish Antenna Permit	\$1,379		
Amendment – General Plan	--	\$7,500	\$266
Amendment – Local Coast Program	--	\$3,300	\$266
Amendment – Planned Community	--	\$7,500	\$266
Amendment – Zoning Code	--	\$7,500	\$266
Appeals to City Council	\$1,715	--	--
Appeals to Planning Commission	\$1,715	--	--
Approval in Concept Permit	\$916	--	--
Certificate of compliance \$358 + \$12 County	\$370	--	--
Coastal Development Permit / Parcel Map Bundle	\$3,380	--	--
Coastal Development Permit Waiver / Initial Review	\$1,195	--	--
Compliance Letters / Minor Records Research	\$390	--	--
Comprehensive / Heritage / Innovative Sign Program	\$1,906	--	--
Condominium Conversion Permit	\$1,354	--	--
Development Agreement	--	\$10,000	\$266
Development Agreement Annual Review	\$1,397	--	--
Director / Staff Approval	\$982	--	--
Extensions of Time (except Abatement Period)	\$172	--	--
Environmental Documents	110% of Consultant Cost	--	
Heritage Sign Review	--	--	\$166
In-Lieu Parking	--	--	\$150
Limited Term Permit – Less than 90 Days	\$650	--	--
Limited Term Permit – More than 90 Days	\$2,235	--	--
Limited Term Permit – Seasonal	\$309	--	--
Lot Line Adjustment	\$2,316	--	--
Lot Merger	\$2,316	--	--
Modification Permit	\$3,219	--	--
Nonconforming Abatement Period Extension	\$698	--	--
Operator’s License – Application	\$974	--	--
Operator’s License – Appeal	\$946	--	--
Planned Community Development Plan	--	\$10,000	\$266
Planned Development Permit	\$6,386	--	--
Preliminary Application for Residential Development	\$776	--	--
Public Noticing Costs	\$508	--	--
Site Development Review – Major	\$5,776	--	--
Site Development Review – Minor	\$3,293	--	--
Subdivision Parcel Map	\$2,301	--	--
Subdivision Tentative/Vesting Tract Map	\$5,685	--	--
Temporary Banner Permit (\$50 + \$1 Recorded Management Fee)	\$59	--	--
Transfer of Development Rights	\$4,490	--	--
Use Permit – Conditional	\$5,838	--	--



Type	Fee	Deposit	Hourly Rate
Use Permit – Minor	\$3,292	--	--
Variance	\$5,380	--	--
Zoning Plan Check	--	--	\$208

*Sources: City of Newport Beach Planning Division Fee Schedule (Effective 07/01/2020 per Council Resolution 2021-21).*

**Table 3-11: Engineering and Development Services Fees**

Type	Fee
Plan Check Hourly Rate	\$261
Plan Review	87% of Building Permit Fee
Repetitive Plan Review	25% of Building Permit Fee
Energy Compliance Review	0.07% of Construction Cost
Disabled Access Compliance Review	0.1% of Construction Cost
Grading Plan Review by City Staff	87% of Grading Permit Fee
Grading Plan Review of Complex Projects by Consultant	133% of Consultant Fee
Determination of Unreasonable Hardship	\$357
Electrical Plan Review	87% of Total Permit Fee
Mechanical Plan Review	87% of Total Permit Fee
Plumbing Plan Review	87% of Total Permit Fee
Drainage Plan Review for Alteration to Drainage	\$199
Water Quality Management Plan Review (Commercial Projects)	\$275
Water Quality Management Inspections (Commercial Projects)	\$350
Water Quality Management Plan Review Fee (Residential Projects)	\$191
Water Quality Management Inspection Check Fee (Residential Projects)	\$284
Expedite Plan Review	1.75 X regular plan check fees (\$453 minimum)
Plan Check Extension	\$68
Harbor Construction Plan Review	\$329
Waste Management Administration Fee	\$27

*Sources: City of Newport Beach Schedule of Rents, Fines, and Fees (Effective 07/01/2021 per City Resolution 2021-21).*

**Impact Fees**

Impact fees are assessed on a case-by-case basis depending on the proposed use, location, and density. Impact fees ensure adequate maintenance and provision of public facilities and services to the project and include transportation, school, park and open space, waste management, sewage, and water.

**Table 3-12** provides the fees calculated based on land use in Newport Beach.



**Table 3-12: Development Impact fees**

Use	Fee
<b>Transportation (Fair Share)</b>	
Single-Unit Development	\$2,579/unit
Residential-Medium Density	\$2,016 /unit
Apartment	\$1,524/unit
Elderly Residential	\$938/unit
Mobile Home	\$1,407/unit
Nursing/ Convalescent Home	\$633/unit
<b>School Impact Fee</b>	
N-MUSD Residential Developer Fee	\$1.84/sq.ft. <sup>(1)</sup>
<b>Park Dedication</b>	
Park Dedication	\$30,217/unit
<b>San Joaquin Transportation Corridor Agency (TCA) – Zone A <sup>(2)</sup></b>	
Single Unit	\$6,050/unit
Multi-Unit	\$3,524/unit
<b>San Joaquin Transportation Corridor Agency (TCA) – Zone B <sup>(2)</sup></b>	
Single Unit	\$4,689/unit
Multi-Unit	\$2,735/unit
Sources: City of Newport Beach Schedule of Rents, Fines, and Fees (Effective 07/01/2021 per Council Resolution 2021-21). Newport-Mesa Unified School District Developer Fees	
Notes:	
(1) Addition under 500 sq.ft. may be exempt	
(2) Effective July 1, 2020 – June 30, 2021. The fee rate schedule increases by 2.667% each year on July 1 <sup>st</sup> .	

### On-/Off-Site Improvements

Site improvements in the City consist of those typically associated with development for on-site improvements (street frontage improvements, curbs, gutters, sewer/water, and sidewalks), and off-site improvements caused by project impacts (drainage, parks, traffic, schools, and sewer/water). Thus, these are costs that may influence the sale or rental price of housing. Because residential development cannot take place without the addition of adequate infrastructure, site improvement requirements are considered a regular component of development of housing within the City. Majority of cost associated with on and off-site improvements is undertaken by the City and recovered in the City’s development and impact fees.

### Building Codes and Enforcement

The City’s construction codes are based upon the California Code of Regulations, Title 24 that includes the California Administrative Code, Building Code, Residential Code, Electrical Code, Mechanical Code, Plumbing Code, Energy Code, Historical Building Code, Fire Code, Existing Building Code, Green Building Standards Code, and California Referenced Standards Code. They are the minimum necessary to protect the public health, safety and welfare of the City’s residents. In compliance with State law, the California Building Standards Code is revised and updated every three (3) years. The newest edition of the California Building Standards Code is the 2019 edition with an effective date of January 1, 2020. The City strives to provide reasonable accommodation for persons with disabilities in the enforcement of building codes and the issuance of building permits. The City has not made any building code or code enforcement



amendments in the past 8 years which directly affect or potentially hinder the development of housing in Newport Beach.

Code enforcement is conducted by the City and is based on systematic enforcement in areas of concern and on a complaint basis throughout the city. The Code Enforcement Division works with property owners and renters to assist in meeting state health and safety codes. The Code Compliance Department investigates complaints regarding violations of the Newport Beach Municipal Codes. The following are frequent enforcement items:

- Hazardous property conditions
- Overgrown vegetation
- Housing Code violations (broken windows, peeling paint)
- Inoperable and abandoned vehicles on private property
- Signs, including signs in public right-of-way and signs without permits
- Solid Waste (early set-out of containers, inadequate containers, illegal dumping)
- Water quality and conservation
- Zoning requirements, (i.e., illegal dwelling units and use requirements)

## **Local Processing and Permit Procedures**

The processing time needed to obtain development permits and required approvals is commonly cited by the development community as a prime contributor to the high cost of housing. Depending on the magnitude and complexity of the development proposal, the time that elapses from application submittal to project approval may vary considerably. Factors that can affect the length of development review on a proposed project include the completeness of the development application and the responsiveness of developers to staff comments and requests for information. Approval times are substantially lengthened for projects that are not exempt from the California Environmental Quality Act (CEQA), require rezoning or general plan amendments, encounter community opposition, or are appealed to or require approval from the Coastal Commission. The City strives for a streamlined building permit plan check process, especially for single- and multi-family residential development. Internal targets for plan check review times for building permits are 10 business days for the first submittal, 5 business days for the second and subsequent submittals, if needed. It is worth noting that the timing of the overall process depends more heavily on the responsiveness of the design team after the first round of review.

For projects requiring a discretionary action, such as a coastal development permit, site development review, or parcel map, approximately three additional months should be added to processing timelines.

Although rare, if an EIR, Zone Change, General Plan Amendment, or Local Coastal Program Amendment is required, then approximately eight months should be added to processing timelines.



Applicants for all permits or reviews are recommended to request a pre-application conference with the respective department to achieve the following:

- Inform the applicant of City requirements as they apply to the proposed project.
- Review the City’s review process, possible project alternatives or revisions; and
- Identify information and materials the City will require with the application, and any necessary technical studies and information relating to the environmental review of the project

All applicable fees related to permits and reviews are established by the City Council and can be found in the City’s Master fee schedule (Tables 3-10 and 3-11). All applications are first reviewed for completeness, discretionary applications require the respective department to provides a written report and recommendation, applications are then subject to review by the appropriate authority. **Table 3-13** below identifies the review authority responsible for reviewing and making decisions on each type of application required by the Newport Beach Zoning Code. Permit review procedures for residential developments in the City of Newport Beach are outlined below.

**Table 3-13: Review Authority for Permit Application**

Type of Action	Applicable Code Chapter/Section	Role of Review Authority <sup>1</sup>				
		Director	Zoning Administrator	Hearing Officer	Commission	Council <sup>2</sup>
<b>Administrative and Legislative</b>						
Interpretations	Section <a href="#">20.12.020</a>	Determination <sup>3</sup>	--	--	Appeal	Appeal
Planned Communities	Chapter <a href="#">20.56</a>	--	--	--	Recommend	Decision
Specific Plans	Chapter <a href="#">20.58</a>	--	--	--	Recommend	Decision
Zoning Code Amendments	Chapter <a href="#">20.66</a>	--	--	--	Recommend	Decision
Zoning Map Amendments	Chapter <a href="#">20.66</a>	--	--	--	Recommend	Decision
<b>Permits and Approvals</b>						
Conditional Use Permits	Section <a href="#">20.52.020</a>	--	--	--	Decision	Appeal
Conditional Use Permits—Residential Zones HO	Section <a href="#">20.52.030</a>	--	--	Decision	--	Appeal
Minor Use Permits	Section <a href="#">20.52.020</a>	--	Decision <sup>3</sup>	--	Appeal	Appeal
Modification Permits	Section <a href="#">20.52.050</a>	--	Decision <sup>3</sup>	--	Appeal	Appeal
Planned Development Permits	Section <a href="#">20.52.060</a>	--	--	--	Decision	Appeal



Type of Action	Applicable Code Chapter/Section	Role of Review Authority <sup>1</sup>				
		Director	Zoning Administrator	Hearing Officer	Commission	Council <sup>2</sup>
Reasonable Accommodations	Section <a href="#">20.52.070</a>	--	--	Decision	--	Appeal
Site Development Reviews	Section <a href="#">20.52.080</a>	--	Decision <sup>3</sup>	--	Decision	Appeal
Variances	Section <a href="#">20.52.090</a>	--	--	--	Decision	Appeal
Zoning Clearances	Section <a href="#">20.52.100</a>	Determination <sup>3</sup>	--	--	Appeal	Appeal

Notes:

- (1) "Recommend" means that the Commission makes a recommendation to the Council; "Determination" and "Decision" mean that the review authority makes the final determination or decision on the matter; "Appeal" means that the review authority may consider and decide upon appeals to the decision of a previous decision-making body, in compliance with Chapter [20.64](#) (Appeals).
- (2) The Council is the final review authority for all applications in the City.
- (3) The Director or Zoning Administrator may defer action and refer the request to the Commission for consideration and final action.

Source: City of Newport Beach Municipal Code, Chapter 20.50 Permit Application Filing and Processing

## Time Between Receiving Approval and Submitting Building Permit Application

The amount of time between when a project receives approval and submittal of an application for building permits varies, depending upon a variety of factors and is controlled by a project applicant. While the City makes every effort to streamline permitting processes, this element of time is outside the control of the City. Factors for variability of time may include the size of a project, type of construction, funding and financing considerations, lease or contract considerations, litigation, seasonal factors, engineering, design and architectural considerations. The timeline can be a matter of a few days to a few weeks, if the project is small and uncomplicated (e.g. ADU/JADU) to months for large-scale, modern construction. The City of Newport Beach views the longer time period is common and necessary for larger, more complicated projects and does not see this in any way as hindering the construction of housing or introducing unnecessary delays. In most all cases, the timeline from receiving approval to submitting for building permits is solely dictated by the project applicant and not constrained by any requirements placed upon the applicant by the City.

### Conditional Use Permits in Residential Zoning

The purpose and intent of conditional use permits in residential zoning districts, as identified by the Newport Beach Municipal Code Section 20.52.030, is to promote the public health, safety, and welfare and to implement the goals and policies of the General Plan by ensuring that conditional uses in residential neighborhoods do not change the character of the neighborhoods as primarily residential communities. As well as, to protect and implement the recovery and residential integration of the disabled, including those receiving treatment and counseling in connection with dependency recovery. In doing so, the City seeks to avoid the over-concentration of residential care facilities so that these facilities are reasonably dispersed throughout the community and are not congregated or over-concentrated in any particular area to institutionalize that area.



A conditional use permit is required to authorize uses not previously permitted as allowable in the applicable residential zoning district or in an area where residential uses are provided for in Planned Community Districts or specific plan districts. An application for a conditional use permit, meeting all the requirements outline in Section 20.52.030(D), is then reviewed by the Director to ensure that the proposal complies with all applicable requirements. Additionally, all conditional use permit applications require a public hearing and a public notice of the hearing. The review authority identified in **Table 3-13** above is designated to approve, conditionally approve, or deny applications for conditional use permits in residential zoning districts.

Newport Beach Municipal Code Section 20.52.030 (H)(4) establishes the provisions for granting a conditional use permit in residential zones, including for residential care facilities, and states the following:

*4. The use will be compatible with the character of the surrounding neighborhood, and the addition or continued maintenance of the use will not contribute to changing the residential character of the neighborhood (e.g., creating an over-concentration of residential care or bed and breakfast uses in the vicinity of the proposed use). In making this finding or sustaining the finding, the Hearing Officer and/or Council shall consider, as appropriate, all of the following factors:*

*a. The proximity of the use location to parks, schools, other conditionally permitted uses of the same or similar type, outlets for alcoholic beverages, and any other uses that could be affected by or affect the operation of the subject use;*

*b. The existence of substandard physical characteristics of the area in which the use is located (e.g., limited available parking, lot widths, narrow streets, setbacks, short blocks), and other substandard characteristics that are pervasive in certain areas of the City of Newport Beach, including portions of Balboa Island, Balboa Peninsula, Corona Del Mar, Lido Isle, Newport Heights, and West Newport, which portions were depicted on a map referred to as the Nonstandard Subdivision Area presented to the Commission on September 20, 2007, and on file with the Director; and*

*c. In the case of residential care uses, whether, in light of the factors applied in subsections (H)(4)(a) and (b) of this section, it would be appropriate to apply the American Planning Association standard of allowing only one or two residential care uses in each block.*

*i. Median block lengths in different areas of Newport Beach widely range from three hundred (300) feet in the nonstandard subdivision areas to as much as one thousand four hundred twenty-two (1,422) feet in standard subdivision areas.*

*ii. The average calculable block length in much of the standard subdivision areas is seven hundred eleven (711) feet and the calculable median block length is six hundred seventeen (617) feet.*

- iii. The review authority shall apply the American Planning Association standard in all areas of Newport Beach in a manner that eliminates the differences in block lengths.*
- iv. In making this determination, the review authority shall be guided by average or median block lengths in standard subdivisions of the City.*
- v. The review authority shall retain the discretion to apply any degree of separation of uses that the Hearing Officer deems appropriate in any given case.*
- vi. A copy of the American Planning Association standard is on file with the Director.*

The above provisions pertain to the physical aspects of the site, or the utilization of the sites and not the user or the resident type. Additionally, the provisions generally define “character” as the physical feature of a site and its environs. Provisions (a) through (c) above, are objective standards that apply to the site conditions and are generally not considered subjective in nature. Because these standards do not directly or tacitly deny a residential use based on subjective criteria and “community character” is used to define the provisions in 20.52.030 (H)(4)(a) through (c), the City contends that these provisions are reasonable criteria to include in a conditional use permit approval and, therefore, does not consider these provisions a constraint.

To promote certainty in meeting the scope of the conditional use permit review, provide upfront feedback, and to expedite processing, the City offers, free-of-charge, Development Review Committee (DRC) meetings with prospective applicants. DRC meetings are informal meetings with representatives of the various City departments or divisions (i.e., Planning, Building, Public Works, Fire, etc.) that are held weekly and are scheduled with only one week lead time. A prospective applicant receives detailed feedback on their proposal so they can address issues early to provide a more complete submission thereby avoiding unnecessary delays.

As described in more detail in the Reasonable Accommodation Section of the Housing Element, in the event that conditional use permit process proves to be a barrier or constraint to the development of housing for disabled, Section 20.52.070 of the Zoning Code provides procedures for obtaining reasonable accommodation from the permitting requirements. With a reasonable accommodation, a group of disabled individuals can reside in any district zoned for residential use without the need for a conditional use permit, but rather an alternative, no-cost, and objective reasonable accommodation process.

While not explicitly required by State law, the conditional use permit requirement for residential care facilities for 7 or more persons could be considered a fair housing issue and a potential constraint due to the discretionary nature of the process. The Development Review Committee process helps mitigate approval uncertainty and the reasonable accommodation process provides an alternative and more objective review process for disabled individuals, Policy Action 3P has been included in the Section 4 Policy Program requiring that development standards for larger residential care facilities in the Municipal Code will be evaluated to ensure State fair housing laws are met for residential care facilities of 7 or more persons, and amended to promote objectivity and ensure greater approval certainty.



### Site Development Reviews

The City of Newport Beach identifies the purpose of site development reviews as providing a process for the review of specific development projects in order to:

- Ensure consistency with General Plan policies related to the preservation of established community character, and expectations for high quality development.
- Respect the physical and environmental characteristics of the site.
- Ensure safe and convenient access and circulation for pedestrians and vehicles.
- Allow for and encourage individual identity for specific uses and structures.
- Encourage the maintenance of a distinct neighborhood and/or community identity.
- Minimize or eliminate negative or undesirable visual impacts.
- Ensure protection of significant views from public right(s)-of-way in compliance with Section 20.30.100 (Public View Protection); and
- Allow for different levels of review depending on the significance of the development project.

Site development review is required before the issuance of a building or grading permit for any new structure. Structures that do not require a site development review (but instead require a zoning clearance) include, accessory structures, fences and/or walls, reconstruction or exterior remodeling of existing structures, one to four dwelling units, without a tentative or parcel map, and non-residential up to a maximum of 9,999 square feet of gross floor area. Site development review and approval is determined by either the Zoning Administrator or the Planning Commission. The City provides the DRC review process for site development reviews as described in the previous section. **Table 3-14** below identifies the applicable review authority for different development types.

**Table 3-14: Review Authority and Action for Residential Construction**

Type of Construction Activity	Role of Review Authority (1) (2)	
	Zoning Administrator (Minor Review)	Planning Commission (Major Review)
<b>Residential construction:</b> 5 to 20 dwelling units, without a tentative or parcel map.	Decision	Appeal
<b>Residential construction:</b> 5 or more dwelling units with a tentative or parcel map and 21 or more dwelling units, without a tentative or parcel map.	--	Decision
<b>Residential construction:</b> On a bluff, an increase in the boundaries of a development area in compliance with the findings in Section <a href="#">20.28.040</a> (Bluff (B) Overlay District).	--	Decision
<b>Mixed-use projects:</b> 1 to 4 dwelling units and nonresidential construction of up to a maximum of 9,999 square feet of gross floor area.	Decision	Appeal
<b>Mixed-use projects:</b> 5 or more dwelling units and/or nonresidential construction of 10,000 square feet or more of gross floor area.	--	Decision

*Source: City of Newport Beach Municipal Code*



A site development review is initiated when the Department receives a complete application package including the required information and materials specified by the Director and any additional information required by the applicable review authority in order to conduct a thorough review of the project. Upon receipt of a complete application the applicable review authority shall conduct a review of the location, design, site plan configuration, and effect of the proposed project on adjacent properties by comparing the project plans to established development standards and adopted criteria and policies applicable to the use or structure. All site development reviews require a public hearing and a notice of the hearing. The review authority may approve or conditionally approve a site development review application. The following criteria shall be considered during the review of a site development review application:

- Compliance with this section, the General Plan, this Zoning Code, any applicable specific plan, and other applicable criteria and policies related to the use or structure.
- The efficient arrangement of structures on the site and the harmonious relationship of the structures to one another and to other adjacent developments; and whether the relationship is based on standards of good design.
- The compatibility in terms of bulk, scale, and aesthetic treatment of structures on the site and adjacent developments and public areas.
- The adequacy, efficiency, and safety of pedestrian and vehicular access, including drive aisles, driveways, and parking and loading spaces.
- The adequacy and efficiency of landscaping and open space areas and the use of water efficient plant and irrigation materials; and
- The protection of significant views from public right(s)-of-way and compliance with Section 20.30.100 (Public View Protection).

**Section 4: Housing Plan** establishes Policy Action 3A to establish objective design standards for the City. Specifically, Policy Action 3A states – The City of Newport Beach will review existing entitlement processes for housing development and will eliminate discretionary review for all housing development proposals that include a minimum affordable housing component. The City will also review the appropriateness of its current development standards to ensure that it reasonably accommodates the type and density of housing it is intended to support. The City will also amend existing development standards to replace or remove all subjective standards for projects with a minimum affordable housing component with objective standards that do not impede the type and density of housing it is intended to allow. The objective development standards are to be adopted within 24 months of the Housing Element adoption.

### **Zoning Clearances**

A Zoning clearance is the procedure used by the City to verify that a proposed use or structure complies with the activities allowed in the applicable zoning district and the development standards and other provisions of the City’s Zoning Code. A zoning clearance is required as a prerequisite to establishing a structure or use for the following:





- Before the initiation or commencement of any use of land not requiring the construction of a structure.
- Whenever a use is proposed to be changed, whether or not the new use involves a new lessee, operator, or owner, a zoning clearance shall be obtained.
- Before the City issues a new or modified building permit, grading permit, or other construction-related permit required for the alteration, construction, modification, moving, or reconstruction of any structure.

The Department may issue the zoning clearance after first determining that the request complies with all Zoning Code provisions and other adopted criteria and policies applicable to the proposed use or structure. An approval may be in the form of a stamp, signature, or other official notation on approved plans, a letter to the applicant, or other certification, at the discretion of the Director. Review authority for Zoning Clearances is stated in **Table 3-13** above.

### **Senate Bill 35**

California Senate Bill 35 (SB 35), codified as Government Code Section 65913.41, was signed on September 29, 2017 and became effective January 1, 2018. SB 35 will automatically sunset on January 1, 2026 (Section 65913.4(m)). The intent of SB 35 is to expedite and facilitate construction of affordable housing. SB 35 applies to cities and counties that have not made sufficient progress toward meeting their affordable housing goals for above moderate- and lower-income levels as mandated by the State. In an effort to meet the affordable housing goals, SB 35 requires cities and counties to streamline the review and approval of certain qualifying affordable housing projects through a ministerial process.

When a jurisdiction has made insufficient progress toward their Above Moderate-income RHNA and/or has not submitted the latest Housing Element Annual Progress Report (2018) it is subject to the streamlined ministerial approval process (SB 35 (Chapter 366, Statutes of 2017) streamlining) for proposed developments with at least 50 percent affordability. All projects, which propose at least 50 percent affordable units within Newport Beach are eligible for ministerial approval under SB 35 as determined by the SB 35 Statewide Determination Summary. To be eligible for SB 35 approval, sites must meet a long list of criteria, including:

- A multifamily housing development (at least two residential units) in an urbanized area;
- Located where 75% of the perimeter of the site is developed;
- Zoned or designated by the general plan for residential or mixed use residential;
- In a location where the locality's share of regional housing needs has not been satisfied by building permits previously issued;
- One that includes affordable housing in accordance with SB 35 requirements;
- Consistent with the local government's objective zoning and design review standards; and
- Willing to pay construction workers the state-determined "prevailing wage."

A project does not qualify for SB 35 streamline processing if in:



- A coastal zone, conservation lands, or habitat for protected species;
- Prime farmland or farmland of statewide importance;
- Wetlands or lands under conservation easement;
- A very high fire hazard severity zone;
- Hazardous waste site;
- Earthquake fault zone;
- Flood plain or floodway;
- A site with existing multi-family housing that has been occupied by tenants in the last ten years or is subject to rent control; or
- A site with existing affordable housing.<sup>1</sup>

## **2. Infrastructure Constraints**

Another factor that could constrain new residential construction is the requirement and cost to provide adequate infrastructure (major and local streets; water and sewer lines; and street lighting) needed to serve new residential development. In most cases, where new infrastructure is required, it is funded by the developer and then dedicated to the City, which is then responsible for its maintenance. The cost of these facilities is generally borne by developers, which increases the cost of new construction, with much of that increased cost often “passed on” in as part of home rental or sales rates.

The Utilities Department oversees, manages, and maintains the City’s:

- Water
- Wastewater (sewer)
- Storm drain and tidal valve system
- Street sweeping
- Streetlights
- Oil and gas operations

The City has water, sewer and dry utilities that exist or are planned to accommodate residential development in the community. As the City is essentially built out, the infrastructure in place is designed and located to accommodate potential for additional housing identified for the 6th Cycle Housing Element.

### **Dry Utilities**

Dry utilities are the installation of the electric, telephone, TV, internet, and gas in a community. Of the utilities, the City must plan to provide the necessary resources, such as electric and gas, to increased households from 2021-2029, as projected by the RHNA allocation.

### **Electricity**

Southern California Edison (SCE) is the electrical service provider for the City of Newport Beach. SCE is regulated by the California Public Utilities Commission (CPUC) and the Federal Energy Regulatory

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<sup>1</sup> JD Supra Knowledge Center, “How California’s SB 35 Can Be Used to Streamline Real Estate Development Projects”, Accessed March 26, 2021.



Commission (FERC) and includes 50,000 square miles of SCE service area across Central, Coastal, and Southern California. The SCE reliability report identifies the reliability of electricity services to the City and identifies any dependability issues that exist in the City. There are 52 circuits that serve the City of Newport Beach, in total the 52 circuits serve 77,199 customers. SCE measure reliability by three categories:

- **System Average Interruption Duration Index (SAIDI)** – total minutes every SCE customer was without power due to sustained power outage (outage > 5 minutes) divided by total number of customers
- **System Average Interruption Frequency Duration Index (SAIFI)** – Number of sustained customer outages experienced by all SCE customers divided by total number of customers
- **Customer Average Interruption Duration Index (MAIFI)** – System average interruption duration index divided by system average interruption frequency index

Overall, the City of Newport Beach experience relatively low interruptions compared to the overall service provided to all SCE customers, displayed in **Figure 3-1**.

**Figure 3-1: Reliability History of Circuits Serving Newport Beach (No Exclusions)**



Source: Southern California Edison, Reliability Reports, Newport Beach 2020

SCE will continue to provide adequate services to the City of Newport Beach including increased household growth as projected by the City’s RHNA allocation.



### **Natural Gas**

Southern California Gas Company provides natural gas services to the City of Newport Beach. SoCal Gas is a gas-only utility and, in addition to serving the residential, commercial, and industrial markets, provides gas for enhanced oil recovery (EOR) and EG customers in Southern California. The SoCal Gas 2020 utility report projects total gas demand to decline at an annual rate of 1 percent from 2020-2035. From 2020-2035, residential demand is expected to decline from 230 Bcf to 198 Bcf. The decline is approximately 1 percent per year, on average. The decline is due to declining use per meter—primarily driven by very aggressive energy efficiency goals and associated programs— offsetting new meter growth.<sup>2</sup>

SoCalGas engages in several energy efficiency and conservation programs designed to help customers identify and implement ways to benefit environmentally and financially from energy efficiency investments. Programs administered by SoCalGas include services that help customers evaluate their energy efficiency options and adopt recommended solutions, as well as simple equipment-retrofit improvements, such as rebates for new hot water heaters. Additionally, the City of Newport Beach employs programs for energy and utility conservation, outline below in **Section 3: Housing Resources, Opportunities for Energy Conservation.**

### **Water Supply**

The City of Newport Beach Utilities Department currently serves a population of over 86,000 within a service area of approximately fifty square miles. The Department is responsible for providing a safe and reliable source of water to approximately 26,200 active connections and delivering approximately 13,500-acre feet (AF) of water per year on average.<sup>3</sup> The City’s distribution system consists of approximately 300 miles of distribution pipelines and is divided into five main pressure zones: Zone 1 through Zone 5 with 16 minor zones. Zones 1 and 2 are the largest and cover most of the system demands. Zones 3, 4 and 5 are smaller pumped zones. The system infrastructure consists of four wells, three storage reservoirs, five pump stations and 43 pressure reducing stations (PRS) that manage pressure across the system.<sup>4</sup>

The City of Newport Beach water division is separated into four sections: water maintenance and repair, water production, water quality, and water system services, each department’s duties are outlined below. Together the division is responsible for providing a safe and reliable source of water.

### **Newport Beach Water Source**

The City receives its water from several sources, local groundwater from the Lower Santa Ana River Groundwater Basin, imported water purchased from the Municipal Water District of Orange County (MWDOC), and recycled water purchased from Orange County Water District (OCWD). Most of the City’s water supply is groundwater, pumped from four wells within the City of Fountain Valley. Imported water is treated at the Diemer Filtration Plant operated by the Metropolitan Water District of Southern California

<sup>2</sup> SoCal Gas 2020 California Gas report, Prepared in Compliance with California Public Utilities Commission Decision D.95-01-039

<sup>3</sup> City of Newport Beach, Water rate Study, 2019

<sup>4</sup> City of Newport Beach, Water Master Plan, 2019



(Metropolitan). The City is not capable of treating water to produce reclaimed water but purchases water from OCWD through the Green Acres Project.<sup>5</sup>

### **Water Maintenance and Repair**

Water Maintenance & Repair is responsible for the maintenance and operation of the City's water mains and valves that are located underground.

### **Water Production**

Water Production operates, maintains, and disinfects the City of Newport Beach's water supply. The division operates two well sites which produce groundwater from the Orange County Basin as well as three water reservoirs to receive, store and distribute the City's water. Other water facilities that assist in the distribution and treatment process include: five water pump stations, five Metropolitan Water District interconnections, and 42 water pressure regulating stations. Water Production also manages SCADA (Supervisory Control and Data Acquisition) which monitors and controls the pumps in the City's water wastewater and gas systems.

### **Big Canyon Reservoirs**

Located at 3300 Pacific View Drive in Corona Del Mar. The Big Canyon Reservoir is the largest City owned reservoir with a capacity of 600-acre foot or 195 million gallons. Built in 1958 this reservoir was the primary water supply for Newport for many years. Although the reservoir does have the ability to supply water to the entire service area the reservoir is primarily used as a storage reservoir and supply to the City's higher-pressure zones.

### **Spyglass Hill Reservoir**

Located under the Spyglass Reservoir park at the end of Muir Beach Circle in Spyglass is the 1.5-million-gallon concrete reservoir. Built in the 1970s to supply the surrounding community this 101-foot diameter and 27-foot-deep reservoir is under the playground park. Large concrete support columns and thick concrete roof and walls support this reservoir.

### **16th Street Reservoir**

Located at the Utilities Yard at 949 West 16th Street in Newport Beach the newest of our reservoirs is a 3-million-gallon underground concrete reservoir. Built in 1996 as part of the City's ground water project, this reservoir receives well water from our four City owned wells in Fountain Valley. This reservoir supplies water to the 16th Street pump station that can pump up to 12,000 gallons per minute into our distribution system. Excess water not used in the system is stored in the Big Canyon Reservoir in Corona Del Mar.

### **Water Quality**

The City of Newport Beach Utilities Department is responsible for providing residents with a reliable, safe, clean, potable, and domestic water supply. Newport Beach's drinking water is safe for drinking. It meets or exceeds all Federal and California water quality standards, which are the most stringent standards of any state in the nation. The City's staff continuously monitors the City's water supply and conducts more

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<sup>5</sup> City of Newport Beach, Urban Water Management Plan (2015)



than 1,500 tests each year on potable water drawn from different sampling points along our distribution system.

### **Water System Services**

Water System Services assists City of Newport Beach customers with any questions regarding water quality, water pressure, consumption usage, any concern with water meters, leak detection, utilities inspections and underground utility locating. The City's Water Systems Services webpage provides tips and information for proper water systems care for property owners as well as additional resources.

### **Wastewater**

Wastewater is responsible for the collection of residential and commercial wastewater. This Division has three sub-sections: Pump Station Operation, Cleaning Operation and Construction Operation. These three sub-sections provide service relating to pump station repair and maintenance, sewer main, lateral and manhole cleaning, sewer blockage and odor, and sewer main and lateral breaks and repairs.

The City's Wastewater department is responsible for 203 miles of sewer pipe, 120 miles of sewer laterals, approximately 5,000 manholes, 21 pump stations, and five miles of force mains. The City's 2019 Sewer System Management Plan states the department's main goals to include the following:

- Maintain uninterrupted sewage flow without health hazard, effluent leakage, or water infiltration and inflow.
- Operate a sanitary sewer system that meets all regulatory requirements.
- Avoid sanitary sewer overflows and respond to sanitary sewer overflows quickly and mitigate any impact of the overflow.
- Maintain standards and specifications for the installation of new wastewater systems.
- Verify the wastewater collection system has adequate capacity to convey sewage during peak flows.
- Provide training for Wastewater Collection staff.
- Maintain the Fats, Oil, and Grease program (FOG program) to limit fats, oils, grease, and other debris that may cause blockages in the wastewater collection system.
- Identify and prioritize structural deficiencies and implement short-term and long-term maintenance and rehabilitation actions to address each deficiency.
- Meet all applicable regulatory notification and reporting requirements.
- Provide excellent customer service through efficient system operation and effective communication strategies.

### **Sewer**

The Orange County Sanitation District (OCSD) provides sanitation services to the City of Newport Beach. In 2013, the sanitation district began a construction program to rehabilitate the OCSD's regional sewers in the City. The program ran through 2018 and consisted of five construction projects, including:



- **Dover Drive Trunk Sewer Relief (5-63):** The Dover Drive Trunk sewer runs between Irvine Blvd. and Coast Highway and is in poor condition. The existing sewer pipeline also does not have efficient hydraulic capacity to handle the wastewater flow and must therefore be replaced with a larger pipeline. OCSD will also relocate a city waterline to reduce the level of impact for the community by eliminating the need for a secondary project in the area.
- **Balboa Trunk Sewer Rehabilitation (5-47):** This project will rehabilitate the existing Balboa Trunk sewer along Newport Blvd. and Balboa Blvd. between A Street and Finley Ave. (See map: between A Street Pump Station and Lido Pump Station.) The project includes installation of a new protective lining in approximately 12,600 feet of sewer pipeline.
- **Newport Force Main Rehabilitation (5-60):** The Newport Force Main is a critical component of our sewer system and needs to be rehabilitated. It carries the wastewater flow from various pump stations to our treatment plant in Huntington Beach. The pipelines are located on Coast Highway stretching past Dover Dr. to the Bitter Point Pump Station, approximately 1/4 mile north of Superior Ave., which is a heavily traveled thoroughfare. There are two sewer lines, one on the north side of Coast Highway and one on the south side which make the rehabilitation more complex.
- **District 6 Trunk Sewer Relief (6-17):** The District 6 Trunk sewer runs from Pomona Ave. in the City of Costa Mesa to Newport Blvd. near Coast Highway in the City of Newport Beach. This project will increase the capacity of the existing sewer pipeline to reduce the potential for sewer spills and to properly handle flows.
- **Southwest Costa Mesa Trunk (6-19):** In an effort to improve efficiency in our service area, this project is looking into the design and construction of a new gravity trunk sewer. This project may lead to the abandonment of eight Costa Mesa and Newport Beach pump stations to provide more reliable service to the community

The infrastructure improvements initiated by OCSD from 2013 to 2018 increased overall capacity and efficiency in the Newport Beach sewer system. The City can accommodate the increase in households as projected by the City's RHNA allocation.

### **Water Demand**

In fiscal year 2014-15, the City's total water demand was approximately 16,033 acre-feet. The City's potable demand was met through 11,200 acre-feet of groundwater and 4,338 acre-feet of imported water; the remaining non-potable demand was met through recycled water. The City is projecting over five percent increase in total potable and non-potable demand in the next 25 years accompanied by a projected 13 percent population growth.<sup>6</sup>

The 2015 UWMP found that Metropolitan is able to meet full service demands of its member agencies with existing supplies out to 2040 during a normal, single-dry, and multiple-dry year scenario. Additionally, the 2019 Water Master Plan found that though population continues to increase over the past ten years, total water demand has decreased. The 10-year average annual demand for 2007-2016 (15,991 AF) is

<sup>6</sup> City of Newport Beach, Urban Water Management Plan (2015)



14 percent less than the 1986-1996 average annual demand (18,626 AF). The City’s water infrastructure and service provider is capable of meeting the water demands of its customers under the same hydrological conditions out to 2040, this includes all household growth estimated by the City’s RHNA allocation.

### **Fire and Emergency Services**

The City of Newport Beach’s Fire Department aims to Protect life, property, and the environment with innovative professionalism and organizational effectiveness using highly trained professionals committed to unparalleled service excellence. The department has 144 full-time employees and over 200 part-time/seasonal employees provide 24-hour protection and response to the community's residents, businesses, and visitors.

The department’s primary goals are identified as follows:

- Identify and reduce fire and environmental hazards that may threaten life and property.
- Provide a safe, effective, and expeditious response to requests for assistance.
- Develop an adequately trained workforce to effectively perform their duties.
- Participate in the community development planning process to improve fire and life safety.
- Encourage department personnel to assume leadership roles in the organization.
- Plan for response to natural and man-made disasters that affect the community.
- Educate and train employees and the community to assist them in maintaining a safe environment.

The department’s different divisions and respective duties are outlined below.

#### ***Fire Operations Division***

The Fire Operations Division is the largest of four divisions within the Newport Beach Fire Department. The primary responsibilities of its personnel are life safety, incident stabilization, and the preservation of property and the environment. The Newport Beach Fire Department operates as an "all risk" emergency responsible organization responding to the following:

- Fires
- Pre-hospital Medical Emergencies
- Technical Rescues
- Traffic Accidents
- Vehicle Extrications
- Major Flooding
- Beach Rescues
- High Rise Incidents
- Wildland Fires
- Disaster Operations
- Hazardous Materials Incidents





The Fire Department staffs eight fire stations 24/7. The stations are strategically located throughout the city to provide the quickest and most effective response to the area served, with an average response time of five minutes. Considering the department’s expansive and well-connected nature, as well as the compactness of the City of Newport, additional housing or new developments would not pose a burden on the existing Fire Department’s fire operations. Therefore, fire operations are not considered a constraint to the development of housing for all income levels.

The City requires Development Agreements for certain development types within the Airport area to ensure adequate safety services and ambulance units. Development Agreements include additional fees for safety service operations in the airport area due to current lack of ambulance units. The imposition of additional fees may pose a constraint to the development of housing, and particularly affordable housing. This may result in greater development fees which may subsequently influence the final rental cost of units or home value.

### ***Emergency Medical Services***

The goal of the Emergency Medical Services (EMS) Division is to deliver the highest quality of medical care to members of the community, regardless of their ability to pay. In total, the City has eight fire stations that are strategically located to provide the best services the community. Each day there are eight fire engines, two fire trucks and the three paramedic ambulances in service. The average response time is four minutes and 22 seconds. The system’s design accounts for fewer paramedic ambulances and expects a nearby fire engine or truck company to arrive on scene first to initiate basic medical care, which at times can include lifesaving cardio-pulmonary resuscitation or delivering rapid electrical shocks using automated external defibrillators (AEDs), prior to the arrival of the paramedic team.

### ***Lifeguard Operations Division***

The City of Newport Beach’s Lifeguard Division protects up to 10 million beach visitors on Newport Beach’s 6.2 miles of ocean and 2.5 miles of bay beaches, with preventative actions and medical assistance. Every day of the year, lifeguards ensure safety and provide customer service to the visitors on the beach, boardwalk, piers, and in the ocean.

## **Police Services**

The City of Newport Beach’s Police Department intends to:

- Respond positively to the Community's needs, desires, and values and in so doing be recognized as an extension and reflection of those we serve.
- Strive to provide a safe and healthy environment for all, free from violence and property loss resulting from criminal acts, and injuries caused by traffic violators.
- Manage inevitable change and welcome the challenge of future problems with creative solutions, which are financially prudent and consistent with Community values.

The Department’s is headed by Chief of Police Jon T. Lewis, who is the 10<sup>th</sup> Chief of Police in the department’s history, assuming office on March 22, 2016. The City of Newport Beach’s Police Department



handles a wide array of services and permitting, all services are outlined in detail on the City's Police Department webpage.

### **3. Environmental Constraints**

Newport Beach is bound by the Pacific Ocean to the West and contains many different natural landscapes within the City's boundaries. Newport Beach has a variety of coastal features ranging from replenished beach sands in West Newport, to steep bluffs comprised of sandstone and siltstone to the south of Corona del Mar. The community, as most of California is, sits along some major fault traces. The City is susceptible to several potential environmental constraints to the development of housing, including geologic hazards, flood hazards, and fire hazards, all are detailed below.

#### **Coastal Hazards**

A goal of the California Coastal Act and the City's adopted Local Coastal Program is to assure the priority for coastal-dependent and coastal-related development over other development in the Coastal Zone. The Coastal Act is an umbrella legislation designed to encourage local governments to create Local Coastal Programs (LCPs) to govern decisions that determine the short- and long-term conservation and use of coastal resources. The City of Newport Beach's LCP is considered the legislative equivalent of the City's General Plan for areas within the Coastal Zone. Local Coastal Programs are obligated by statute to be consistent with the policies of the Coastal Act and protect public access and coastal resources. Over 63 percent of Newport Beach is within the Coastal Zone and subject to the oversight by the California Coastal Commission.

#### **Sea Level Rise and Storm Inundation**

Newport Beach is exposed to a variety of coastal hazards including beach erosion, bluff erosion, and coastal flooding due to sea level rise (SLR) and storm inundation. The City has a significant amount of land directly adjacent to surface water that is directly affected by sea level rise and storm inundation. The effects of SLR on coastal processes, such as shoreline erosion, storm-related flooding and bluff erosion, have been evaluated using a Coastal Storm Modeling System (CoSMoS), a software tool and multi-agency effort led by the United States Geological Survey (USGS), to make detailed predictions of coastal flooding and erosion based on existing and future climate scenarios for Southern California. The mapping results from CoSMoS provide predictions of shoreline erosion (storm and non-storm), coastal flooding during extreme events, and bluff erosion for the City in community-level coastal planning and decision-making. A large portion of the City's coastal adjacent land appropriate for development is at risk of tidal flooding. Land along the coast is vulnerable to shoreline retreat, which is predicted to accelerate with Sea Level Rise. Long-term shoreline retreat coupled with storm-induced beach erosion has the potential to cause permanent damage to buildings and infrastructure in these hazard zones. As a result, the City did not utilize land within the coastal

The Coastal Commission provides direct guidance on how the City of Newport Beach addresses future land use in consideration of sea level rise. According to the California Coastal Commission Sea Level Rise



Policy Guidance<sup>7</sup>, local jurisdictions can “Minimize Coastal Hazards through Planning and Development Standards” through the following measures applicable to Newport Beach:

- Design adaptation strategies according to local conditions and existing development patterns, in accordance with the Coastal Act.
- Avoid significant coastal hazard risks to new development where feasible.
- Minimize hazard risk to new development over the life of the authorized development.
- Minimize coastal hazard risks and resource impacts when making redevelopment decisions.
- Account for the social and economic needs of the people of the state include environmental justice, assure priority for coastal-dependent and coastal-related develop over other development

The Coastal Commission has also prepared a Draft Coastal Adaptation Planning Guidance: Residential Development (dated March 2018), which will serve as the Coastal Commission’s policy guidance on sea level rise adaptation for residential development to help facilitate planning for resilient shorelines while protecting coastal resources in LCPs

## **Geologic Hazards**

According to the Newport Beach Safety Element, the geologic diversity of Newport Beach is strongly related to tectonic movement along the San Andreas Fault and its broad zone of subsidiary faults. This, along with sea level fluctuations related to changes in climate, has resulted in a landscape that is also diverse in geologic hazards. Geologic hazards are generally defined as surficial earth processes that have the potential to cause loss or harm to the community or the environment. Specific geologic hazards that may affect the development of housing in the City are detailed below.

### ***Slope Failures***

Slope failures often occur as elements of interrelated natural hazards in which one event triggers a secondary event such as a storm-induced mudflow. Slope failure can occur on natural and man-made slopes. The City’s remaining natural hillsides and coastal bluff areas are generally vulnerable to slope failures that include: San Joaquin Hills; and bluffs along Upper Newport Bay, Newport Harbor, and the Pacific Ocean. Despite the abundance of landslides and new development in the San Joaquin Hills, damage from slope failures in Newport Beach has been small which may be attributed to the development of strict hillside grading ordinances, sound project design that avoid severely hazardous areas, soil engineering practices, and effective agency review of hillside grading projects.

## **Seismic Hazards**

The City of Newport Beach is located in the northern part of the Peninsular Ranges Province, an area that is exposed to risk from multiple earthquake fault zones. The City of Newport Beach Safety Element determines that the highest risks originate from the Newport-Inglewood fault zone, the Whittier fault zone, the San Joaquin Hills fault zone, and the Elysian Park fault zone. Each of the aforementioned zones

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<sup>7</sup> California Coastal Commission Sea Level Rise Policy Guidance, 2018 Science Update



have the potential to cause moderate to large earthquakes that would cause ground shaking in Newport Beach and nearby communities. Earthquake-triggered geologic effects also include surface fault rupture, landslides, liquefaction, subsidence, and seiches. Specific hazards associated with seismic hazards, which can potentially be determined as a constraint to development are detailed below.

### ***Liquefaction***

Strong ground shaking can result in liquefaction. Liquefaction, a geologic process that causes ground failure, typically occurs in loose, saturated sediments primarily of sandy composition. According to the Newport Beach Safety Element, the areas of Newport Beach susceptible to liquefaction and related ground failure (i.e., seismically induced settlement) include the following areas along the coastline:

- Balboa Peninsula,
- In and around the Newport Bay and Upper Newport Bay,
- in the lower reaches of major streams in Newport Beach, and
- In the floodplain of the Santa Ana River.

It is likely that residential or commercial development will never occur in many of the other liquefiable areas, such as Upper Newport Bay, the Newport Coast beaches, and the bottoms of stream channels.

### ***Seismically Induced Slope Failure***

Strong ground motions can also worsen existing unstable slope conditions, particularly if coupled with saturated ground conditions. Seismically induced landslides can overrun structures, people or property, sever utility lines, and block roads, thereby hindering rescue operations after an earthquake. Much of the area in eastern Newport Beach has been identified as vulnerable to seismically induced slope failure. Approximately 90 percent of the land from Los Trancos Canyon to State Park boundary is mapped as susceptible to land sliding by the California Geologic Survey. Additionally, the sedimentary bedrock that crops out in the San Joaquin Hills is locally highly weathered. In steep areas, strong ground shaking can cause slides or rockfalls in this material. Rupture along the Newport Inglewood Fault Zone and other faults in Southern California could reactivate existing landslides and cause new slope failures throughout the San Joaquin Hills. Slope failures can also be expected to occur along stream banks and coastal bluffs, such as Big Canyon, around San Joaquin Reservoir, Newport and Upper Newport Bays, and Corona del Mar.

## **Flood Hazards**

The City of Newport Beach and surrounding areas are, like most of Southern California, subject to unpredictable seasonal rainfall, and every few years the region is subjected to periods of intense and sustained precipitation that result in flooding. Flooding can be a destructive natural hazard and is a recurring event. A flood is any relatively high streamflow overtopping the natural or artificial banks in any reach of a stream. Flood hazards in Newport Beach can be classified into two general categories: flash flooding from small, natural channels; and more moderate and sustained flooding from the Santa Ana River and San Diego Creek. The City of Newport Beach's Safety Element identifies 100-year and 500-year flood zones in the City. Federal Emergency Management Agency (FEMA) flood zones are geographic areas that the FEMA has defined according to varying levels of flood risk. Each zone reflects the severity or type



of flooding in the area.<sup>8</sup> The 100-year flood zone are areas with a one percent annual chance of flooding, the 500-year flood zones are areas with a 0.2 percent annual chance of flooding.

The 100- and 500-year flood zones include the low-lying areas in West Newport at the base of the bluffs, the coastal areas which surround Newport Bay and all low-lying areas adjacent to Upper Newport Bay. 100- and 500- year flooding is also anticipated to occur along the lower reaches of Coyote Canyon, in the lower reaches of San Diego Creek and the Santa Ana Delhi Channel, and in a portion of Buck Gully. The City also recently worked with FEMA to revise proposed flood hazards maps, in which FEMA removed over 2,700 properties from flood zones. Most flooding along these second- and third-order streams is not expected to impact significant development. However, flooding in the coastal areas of the City will impact residential and commercial zones along West Newport, the Balboa Peninsula and Balboa Island and the seaward side of Pacific Coast Highway.<sup>9</sup>

With increased development, there is also an increase in impervious surfaces, such as asphalt. Water that used to be absorbed into the ground becomes runoff to downstream areas. However, various flood control measures help mitigate flood damage in the City, including reservoirs in the San Joaquin Hills and Santa Ana Mountain foothills, and channel alterations for the Santa Ana River. These structures help regulate flow in the Santa Ana River, San Diego Creek, and smaller streams and hold back some of the flow during intense rainfall period that could otherwise overwhelm the storm drain system in Newport Beach.

## **Fire Hazards**

The Newport Beach Safety Element defines a wildland fire hazard area as any geographic area that contains the type and condition of vegetation, topography, weather, and structure density that potentially increases the possibility of wildland fires. The eastern portion of the City and portions of the Newport Beach region and surrounding areas to the north, east, and southeast include grass- and brush-covered hillsides with significant topographic relief that facilitate the rapid spread of fire, especially if fanned by coastal breezes or Santa Ana winds.

In those areas identified as susceptible to wildland fire, the Fire Department enforces locally developed regulations which reduce the amount and continuity of fuel (vegetation) available, firewood storage, debris clearing, proximity of vegetation to structures and other measures aimed at “Hazard Reduction.” New construction and development are further protected by local amendments to the Uniform Building Code. These amendments, which are designed to increase the fire resistance of a building, include: protection of exposed eaves, noncombustible construction of exterior walls, protection of openings, and the requirement for Class “A” fireproof roofing throughout the City. Additionally, a “Fuel Modification” plan aimed at reducing fire encroachment into structures from adjacent vegetation must be developed and maintained.

## **C. Affirmatively Furthering Fair Housing (AFFH)**

<sup>8</sup> FEMA Flood Zone Designations, Natural resources Conservation Service – Field Office Technical Guides

<sup>9</sup> City of Newport Beach Safety Element



## ***1. Affirmatively Furthering Fair Housing***

All Housing Elements due on or after January 1, 2021 must contain an Assessment of Fair Housing (AFH) consistent with the core elements of the analysis required by the federal Affirmatively Further Fair Housing Final Rule of July 16, 2015.

Under State law, affirmatively further fair housing means “taking meaningful actions, in addition to combatting discrimination, that overcome patterns of segregation and foster inclusive communities free from barriers that restrict access to opportunity based on protected characteristics. These characteristics can include, but are not limited to race, religion, sex, marital status, ancestry, national origin, color, familiar status, or disability.

The Orange County Analysis of Impediments (AI) to Fair Housing Choice for FY 2015-19 was approved by the City of Newport Beach City Council in October 2016 as one of the fifteen urban county program participants in partnership with the Fair Housing Council of Orange County. The Draft Regional Analysis of Impediments (AI) to Fair Housing Choice for FY 2020-25 was made available for public review in 2020. The Fair Housing Council of Orange County works under the direction of a volunteer board of directors and staff to fulfill a mission of protecting the quality of life in Orange County by ensuring equal access to housing opportunities, fostering diversity and preserving dignity and human rights. The agency is a HUD Approved Housing Counseling Agency and provides one-on-one education, mediation, and counseling for individuals and families throughout the Orange County region.

The AI identifies impediments that may prevent equal housing access and develops solutions to mitigate or remove such impediments. Newport Beach’s 6th Cycle Housing Element references analysis from the FY 2020-2025 AI in order to identify potential impediments to housing that are specific to Newport Beach. The City also completed its FY 2020-24 Consolidated Plan, adopted by City Council on May 12, 2020, as an entitlement city for Community Development Block Grant (CDBG) funding, which identifies housing problems within the community, specifically among low and very-low-income households. Fair housing is identified as a priority within the Consolidated Plan.

## ***2. Summary of Local Data***

The AI contains a Countywide analysis of demographic, housing, and specifically fair housing issues for all the cities in Orange County, including Newport Beach. The City's demographic and income profile, household and housing characteristics, housing cost and availability, and special needs populations were discussed in the previous Section 2: Community Profile.

In an ongoing effort to promote and encourage fair housing, the City contracts with the Fair Housing Foundation (FHF). FHF provides public outreach, educational workshops, and distributes educational materials related to fair housing. Inquiries regarding fair housing matters are generally referred to the FHF. As of July 30, 2021, a total of 116 Newport Beach low-income residents relied on Section 8 rental assistance vouchers. In 2020, the Fair Housing Foundation held virtual fair housing workshops (February 3, 2020, and November 17, 2020), held virtual walk-in clinics (May 13, 2020, May 20, 2020, July 15, 2020, September 2, 2020, and November 18, 2020), produced a public service announcement for Newport Beach Television (NBTv), and distributed 2,250 pieces of literature.



### **Fair Housing Issues**

Within the legal framework of federal and state laws and based on the guidance provided by the HUD Fair Housing Planning Guide, impediments to fair housing choice can be defined as:

- Any actions, omissions, or decisions taken because of age, race, color, ancestry, national origin, age, religion, sex, disability, marital status, familial status, source of income, sexual orientation, or any other arbitrary factor which restrict housing choices or the availability of housing choices; or
- Any actions, omissions, or decisions which have the effect of restricting housing choices or the availability of housing choices on the basis of age, race, color, ancestry, national origin, age, religion, sex, disability, marital status, familial status, source of income, sexual orientation or any other arbitrary factor.

### **Regional Fair Housing Issues**

- **Availability, Type, Frequency, and Reliability of Public Transportation** - The availability, type, frequency, and reliability of public transportation may be significant local contributing factors to fair housing issues in Newport Beach. Public transportation in Orange County primarily consists of bus service operated by the Orange County Transportation Authority (OCTA) and Metrolink light rail service. However, Metrolink does not provide service to Newport. The lack of public transportation may deter members of protected classes who do not have cars and are reliant on public transportation from choosing to live there, thus reinforcing patterns of segregation.
- **Impediments to Mobility** - Impediments to mobility may be a significant local contributing factor to fair housing issues in Newport Beach. Specifically, Housing Choice Voucher payment standards that make it difficult to secure housing in many, disproportionately White areas contribute to segregation and disparities in access to opportunity. The Orange County Housing Authority, which provides Section 8 resources to Newport Beach, has three tiers based on city rather than zip code, but the highest tier - \$2,280 for two-bedroom units in selected cities – falls far short of Small Area Fair Market Rents and leaves some cities targeted for that payment standard out of reach. For example, in zip code 92660, located in Newport Beach, the Small Area Fair Market Rent for two-bedroom units would be \$3,120. A Zillow search for that zip code revealed advertised two-bedroom units in only two complexes available for under \$2,280 but many more available between \$2,280 and \$3,120.
- **Location of Accessible Housing** - The location of accessible housing may be a significant local contributing factor to fair housing issues in Newport Beach. With a few exceptions the location of accessible housing tends to track areas where there are concentrations of publicly supported housing. In Orange County, publicly supported housing tends to be concentrated in areas that are disproportionately Hispanic and/or Vietnamese and that have relatively limited access to educational opportunity and environmental health. While this is not a predominate issue in Newport Beach, comments by advocacy groups during the outreach process indicated that the location and availability of affordable housing throughout the community contributes to challenges to fair housing opportunity. Multi-unit housing tends to be concentrated in communities of color, but there are some predominantly White communities that have significant



amounts of market-rate multi-unit housing that may be accessible and affordable to middle-income and high-income persons with disabilities, including Newport Beach. Overall, permitting more multi-unit housing and assisting more publicly supported housing in predominantly White communities with proficient schools would help ensure that persons with disabilities who need accessibility features in their homes have a full range of neighborhood choices available to them.

**Occupancy Codes and Restrictions** - Occupancy codes and restrictions may be a significant local contributing factor to fair housing issues in Newport Beach. Specifically, there is a substantial recent history of municipal ordinances targeting group homes, in general, and community residences for people in recovery from alcohol or substance abuse disorders, in particular. In 2015, the City of Newport Beach entered into a \$5.25 million settlement of a challenge to its ordinance, but that settlement did not include injunctive relief calling for a repeal of that ordinance.<sup>10</sup> Although municipalities have an interest in protecting the health and safety of group home residents, these types of restrictions may be burdensome for ethical, high-quality group home operators. Occupancy codes and restrictions are not as high priority of a barrier as the factors that hinder the development of permanent supportive housing, as group homes are generally less integrated than independent living settings.

### **Fair Housing Enforcement and Outreach Capacity**

Currently, the Fair Housing Foundation provides fair housing services to the City of Newport Beach. This includes providing fair housing enforcement and landlord/tenant mediation services which are available for tenants, realtors, apartment owners and managers, lending institutions and other interested parties. For FY 2020-21, the City of Newport Beach has allocated \$12,000 in Community Development Block Grant (CDBG) funds for the Fair Housing Foundation to perform the following, at no cost:

- Fair housing services such as, responding to discrimination inquiries and complaints, documenting, and investigating discrimination complaints, and resolving or mediating discrimination complaints
- A comprehensive, extensive, and viable education and outreach program, including:
  - Fair Housing Workshop
  - Certificate Management Training
  - Walk-In Clinics
  - Rental Housing Counseling Workshop
  - Community presentations, staff training, and workshops
  - Community events, booths, networking, etc.
- Landlord and tenant counseling on responsibilities and rights
- Rental counseling

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<sup>10</sup> 41 Hannah Fry, Newport Will Pay Group Homes \$5.25 Million Settlement, L.A. TIMES (July 16, 2015), <https://www.latimes.com/socal/daily-pilot/news/tn-dpt-me-0716-newport-group-home-settlement-20150716-story.html>.





- Since the City contracts with an outside firm for these services, lack of monitoring and lack of direct access through City resources may be identified as contributing factors.

The Fair Housing Foundations offers regular walk-in counseling sessions, in addition to resources fairs, informational workshops (accessible in multiple languages), landlord and tenant workshops, and other outreach efforts. Additionally, the FHF provided virtual workshops available online to Newport Beach residents.

From 2015 to 2020, the City provided 408 residents with fair housing services using CDBG funding. As part of the FY 2020-25 Consolidated Plan for the Newport Beach, the City has set a goal of assisting 625 people with fair housing issues within the five-year period using \$60,000 of CDBG funding. Newport Beach has also set a goal of retaining a Fair Housing provider to promote fair housing education and outreach within the community. The U.S. Department of Housing and Urban Development (HUD) maintains a record of all housing discrimination complaints filed in local jurisdictions. These grievances can be filed on the basis of race, color, national origin, sex, disability, religion, familial status, and retaliation. As reported by the 2020-2025 AI, one fair housing case is unresolved (as one 2020) in Newport Beach.

### **Housing Element 2021-2029 Outreach**

Outreach and materials used in the 6<sup>th</sup> Cycle Housing Element are provided in **Appendix C: Summary of Community Outreach**.

### ***3. Analysis of Federal, State, and Local Data and Local Knowledge***

Newport Beach officially became an incorporated City in Orange County in September of 1906 and the current City Charter was adopted in 1954. The City began establishing itself in the 1920s around the development of the harbor; however it wasn't until the 1950s that the City became a vacation destination and permanent residents began to settle in the area.<sup>11</sup> Between 1960 and 1980 the City experienced a boom in construction, which resulted in the population increasing from 26,564 residents to 62,549 residents over the 20-year period. Today, about 85,694 persons live in the City of Newport Beach (ACS 2019). Of the residents in the City, 85.8 percent identify as White, 1.0 percent identify as Black, 8.0 percent identify as Asian, and 8.8 percent of all persons identify as Hispanic or Latino. The City's demographics display a large contrast between the population that is White and Non-White. Similarly, about 61.0 percent of the County of Orange population is White compared to 1.8 percent who identify as Black, 20.5 percent who identify as Asian and 34.1 percent who Identify as Hispanic or Latino of any race.<sup>12</sup>

The City of Newport Beach's population requires a diverse array of housing options. Specifically, Newport Beach has an aging population. About 23.1 percent of the population is over the age of 65 compared to 14.4 percent in the County. About 8.0 percent of all persons in Newport Beach reported at least one disability in 2019, majority of which were seniors (over the age of 65). Senior housing and housing accessibility were key priorities identified by the community during the Housing Element Outreach. Additionally, the median income for non-family households is significantly lower than that of married

<sup>11</sup> The Chamber Newport Beach, *About Newport Beach*, <https://www.newportbeach.com/about-newport-beach/#:~:text=The%20City%20of%20Newport%20Beach,brokering%20followed%20in%20later%20decades.>, accessed January 24, 2022.

<sup>12</sup> American Community Survey, DP05 5-year estimates, 2019.



couple households and family households. The ACS 2019 5-year data reports that nonfamily households earned a median income of \$86,656 annually, compared to family households that earned \$171,699 annually and married couple households that earned \$192,542 annually. The City does not do fair housing testing, however additional information regarding fair housing concerns and issues was identified through the County of Orange AI.

Additional housing needs, concerns, and disparities are analyzed below in the Fair Housing Analysis. Findings from the analysis are reported below under “Local Data and Knowledge.”

### **Local Data and Knowledge**

Locally-derived knowledge and contributing factors were developed through community participation in outreach events, analysis conducted in Affirmatively Furthering Fair Housing development, feedback and comments received on the draft Housing Element’s data, sites inventory, and policy programs. Additionally, local knowledge has been gathered and retained by City staff during the course of routine business over many decades of service. The various City Departments interact with the residents and businesses, property owners, developers, the various elected and appointed representatives, and the public on a daily basis. One aspect of providing service is to listen to the needs of the community and then to work with all stakeholders to address those needs deemed priorities after public debate. The following local contributing factors have been identified and several citywide and placed-based strategies to counter those factors are described later in Section 4 Additional local knowledge is provided regarding affirmatively furthering fair housing in the Airport Area and West Newport Focus Areas under the “Analysis of Exacerbating Current Conditions” header later in this Section.:

- **Aging Housing Stock** – The community and the City’s Planning and Code Enforcement Divisions have indicated that there is an older housing stock that will continue to require rehabilitation as the housing continues to age. With the relative cost of property, these conditions are a challenge for maintenance and upkeep due to relatively high cost of improvements.
- **Housing Conditions and Senior Housing** – The community has noted its higher proportion of aging population. This is also supported by the demographic information provided in Tables 2-18 and 2-19 in Section 2 (Profile) of this Housing Element. This tends to create challenges with deferred maintenance, as those older homeowners may not have the financial resources or physical ability to perform maintenance functions. Seniors are predominately on fixed incomes and represent the largest group of residents in need of support to address high housing costs and unique housing needs. The City’s Senior Home Assistance Repair Program (SHARP) works to assist senior citizens with home repairs. Data for the program is provided in Appendix A. Eligible applicants must be 60 or older and must have an income at or below the 50<sup>th</sup>-percentile of median income of Orange County with net assets not to exceed gross household income for 18 months. The City’s Senior Center (OASIS) plays a vital role in the dissemination of information and services to the senior community and should be engaged to help facilitate the needs of the senior population.
- **Variety of Housing Choices** – The City’s existing mobile home and upward-trending accessory dwelling unit (ADU) inventory play a role in keeping an inventory of affordable housing in the community. The community has expressed its desire to have a good balance of residential



development types and densities to accommodate various income levels and a variety of household types. As discussed in Appendix D, the City has been promoting ADU development and provides local data to substantiate increased production.

- **Redevelop and Infill Opportunities** – Residents and property owners indicated a desire to focus future development in areas seeing a decline in commercial development activity. As such, the Airport Area and Newport Center Area were included as major opportunity areas due to recent residential development activities and entitlement requests. The negative effects that the COVID-19 pandemic and on-line shopping trends has had on the ability to maintain economically performing commercial properties was also cited as a concern. As such, reuse and repurposing of commercial and industrial uses is a major opportunity area according to residents.
- **Address the High Cost of Housing** - The cost of housing in Newport Beach is very high and rents continue to increase; however, the City has aimed to encourage and preserve a number of affordable housing units through existing agreements. As part of this Housing Element update, Policy Action 1K is included to adopt an inclusionary housing program that would require affordable units to be developed as part of housing development projects meeting the certain applicability criteria. This Inclusionary Housing Program, in conjunction with the implementation of the Housing Element, will help to boost affordable housing production, which will in turn boost affordable housing stock to help offset higher housing costs.
- **Lower Income Access to Opportunity** – High local employment in service industry at resort, hotel, restaurants, and other tourist-serving businesses contributes to the need for housing affordable to lower income households. To address this, Policy 4E grants exceptions for affordable housing projects, and supportive Policies for Housing Goal #5 provides for the preservation of lower income housing opportunities.
- **Transportation and Housing** – Through community workshops, residents and stakeholders have indicated there is a need for improved transit use and better access throughout the community. In areas where higher density is preferred, such as the Airport Area, access to various transportation options will increase local economic development potential, physical mobility, employment and housing mobility.
- **Displacement of Residents** – As the cost of housing rises, there are continued limitations on housing options for the younger and older populations. During community workshops, residents indicated the desire to improve access to housing options throughout various life stages. This includes rental and ownership opportunities, as well as options for persons with various incomes and household needs. The ability to age-in-place, not necessarily within an owned single-family home, but within a senior living community in Newport Beach, was identified as a major priority given the City’s aging population.
- **Preserving Economic Integrity** – As the RHNA obligations in the City have increased significantly, increasing development capacity has also increased the project cost for services and land has become scarce. The members of City’s Housing Element Update Advisory Committee, its elected

officials and a number of residents have expressed the need to balance housing with the need for economic development in the community to foster access to services and jobs.

- **Alternative Means to Accommodate Affordable Housing** – Throughout the outreach and consultation process, the public stakeholders decision-makers and housing advocates have expressed at many meetings and workshops a desire to seek alternatives to accommodating affordable housing in a high-cost market. This includes ADU development, inclusionary housing options, and funding and financing mechanisms that further these opportunities. The community has expressed that ADUs represent the single greatest opportunity to accommodate affordable housing within existing established high-resource neighborhoods and recommended the inclusion of policies and programs to encourage them.

Considering the locally derived knowledge and data, the City recognizes that fair housing issues exist within the community. The City is committed to reducing barriers to providing housing that is affordable to all. The City has outlined programs to address fair housing issues in Newport Beach in the **Section 4: Housing Plan**. As a prime example, Policy Action 4A (Affirmatively Furthering Fair Housing) has Table 4-1 (Fair Housing Actions) and lists nine identified fair housing issues such as access to opportunity, displacement, and housing mobility. The Table includes both place-based and citywide strategies. Each issue includes geographic targets, meaningful City actions, priority level, timelines for action, and evaluative metrics that are aspirational goals to measure performance and to inform changes to future actions.

## **Integration and Segregation Patterns and Trends**

The dissimilarity index is the most used measure of segregation between two groups, reflecting their relative distributions across neighborhoods (as defined by census tracts). The index represents the percentage of the minority group that would have to move to new neighborhoods to achieve perfect integration of that group. An index score can range in value from 0 percent, indicating complete integration, to 100 percent, indicating complete segregation. An index number above 60 is considered to show high similarity and a segregated community.

It is important to note that segregation is a complex topic, difficult to generalize, and is influenced by many factors. Individual choices can be a cause of segregation, with some residents choosing to live among people of their own race or ethnic group. For instance, recent immigrants often depend on nearby relatives, friends, and ethnic institutions to help them adjust to a new country.<sup>13</sup> Alternatively, when white residents leave neighborhoods that become more diverse, those neighborhoods can become segregated. Other factors, including housing market dynamics, availability of lending to different ethnic groups, availability of affordable housing, and discrimination can also cause residential segregation.

The Longitudinal Tract Data Base (LTDB) from the Diversity and Disparities project shows that from 1980 to 2010 the City of Newport became increasingly diverse. In 1980, the Non-Hispanic White population totaled 91.6 percent of the overall population and decreased to about 73.6 percent in 2010. During the same timeframe, the Hispanic population increased from 5.0 percent to 10.9 percent. Additionally, the

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<sup>13</sup> Allen, James P. and Turner, Eugene. "Changing Faces, Changing Places: Mapping Southern California". California State University, Northridge, (2002).



total populations for those who identified as Asian increased from 1980 to 2010, 2.0 percent to 13.6 percent, and the total population of those who are Non-Hispanic Black increased from 0.5 percent to 1.2 percent. However, in 2018, the Black or African American population totaled about 0.8 percent of the population. The decrease in the Black population and increase in the Hispanic population is consistent with demographics trends for the greater metropolitan area. In 1980, the Non-Hispanic Black population equaled 10.1 percent of the overall population for the Los Angeles-Long Beach-Santa Ana metropolitan area, and the Hispanic population totaled 25.0 percent. By 2010, the Black population totaled 6.7 percent whereas the Hispanic population increased to 44.4 percent. According to 2018 ACS data, the total Non-Hispanic Black population in Orange County was 1.7 percent and the total Hispanic population was 34.1 percent.

**Figure 3-2** shows the dissimilarity between each of the identified race and ethnic groups and the jurisdictions White population, in both the County of Orange and Newport Beach. The higher scores indicate higher levels of segregation among those racial and ethnic group. The White (non-Hispanic or Latino) population makes up most of the City’s population at approximately 79.5 percent according to the 2018 ACS estimates, as well as most of the County’s population at 61.7 percent of the total population. The race and ethnic groups with the highest scores were the Native Hawaiian population (44.5) and people who reported as Other (51.3). Additionally, those who reported Black and the American Indian population had dissimilarity indices of 37.8 and 37.4 respectively.

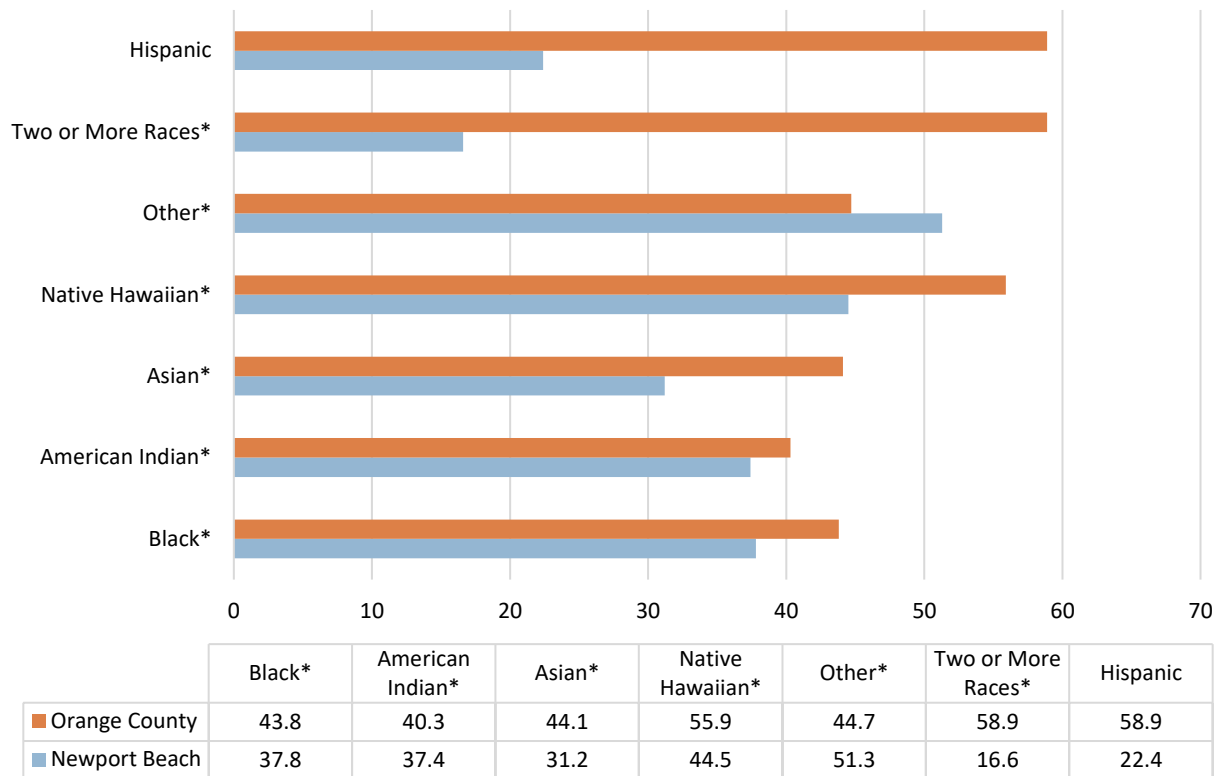
The scores above directly correlate with the percentage of people within that racial or ethnic group that would need to move into a predominately White census tract in order to achieve a more integrated community. For instance, in Newport Beach, 44.5 percent of the Native Hawaiian population would need to move into predominately white census tract areas to achieve “perfect” integration. Whereas in Orange County, 55.9 percent of the percent of the Native Hawaiian population would need to move into predominately white census tract areas to achieve “perfect” integration.

Overall, there are higher rates of segregation across the County of Orange compared to the City of Newport Beach. The Department of Housing and Community Development (HCD) considers dissimilarity index scores above 30, but below 60 as moderate segregation. Scores above 60 are considered to be high segregation. According to **Figure 3-2** below, while the City of Newport Beach has no racial or ethnic populations with a dissimilarity index above 60, all populations (with the exception of the Hispanic/Latino population) have a score above 30, meaning all groups experience moderate segregation from the White population. Similarly, all populations in the County have a score above 30.

While segregation may be a result of ethnic enclaves or persons of similar cultures living in community, there is often increased likelihood segregated populations will have fewer access to essential resources. As a part of Newport Beach’s efforts to further fair housing, the City will consider increased targeted outreach to the City’s minority residents.



**Figure 3-2: Dissimilarity Index with Whites – Newport Beach and Orange County**



Source: Census Scope, Social Science Data Analysis Network, \*Not Hispanic or Latino

### Racially or Ethnically Concentrated Areas of Poverty (R/ECAP)

To assist communities in identifying racially/ethnically concentrated areas of poverty (R/ECAPs), HUD has developed a census tract-based definition of R/ECAPs. The definition involves a racial/ethnic concentration threshold and a poverty test. The racial/ethnic concentration threshold is straightforward: R/ECAPs must have a non-white population of 50 percent or more. Regarding the poverty threshold, Wilson (1980) defines neighborhoods of extreme poverty as census tracts with 40 percent or more of individuals living at or below the poverty line. Because overall poverty levels are substantially lower in many parts of the country, HUD supplements this with an alternate criterion. Thus, a neighborhood can be a R/ECAP if it has a poverty rate that exceeds 40% or is three or more times the average tract poverty rate for the metropolitan/micropolitan area, whichever threshold is lower.

Location of residence can have a substantial effect on mental and physical health, education opportunities, and economic opportunities. Urban areas that are more residentially segregated by race and income tend to have lower levels of upward economic mobility than other areas. Research has found that racial inequality is thus amplified by residential segregation.<sup>14</sup> However, these areas may also provide different opportunities, such as ethnic enclaves providing proximity to centers of cultural significance, or business, social networks and communities to help immigrants preserve cultural identity and establish

<sup>14</sup> Orange County, Analysis of Impediments to Fair Housing Choice, April 2020 DRAFT.



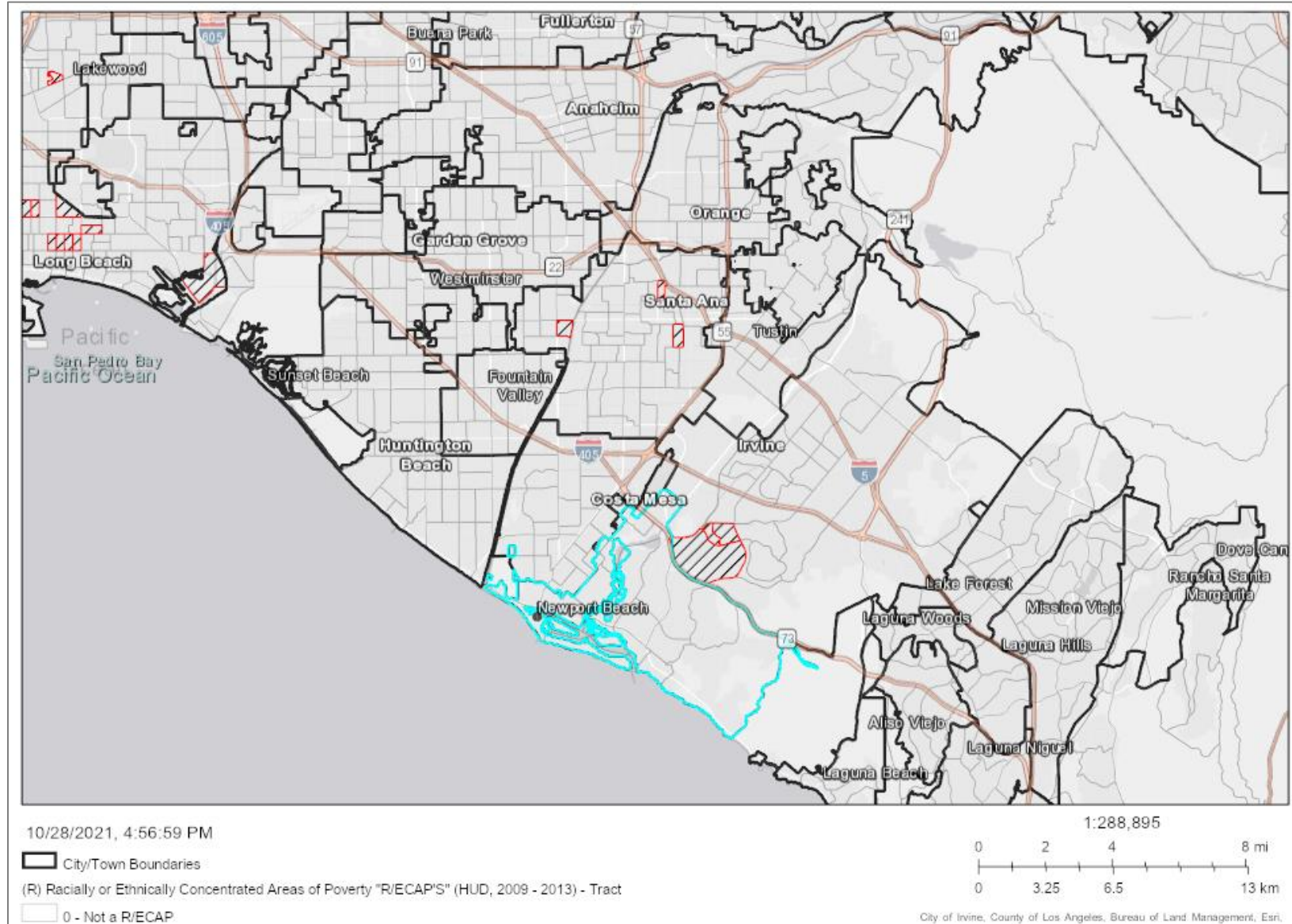
themselves in new places. Overall, it is important to study and identify these areas in order to understand patterns of segregation and poverty in a City.

The 2020 AI performed an analysis of R/ECAPs within Orange County and found four R/ECAPs, none of which were found in Newport Beach. However, two of the four were found in the neighboring City of Irvine, adjacent to one another and near the University of California; these both bordered the City of Newport Beach. According to the AI, it is likely that they qualify as R/ECAPs due to the high proportions of students. These R/ECAPs have a much more diverse group of residents, with some White, Asian or Pacific Islander, Hispanic and Black residents. These R/ECAPs primarily contain Asian or Pacific Islander or Hispanic residents. 23.49% of residents are White, 1.63% are Black, 48.50% are Hispanic, 23.70% are Asian or Pacific Islander, and 0.14% are Native American.

**Figure 3-3** below identifies low poverty index with race/ethnicity and R/ECAPs in Newport Beach, and the overall Orange County region. The low poverty index captures the depth and intensity of poverty in a given neighborhood. The index uses both family poverty rates and public assistance receipt, in the form of cash-welfare, such as Temporary Assistance for Needy Families (TANF). The poverty rate and public assistance for neighborhoods are determined at the census tract level, and the higher the score, the less exposure to poverty in a neighborhood. The map identifies the R/ECAP and a few surrounding neighborhoods, to the south and southeast, The figure identifies R/ECAP areas (outlined in red) bordering the City of Newport Beach, near the University of California, Irvine.

The map also shows that there are few R/ECAPs in the County as a whole, with a few pockets in the City of Santa Ana. Overall, the City of Newport Beach is a high income areas, with majority of the population identifying as white. The City should consider the impact of high cost of housing and higher annual incomes on lower income households. The current financial circumstance combined with the recent housing boom can create displacement through economic pressures, where lower income households need to look for affordable housing outside of the City.

Figure 3-3: Low Poverty Index with Race/Ethnicity and R/ECAPs, Newport Beach



Source: HUD Affirmatively Furthering Fair Housing Data and Mapping Tool, Data Versions: AFFHT0006, July 10, 2020





## **Racially Concentrated Areas of Affluence (RCAA)**

Racially or Ethnically Concentrated Areas of Poverty have long been analyzed and reviewed as a contributing factor to segregation. However, patterns of segregation in the United States show that of all racial groups, people who identify as White are the most severely segregated.<sup>15</sup> Research also identifies segregation of affluence to be greater than the segregation of poverty. Racial and economic segregation can have significant effects on respective communities, including but not limited to, socioeconomic disparities, educational experiences and benefits, exposure to environmental conditions and crime, and access to public goods and services.

Data used in the analysis of RCAA is from the 2012-2016 American Community Survey and are measured at the census tract level. The definition for an RCAA is a census tract in which 80 percent or more of the population is White and has a median income of at least \$125,000. The nationwide RCAA analysis identifies the following:

- RCAA tracts have more than twice the median household income of the average tract in their metro area.
- Poverty rates in RCAAs are significantly lower and are, on average about 20 percent of a typical tract.
- RCAAs tracts are more income homogenous than RECAPs.
- The average RCAA is about 57 percent affluent, whereas the average RECAP had a poverty rate of 48 percent.
- The typical RCAA tract has a rate of affluence 3.2 times that of a typical tract, whereas RECAPs on average had a poverty rate 3.2 times that of a typical tract

Overall, RCCAs may represent a public policy issue to the extent that they have been created and maintained through exclusionary and discriminatory land use and development practices. Postwar patterns of suburbanization in many metropolitan areas were characterized by White communities erecting barriers to affordable housing and engaging in racially exclusionary practices.<sup>16</sup>

Currently (October 2020), there is no consolidated database to identify RCAAs, therefore, to identify these areas in Newport Beach, this analysis examines census tracts with a population gap that is greater than 50% between the nonwhite and white population and a median income over \$100,000. **Table 3-15** below displays the RCAA data for the County of Orange and Newport Beach. Additionally, **Table 3-16** below shows local (Newport Beach) and regional (Orange County) context for the median household incomes of white residents.

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<sup>15</sup> Racially Concentrated Areas of Affluence: A Preliminary Investigation. University of Minnesota. Edwards Goets, Damiano, Williams. 2019.

<sup>16</sup> Ibid.



**Table 3-15: Median Household Income by Race, Newport Beach**

Census Tract	Percent Population White	Median Income
Census Tract 630.09	82.7%	\$130,089
Census Tract 634	88.84%	\$107,321
Census Tract 635	84.6%	\$112,000
Census Tract 629	92.1%	\$140,833
Census Tract 630.05	86.5%	\$171,406
Census Tract 627.01	89.3%	\$145,313
Census Tract 627.02	88.4%	\$107,829
Census Tract 626.43	71.6%	\$199,219
Census Tract 626.42	89.4%	\$134,444
Census Tract 626.44	82.4%	\$113,779
Census Tract 626.45	76.1%	\$167,530
Census Tract 630.07	79.6%	\$125,918

*Source: HCD, AFFH Data Viewer, Predominant White Population and Median Income (SCA 2010-2014), Accessed October 2021.*

**Table 3-16: Median Household Income by Race**

Race	Newport Beach		County of Orange	
	Median Income	Population	Median Income	Population
White (Not Hispanic or Latino)	\$ 129,797	85%	\$94,082	61%
All Households	\$127,223	--	\$90,234	--

*Source: American Community Survey, 5-Year estimates, 2019.  
Table S1903 Median Income In The Past 12 Months (In 2019 Inflation-Adjusted Dollars) 5-Year Estimate 2015-2019 (for all households and for White Alone)*

The majority of the City is predominately White. Additionally, the City reports a large percentage of households who earn a median annual income of at least \$125,000. Almost the entire City has an overlap of high racial concentrations (those who identify as White) and high incomes resulting in RCAAs. Many lower income housing sites have been identified throughout the City and within areas considered RCAAs.

**Figure 3-4** and **3-5** below display the White majority tracts and median incomes throughout Newport Beach.

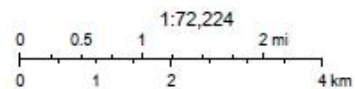


**Figure 3-4: Racially Concentrated Areas of Affluence (RCAA) – White Majority Tracts**



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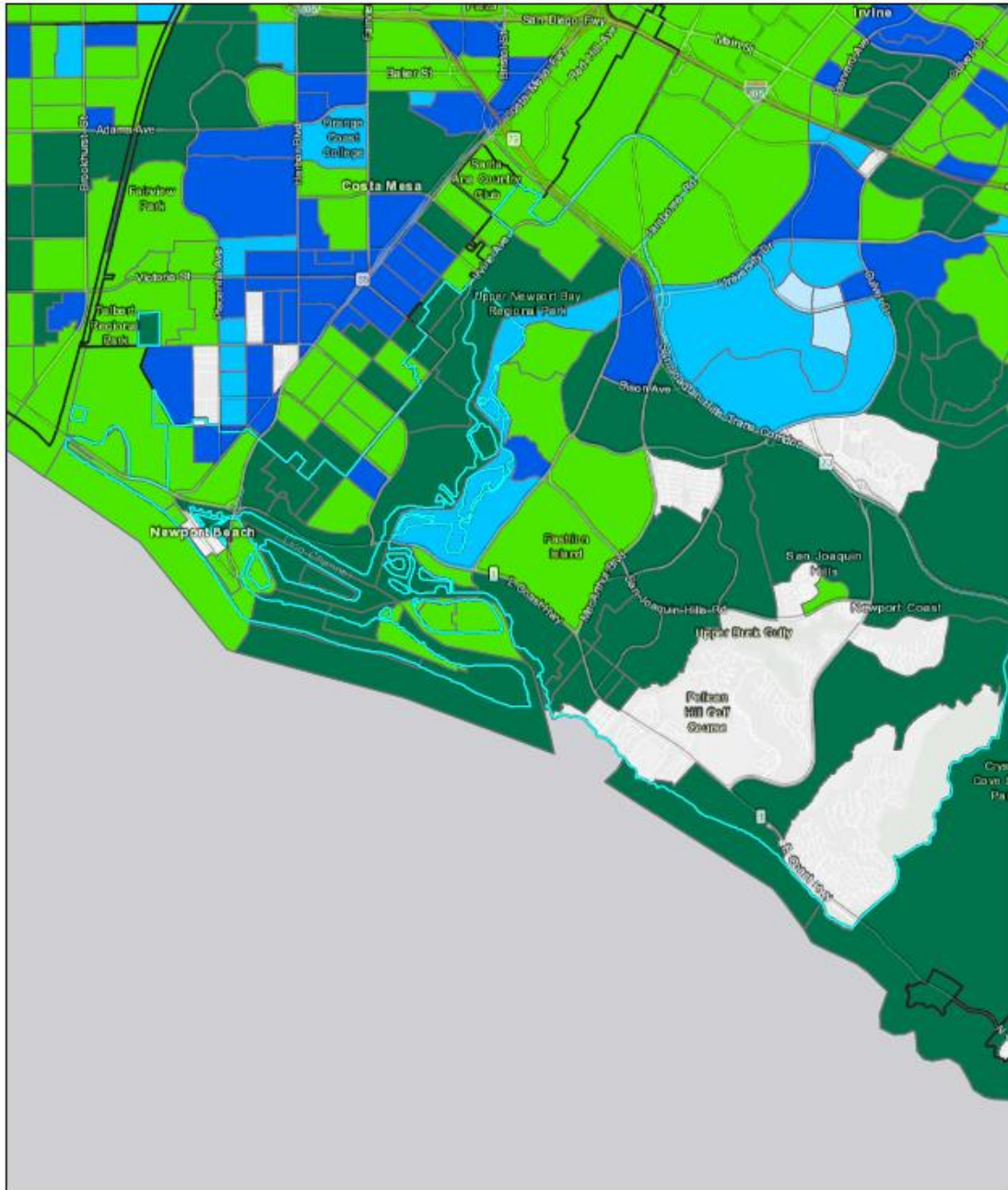
- City/Town Boundaries
- (R) Predominant Population - White Majority Tracts
- Slim (gap < 10%)
- Sizeable (gap 10% - 50%)
- Predominant (gap > 50%)



Source: California Department of Housing and Community Development – AFFH Data Viewer

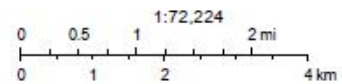


**Figure 3-5: Racially Concentrated Areas of Affluence (RCAA) – Median Income**



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- City/Town Boundaries
- (R) Median Income (ACS, 2015-2019) - Block Group
- < \$30,000
- < \$55,000
- < \$87,100 (HCD 2020 State Median Income)
- < \$125,000
- Greater than \$125,000



Source: California Department of Housing and Community Development – AFFH Data Viewer



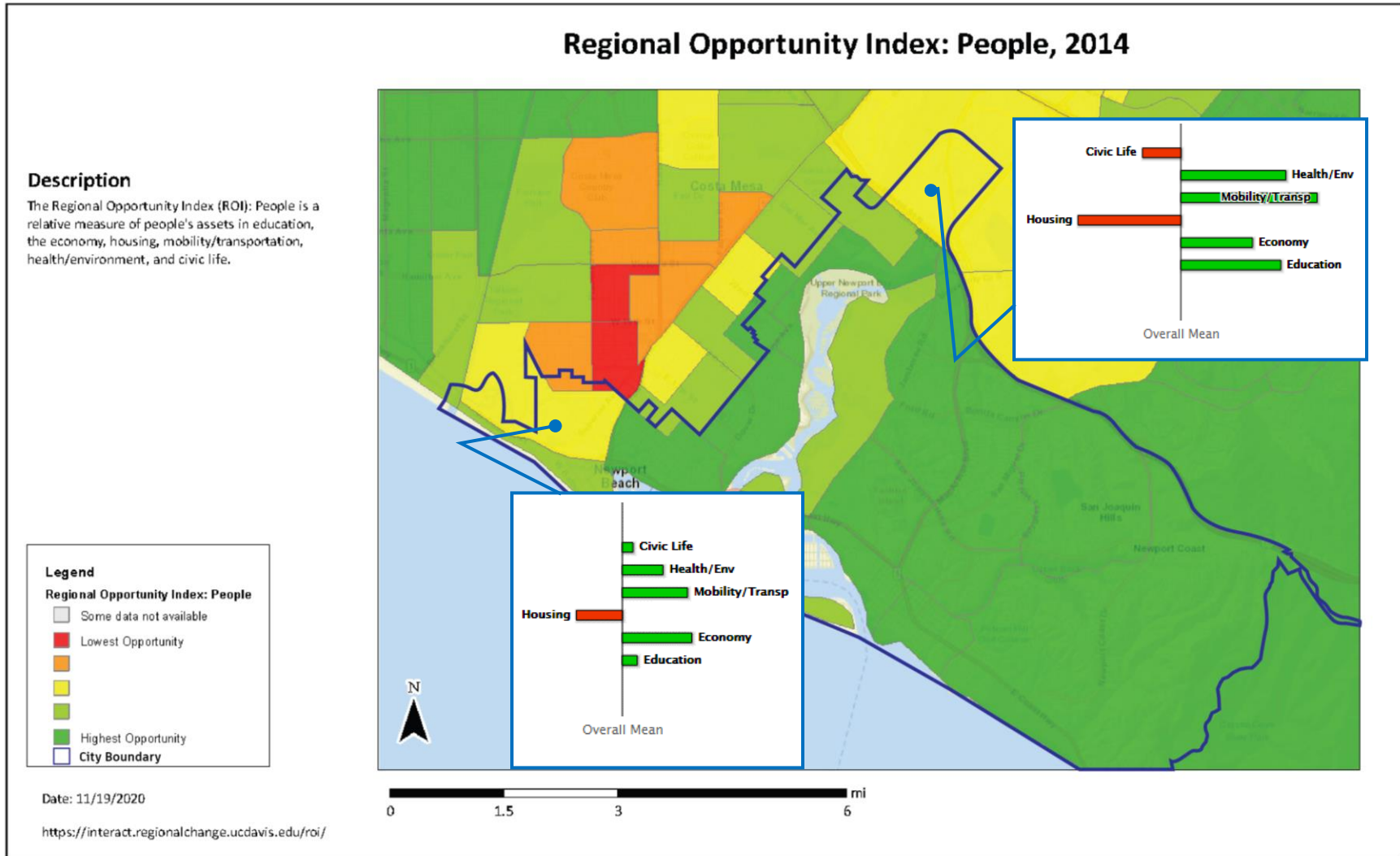
## Disparities in Access to Opportunity

### *Access to Opportunities*

The UC Davis Center for Regional Change and Rabobank partnered to develop the Regional Opportunity Index (ROI) intended to help communities understand local social and economic opportunities. The goal of the ROI is to help target resources and policies toward people and places with the greatest need to foster thriving communities. The ROI incorporates both “people” and “place components, integrating economic, infrastructure, environmental, and social indicators into a comprehensive assessment of the factors driving opportunity.”

As shown in **Figures 3-6 and Figure 3-7** below, the majority of the City of Newport Beach is classified as a high opportunity zone. This indicates a high level of relative opportunities that people can achieve as well as a high level of relative opportunities that Newport Beach provides. While most of the census tracts within the City are areas of high opportunity, there are two census tracts within the ROI People Index shown as yellow, identifying a low opportunity area. Together these areas contain 86 sites which accommodate 1,941 potential units designated to meet the City’s RHNA for lower-income units (shown in **Section 3: Housing Resources** and outlined in **Appendix B**). The Data for both regions with lower opportunity show high civic life, health, transportation, economic and education access, however, both show very low housing access. Therefore, the consideration and identification of these areas for housing, affordable to low and very low-income households, will provide increased housing opportunity in high opportunity and high resources areas.

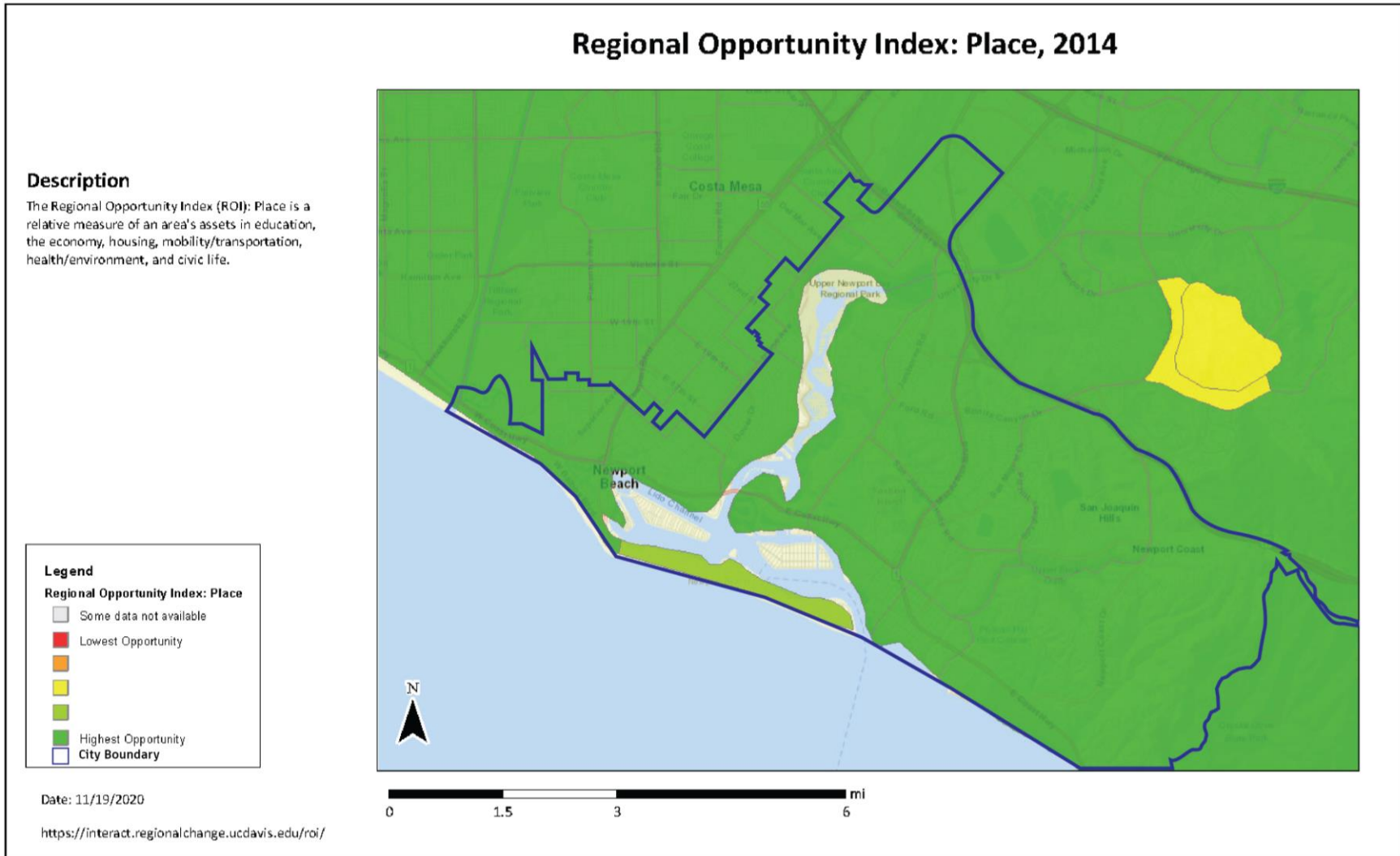
Figure 3-6: Regional Opportunity Index: People, 2014



Source: UC Davis Center for Regional Change and Rabobank, 2014.



Figure 3-7: Regional Opportunity Index: Place, 2014



Source: UC Davis Center for Regional Change and Rabobank, 2014.



Additionally, **Table 3-17** and **Figure 3-8** below display the data for Regional Opportunity index in Newport Beach overall compared to the State of California. The data shows the following key findings:

- The City has higher rates of college educated adults, high school graduation rates and higher levels of UC and CSU eligibility. Additionally, the City has higher levels of Math and English proficiency. However, the City has higher levels of truancy and discipline rates.
- Newport Beach residents experience significantly higher basic income levels and higher employment rates. While the City has a higher job availability rate and job quality, overall, both City and State job growth are similar. Newport Beach residents have higher rates of bank accessibility (nearly double the state’s accessibility rates).
- Newport Beach and the State have the same rate of home ownership, but residents of Newport Beach experience higher rates of cost burden. Housing adequacy and affordability are similar in both the City and State, where California has a slightly higher rate of affordability.
- Mobility and transportation access are moderate in both Newport Beach and the State. Newport Beach residents have a significantly higher commute times than the State’s median, this could be due in part to a lack of public transit or the development patterns of coastal communities.
- Overall health and environmental opportunities are comparable to the State, the City’s air quality is slightly lower than the States. Newport Beach has a slightly lower average of supermarket availability, however a much higher rate of healthcare availability.
- Newport Beach has higher rates of US citizenship and English speakers, as well as a higher percentage of voters compared to the State. However, Newport Beach has a slightly lower rate of neighborhood stability

In summary, Newport Beach is a high opportunity area with quality education opportunities, high rates of resident achievement, access to local and regional economic and employment opportunities, and high rates of home ownership. However, the data shows that there are high rates of cost burden in the City and slightly lower access to supermarkets and healthy foods. The City should focus on increasing access to affordable housing options to reduce cost burden and aim to increase affordable healthy food access.

**Table 3-17: Opportunity Indicators, Newport Beach and California**

ROI Indicator		Newport Beach	California
Education	<b>People</b>		
	College Educated Adults	<b>70%</b>	38%
	Math Proficiency	<b>87%</b>	70%
	English Proficiency	<b>87%</b>	65%
	Elementary Truancy	<b>34%</b>	24%
	<b>Place</b>		
	High School Graduation Rate	<b>93%</b>	83%
	UC/CSU Eligibility	<b>52%</b>	41%
	Teacher Experience	<b>60%</b>	36%
	High School Discipline Rate	<b>8%</b>	6%
Economic	<b>People</b>		
	Employment Rate	<b>93%</b>	89%
	Minimum Basic Income	<b>85%</b>	64%
	<b>Place</b>		
Job Availability	<b>1302.07</b>	701.75	

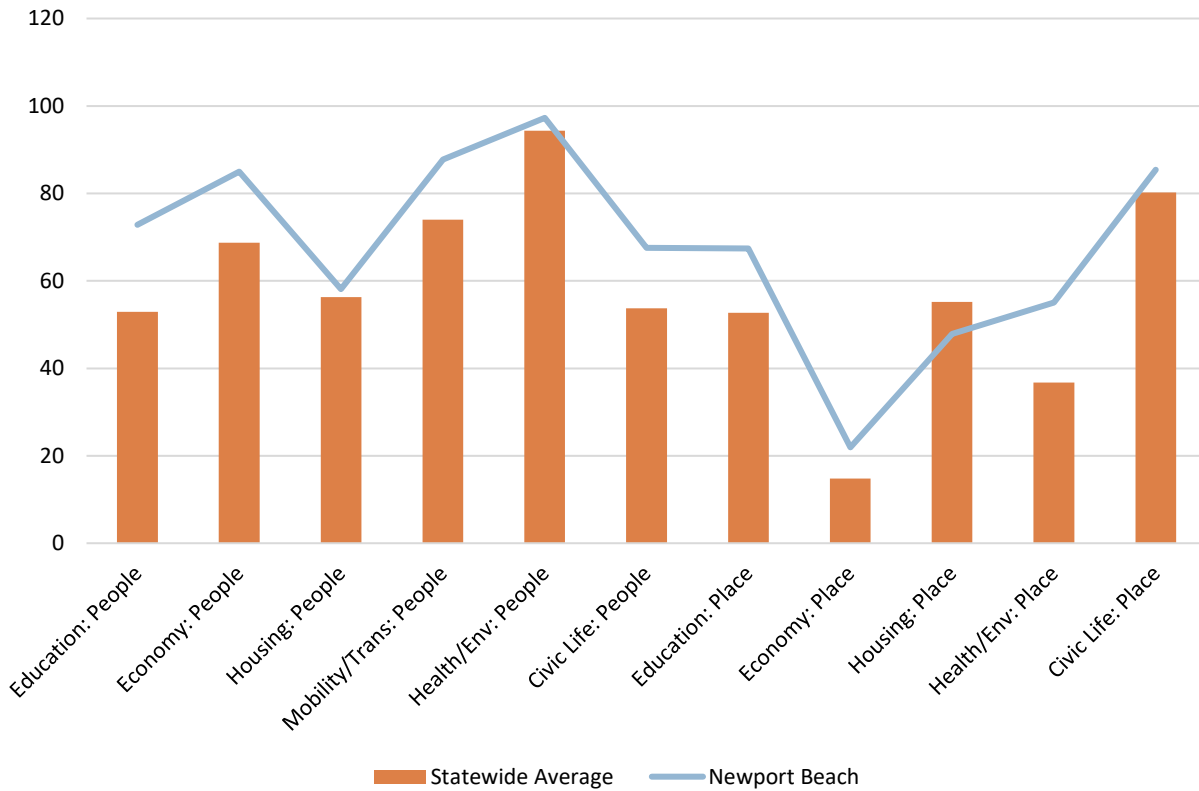




ROI Indicator		Newport Beach	California
	Job Quality	52%	40%
	Job Growth	4%	3%
	Bank Accessibility	0.44	0.24
Housing	<b>People</b>		
	Home Ownership	55%	55%
	Housing Cost Burden	54%	52%
	<b>Place</b>		
	Housing Adequacy	99%	91%
	Housing Affordability	0.13	0.19
Mobility	<b>People</b>		
	Vehicle Availability	96%	86%
	Commute Time	74%	60%
	Internet Access	4.96	4
Health/Environmental	<b>Place</b>		
	Infant Health	96%	95%
	Birth to Teens	1%	7%
	Years of Life Lost	18.27	29.84
	<b>Place</b>		
	Air Quality	8.82	10.01
	Prenatal Care	94%	83%
	Access to Supermarket	47%	53%
Health Care Availability	4.61	1.76	
Civic Life	<b>People</b>		
	Voting Rates	41%	31%
	English Speakers	92%	88%
	<b>Place</b>		
	US Citizenship	92%	83%
Neighborhood Stability	82%	85%	



**Figure 3-8: Regional Opportunity Index Newport Beach and California**

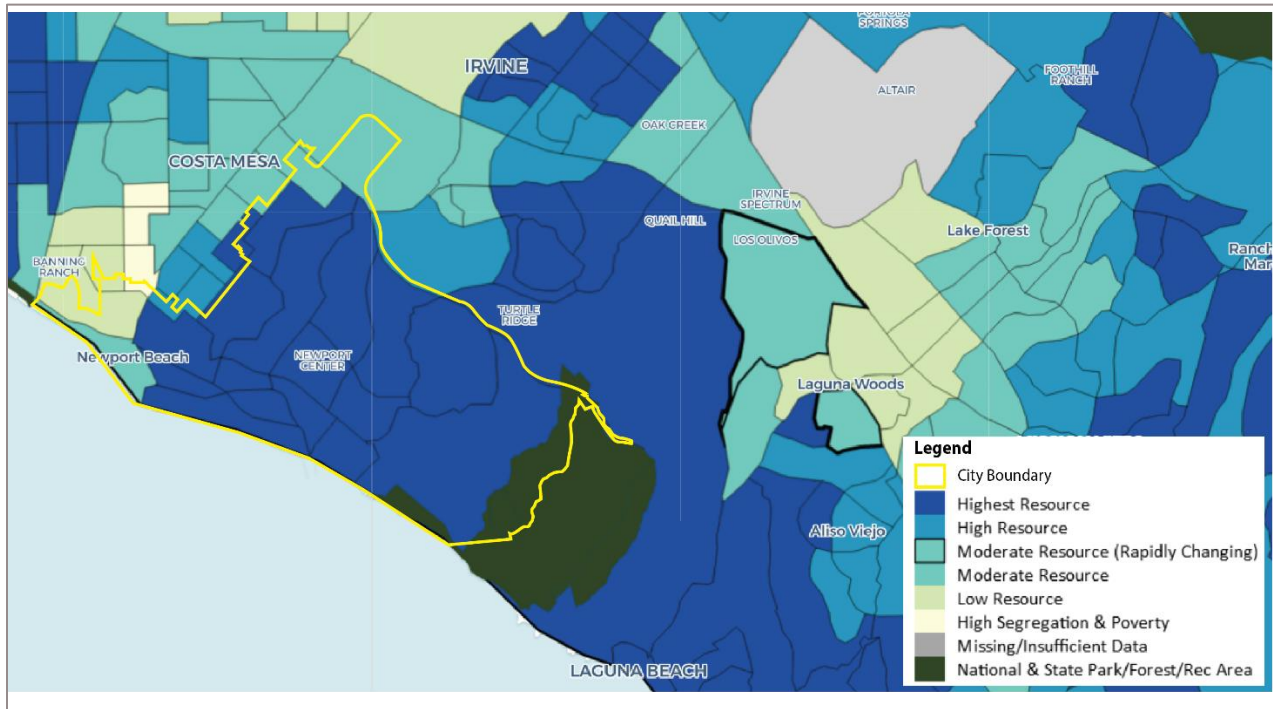


**Opportunity Areas**

Additionally, the Department of Housing and Community Development (HCD) together with the California Tax Credit Allocation Committee (TCAC) established the California Fair Housing Task Force to provide research, evidence-based policy recommendations, and other strategic recommendations to HCD and other related state agencies/departments to further the fair housing goals (as defined by HCD). The Task Force developed the TCAC/HCD opportunity Area Maps to understand how public and private resources are spatially distributed. The Task force defines opportunities as pathways to better lives, including health, education, and employment. Overall, opportunity maps are intended to display which areas, according to research, offer low-income children and adults the best chance at economic advancement, high educational attainment, and good physical and mental health.

According to the Task Force’s methodology, the tool allocates the 20 percent of the tracts in each region with the highest relative index scores to the “Highest Resource” designation and the next 20 percent to the “High Resource” designation. Each region then ends up with 40 percent of its total tracts as “Highest” or “High” resource. These two categories are intended to help State decision-makers identify tracts within each region that the research suggests low-income families are most likely to thrive, and where they typically do not have the option to live—but might, if given the choice. As shown in **Figure 3-9** below, nearly all of Newport Beach is classified as moderate, high, and highest resource. There is one census tract in the Northwest Portion of Newport Beach classifies as low resource, the tracts scores identify high economic resources and low educational resources.

**Figure 3-9: TCAC/HCD Opportunity Area Maps, Newport Beach (2020)**



Source: California Tax Credit Allocation Committee and Department of Housing and Community Development, 2020.

Access to neighborhoods with higher levels of opportunity can be more difficult due to discrimination and when there may not be a sufficient range and supply of housing in such neighborhoods. In addition, the continuing legacy of discrimination and segregation can impact the availability of quality infrastructure, educational resources, environmental protections, and economic drivers, all of which can create disparities in access to opportunity.

The Department of Housing and Urban Development (HUD) developed the opportunity indicators to help inform communities about disparities in access to opportunity, the scores are based on nationally available data sources and assess resident’s access to key opportunity assets in the City. **Table 3-18** provides the index scores (ranging from zero to 100) for the following opportunity indicator indices:

- **Low Poverty Index:** The low poverty index captures poverty in a given neighborhood. The poverty rate is determined at the census tract level. The higher the score, the less exposure to poverty in a neighborhood.
- **School Proficiency Index:** The school proficiency index uses school-level data on the performance of 4th grade students on state exams to describe which neighborhoods have high-performing elementary schools nearby and which are near lower performing elementary schools. The higher the score, the higher the school system quality is in a neighborhood.
- **Labor Market Engagement Index:** The labor market engagement index provides a summary description of the relative intensity of labor market engagement and human capital in a neighborhood. This is based upon the level of employment, labor force participation, and



educational attainment in a census tract. The higher the score, the higher the labor force participation and human capital in a neighborhood.

- **Transit Trips Index:** This index is based on estimates of transit trips taken by a family that meets the following description: a three-person single-parent family with income at 50% of the median-income for renters for the region (i.e. the Core-Based Statistical Area (CBSA)). The higher the transit trips index, the more likely residents in that neighborhood utilize public transit.
- **Low Transportation Cost Index:** This index is based on estimates of transportation costs for a family that meets the following description: a three-person single-parent family with income at 50 percent of the median-income for renters for the region/CBSA. The higher the index, the lower the cost of transportation in that neighborhood.
- **Jobs Proximity Index:** The jobs proximity index quantifies the accessibility of a given residential neighborhood as a function of its distance to all job locations within a region/CBSA, with larger employment centers weighted more heavily. The higher the index value, the better the access to employment opportunities for residents in a neighborhood.
- **Environmental Health Index:** The environmental health index summarizes potential exposure to harmful toxins at a neighborhood level. The higher the index value, the less exposure to toxins harmful to human health. Therefore, the higher the value, the better the environmental quality of a neighborhood, where a neighborhood is a census block-group.

**Table 3-18** below displays the opportunity indices by race and ethnicity for persons in Newport Beach. The table displays the following results:

- According to the data, there is low poverty among the population of Newport, across all racial/ethnic groups.
- Additionally, the access to quality education system is high among all racial/ethnic groups (each group has an opportunity index score above 80).
- The data shows the City offers high labor and economic opportunity as well as sufficient access to transportation.
- While the data shows a high access to transportation, it also shows that the transportation is less affordable, specifically to non-Hispanic Asian or Pacific Islander and Native American populations.
- The data also shows low environmental health index scores across all racial/ethnic groups, below 50.
- Households who earn below the poverty rate in Newport Beach have lower levels of opportunity access across all indicators as well as race and ethnicities.



**Table 3-18: Opportunity Indices by Race/Ethnicity, Newport Beach**

(Newport Beach, CA CDBG) Jurisdiction	Low Poverty Index	School Proficiency Index	Labor Market Index	Transit Index	Low Transportation Cost Index	Jobs Proximity Index	Environmental Health Index
<b>Total Population</b>							
White, Non-Hispanic	81.31	90.17	82.88	86.59	75.16	90.40	41.36
Black, Non-Hispanic	78.86	89.72	81.85	86.92	76.61	90.54	40.65
Hispanic	79.04	88.93	81.76	86.93	76.81	89.82	40.55
Asian or Pacific Islander, Non-Hispanic	84.48	91.60	85.94	83.05	68.64	89.19	38.80
Native American, Non-Hispanic	79.22	88.29	81.86	88.35	78.06	91.17	40.73
<b>Population below federal poverty line</b>							
White, Non-Hispanic	78.99	89.20	83.30	87.76	78.81	90.38	43.27
Black, Non-Hispanic	78.71	86.38	78.21	89.58	85.43	87.99	48.46
Hispanic	82.46	87.75	81.41	88.28	77.88	89.87	41.76
Asian or Pacific Islander, Non-Hispanic	84.34	88.97	82.79	88.43	76.05	92.09	39.15
Native American, Non-Hispanic	77.00	89.17	88.00	93.00	85.00	95.55	40.00
<i>Source: Department of Housing and Urban Development, Affirmatively Furthering Fair Housing Online Mapping tool, Decennial Census; ACS; Great Schools; Common Core of Data; SABINS; LAI; LEHD; NATA</i>							

## Access to Education, Economic and Transit Opportunities

### **School Proficiency, Labor Market and Job Proximity**

**Table 3-19** below displays opportunity indicators based on school proficiency, labor market, and job proximity. The City of Newport Beach has no Title I schools. Title I schools help low-achieving children meet state standards in core academic subjects. These schools coordinate and integrate resources and services from federal, state, and local sources. To be considered for Title 1 school funds, at least 40 percent of the students must be considered low-income. Additionally, the data shows that the City has an annual unemployment rate of 3.1%. Additionally, over 69.4 percent of residents has commute that is 30-minutes or less. The City of Newport Beach provides a variety of economic opportunities for current and future residents; however, the data shows there is little educational opportunities for lower achieving students.



**Table 3-19: Opportunity Indicator – School Proficiency, Labor Market, Job Proximity**

Opportunity Indicator	Newport Beach
<b>School Proficiency</b>	
Total Title I Schools	0
Total Schools	12
% of Schools	0%
<b>Unemployment Rate</b>	
Total Unemployed	1,408
Annual Rate	3.1%
<b>Job Proximity</b>	
<29 mins.	69.4%
30-59 mins.	22.6%
60 mins. or more	8.1%
<i>Source: National Center for Education Statistics, public Schools Directory. Accessed October 29, 2021. American Community Survey 2013-2017, S1701. American Community Survey 2013-2017, S0801</i>	

**Opportunity Indicators**

The TCAC/HCD Opportunity Area Maps include education data, as illustrated in **Figure 3-10**. This data represents opportunity levels based on the following four factors:

- **Math proficiency** – Percentage of 4th graders who meet or exceed math proficiency standards.
- **Reading proficiency** – Percentage of 4th graders who meet or exceed literacy standards.
- **High school graduation rates** – Percentage of high school cohort that graduated on time.
- **Student poverty rate** – Percentage of students not receiving free or reduced-price lunch.

Additionally, The TCAC/HCD Opportunity Area Maps include economic data, as illustrated in **Figure 3-11**. This data represents opportunity levels based on the following five factors:

- **Poverty** – Percent of population with income above 200% of federal poverty line.
- **Adult Education** – Percent of adults with a bachelor's degree or above.
- **Employment** – Percent of adults aged 20-64 who are employed in the civilian labor force or in the armed forces.
- **Job Proximity** – Number of jobs filled by workers with less than a BA that fall within a given radius (determined by the typical commute distance of low-wage workers in each region) of each census tract population-weighted centroid.
- **Median Home Value** - Value of owner-occupied units.

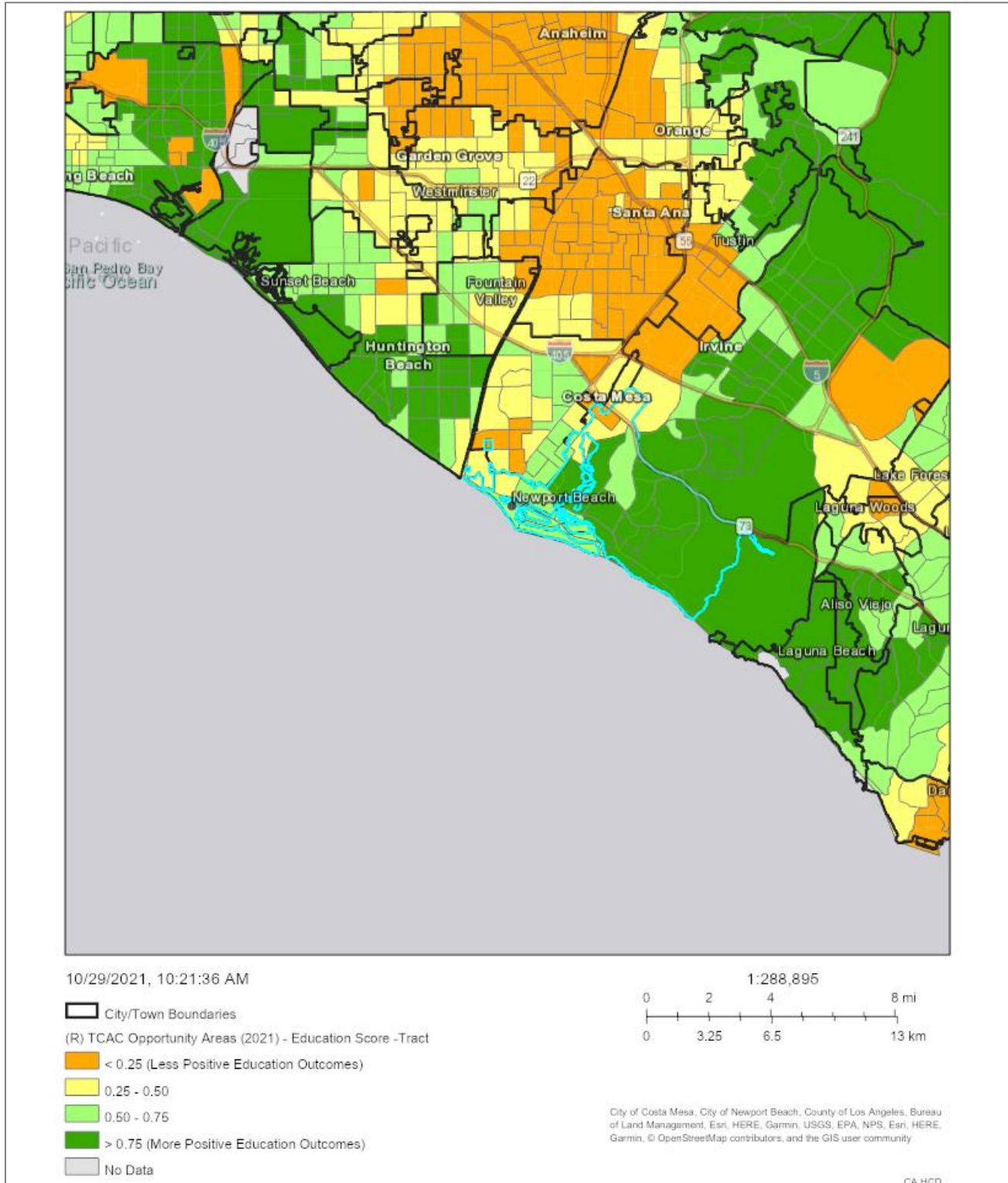
**Figures 3-10 and 3-11** below display the geographic data for education and economic opportunity in Newport Beach using the TCAC data detailed above. The data shows that nearly all of Newport Beach census tracts show high positive education outcomes. High positive outcomes mean there are high testing scores amongst elementary schoolers, high graduation rates and low poverty rates. Compared to the



region, coastal cities with higher median incomes show higher positive outcomes for education. Additionally, the data shows that all census tracts in Newport Beach are high positive outcome. Similar to the education data, positive outcomes are consistent in coastal and high-income cities in Orange County.



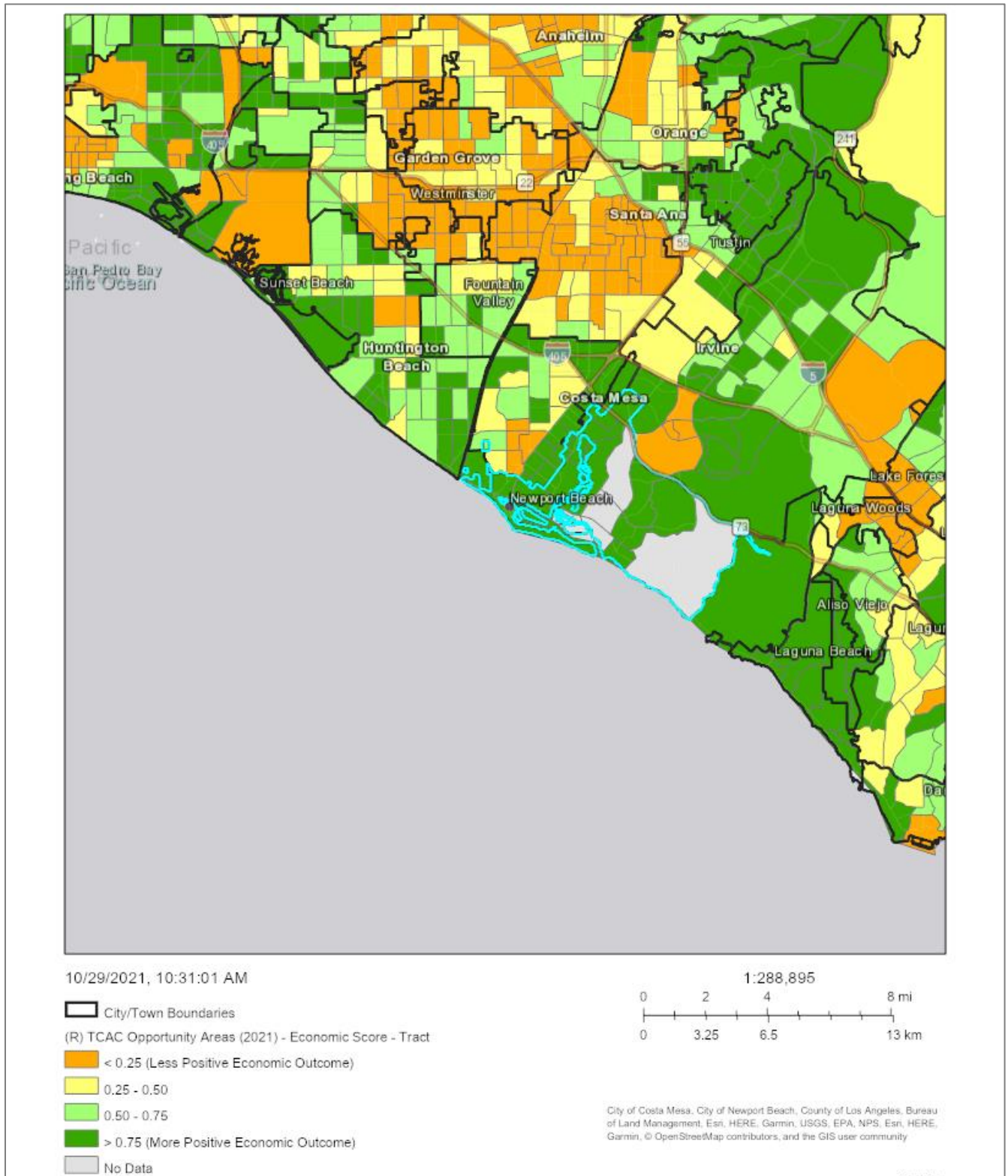
**Figure 3-10: TCAC – Education Score**



Source: HCD AFFH Data Viewer, Accessed September 10, 2021 Environmental Justice



**Figure 3-11: TCAC – Economic Score**



Source: HCD AFFH Data Viewer, Accessed September 10, 2021 Environmental Justice



**Access to Transit**

Access to transportation, specifically public transit provides households with affordable and environmentally friendly commuting options. It can also increase accessibility to essential retail such as grocers and markets as well as recreational activities and safe transit options for young adults and children.

AllTransit explores metrics that reveal the social and economic impact of transit, specifically looking at connectivity, access to jobs, and frequency of service. According to the data shown in **Table 3-20**, Newport Beach scored a 3.9 AllTransit performance score, illustrating a low combination of trips per week and number of jobs accessible that enable a moderate number of people to take transit to work. In total, 138,164 jobs are accessible within a 30-minute trip from Newport Beach, however just 0.55 percent of commuters use transit. Additionally, AllTransit identified the following transit related statistics for Newport Beach:

- 95.4 percent of all jobs in Newport Beach are located within ½ mile of transit
- There are 53,761 customer households within a 30-minute transit commute of local businesses
- 1.86 percent of workers in Newport Beach walk to work
- 1.02 percent of workers in Newport Beach bike to work
- 0 percent of low-income households live near transit

By comparison, Newport Beach scored lower than neighboring jurisdictions of Costa Mesa (5.4), Huntington Beach (4.4), and Irvine (3.6), however slightly higher than Laguna Beach (3.8). Overall, the City of Newport Beach has a lower AllTransit score than the County of Orange (3.9 in Newport Beach and 4.2 in the County).

**Table 3-20: Opportunity Indicator – Transit**

Jurisdiction	All Transit Performance Score	Transit Trips Per Week within 1/2 Mile	Jobs Accessible in 30-min trip	Commuters Who Use Transit	Transit Routes within 1/2 Mile
Newport Beach	3.9	410	138,164	0.55%	4
County of Orange	4.2	528	172,595	2.28	4

*Source: AllTransit, Transit Scores. Accessed October 29, 2021.*

**Figure 3-12: AllTransit Score, Newport Beach**



**Environmental Justice**

The California Office of Environmental Health Hazard Assessment (OEHHA) developed a screening methodology to help identify California communities disproportionately burdened by multiple sources of pollution called the California Communities Environmental Health Screening Tool (CalEnviroScreen). In addition to environmental factors (pollutant exposure, groundwater threats, toxic sites, and hazardous materials exposure) and sensitive receptors (seniors, children, persons with asthma, and low birth weight infants), CalEnviroScreen also takes into consideration socioeconomic factors. These factors include educational attainment, linguistic isolation, poverty, and unemployment. Research has shown a heightened vulnerability of people of certain ethnicities and lower socioeconomic status to environmental pollutants.

The CalEnviro Model is made up of a suite of 20 statewide indicators of pollution burden and population characteristics associated with increased vulnerability to pollution’s health effects. The model uses the follow analysis and calculation to identify areas which may create health risk:

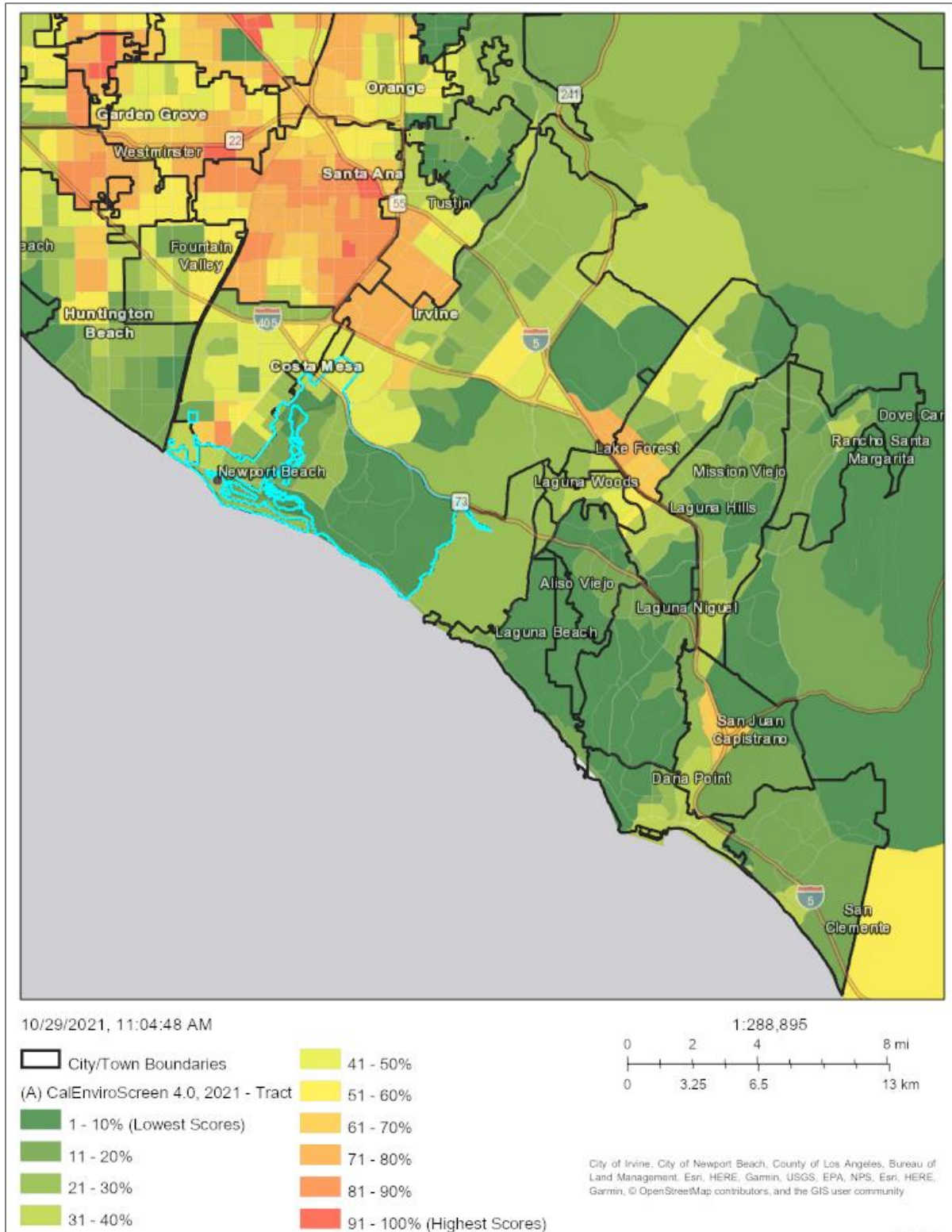


- Uses a weighted scoring system to derive average pollution burden and population characteristics scores for each census tract.
- Calculates a final CalEnviroScreen score for a given census tract relative to the other tracts in the state by multiplying the pollution burden and population characteristics components together.
- The score measures the relative pollution burdens and vulnerabilities in one census tract compared to others and is not a measure of health risk.

**Figure 3-13** below displays the results for the CalEnviroScreen in Newport Beach. The data shows that all of Newport Beach is low to lowest scoring (light to dark green), meaning that throughout the City there is low proximity or exposure to harmful pollutants. Compared to the region, majority of the coastal cities are identified as low pollutant burdens. Cities to the east of Newport beach, such as Santa Ana, Anaheim, Orange, and Garden Grove experience higher rates of pollution burdens and exposure to harmful pollutants. The discrepancy in pollution exposure could be related to cost of land. Land in Newport Beach is significantly more expensive than land in Anaheim, Santa Ana and Garden Grove, therefore, warehouse and industrial developers can buy larger lots of land for less money to accommodate manufacturing, trucking, industrial parks and other uses which produces higher traffic and pollution.



**Figure 3-13: CalEnviroScreen 4.0, Newport Beach**



Source: HCD AFFH Database, Accessed October 29, 2021.



## Discussion of Disproportionate Housing Needs

The analysis of disproportionate housing needs within Newport Beach evaluated existing housing need, need of the future housing population, and units within the community at-risk of converting to market-rate.

### Future Growth Need

The City’s future growth need is based on the RHNA production of 1,456 very low and 930 low-income units within the 2021-2029 planning period. **Appendix B** of this Housing Element shows the City’s ability to meet its 2021-2029 RHNA need at all income levels. This demonstrates the City’s ability to accommodate the anticipated future affordable housing needs of the community.

### Existing Need

As described in **Section 3.F.1** of this Housing Element, the Orange County Housing Authority administers Section 8 Housing Choice vouchers within the City of Newport Beach. As of October 30, 2020, the City has allocated 112 Section 8 vouchers to residents within the community: 30 for families, 20 for persons with disabilities, and 62 for seniors.

Additionally, a variety of affordable housing opportunities currently exist in the City. In Orange County, each category of publicly supported housing (public housing, Project Based Section 8, Other Multi-unit Housing, Housing Choice Vouchers, and Low-Income Housing Tax Credit [LIHTC] units) is represented, although that representation varies greatly depending on the individual municipality. **Table 3-21** below identifies the variety of publicly supported housing, by percent, in the City of Newport Beach.

**Table 3-21** below displays the demographics of all publicly supported housing in Newport Beach. The data shows that majority of persons who utilize and receive public housing support identify as White, with a small percentage Hispanic or Asian/Pacific Islander.

**Table 3-21: Publicly Supported Housing Demographics, Newport Beach**

Housing Type	White		Black		Hispanic		Asian or Pacific Islander	
	#	%	#	%	#	%	#	%
Project-Based Section 8	85	87.63%	0	0.00%	3	3.09%	9	9.28%
HCV Program	99	70.21%	14	9.93%	15	10.654%	13	9.22%
LIHTC	238	85.9%	8	1.99%	147	35.57%	12	2.99%
<b>Total Households</b>	<b>32,490</b>	<b>84.94%</b>	<b>135</b>	<b>0.35%</b>	<b>2,485</b>	<b>6.6%</b>	<b>2,477</b>	<b>6.45%</b>
<i>Source: County of Orange, Analysis of Impediments</i> Notes: <b>HVC</b> = Housing Choice Voucher <b>LIHTC</b> = Low-Income Housing Tax Credit								

### Housing Needs in Newport Beach

A variety of factors affect housing needs for different households. Most commonly, disability, household income and households’ characteristics shape the type and size of housing units needed, as well as accessibility based on existing units in a City. **Tables 3-22 through 3-27** displayed data for demographic characteristics of Newport Beach, as compared to the County of Orange and the State of California.



Additional detailed analysis of the Newport Beach community demographics is outlined in **Chapter 2: Community Profile** of this Housing Element.

### ***Homelessness***

People experiencing homelessness are those who do not have a fixed, regular, and adequate overnight residence, or whose overnight residence is a shelter, street, vehicle, or enclosure or structure unfit for habitation. Factors contributing to increases of homelessness may include the following:

- Lack available resources to support stable housing access
- Spikes in rent increase and lack of tenant protections
- Housing discrimination
- Evictions
- Lack of housing affordable to low- and moderate-income persons
- Increases in the number of persons whose incomes fall below the poverty level
- Reductions in public subsidies to the poor
- The deinstitutionalization of the mentally ill

According to the Orange County Point in Time report, in 2019 there were an estimate 64 unhoused persons in Newport Beach. Overall, the 64 unhouse persons in Newport Beach in 2019 account for about 1.6 percent of the overall Orange County count of 3,961 persons. When contextualized with the total number of people residing in Newport Beach, the 64 homeless individuals represent approximately .07 percent of the population. In neighboring jurisdictions, the point in time count of homeless persons in 2021 was:

- Huntington Beach: 349 persons
- Laguna Beach: 147 persons
- Irvine: 130 persons
- Costa Mesa: 193 persons

Data for 2020 and 2021 is not broken down by individual jurisdiction. However, in 2020 there were a total of 3,017 persons experiencing homelessness in Orange County and 2,441 persons in 2021. The racial and ethnic demographic data for unhoused persons in 2021 is not broken down by jurisdictions, however for the 2,441 unhoused persons in the County, 10 percent experienced chronic homelessness. Additionally, 77 percent identified as White, 12 percent identified as Black, three (3) percent identified as American Indian, less than one (1) persons identified as Native Hawaiian and 45 percent identified as Hispanic or Latino. About 295 persons were seniors (60 years+) and about 102 persons were youth, 288 persons were experiencing domestic violence and 162 persons were veterans. Of the persons living in shelters, 334 experience mental health conditions, 308 persons experience a physical disability, and 297 persons recorded substance abuse.<sup>17</sup>

### ***Disability***

**Table 3-22** displays the data for persons with disabilities in the City, County, and State. Overall, about 10 percent of the California population reported having at least one disability. In the City, about 8 percent of

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<sup>17</sup> Orange County Homeless Point-in-Time Count, Orange County Homeless Management Information Systems. 2019, 2020 and 2021. Accessed online: January 24, 2021.



persons reported at least one disability. The County reported a higher percentage than the City at 8.5 percent. Of the 8 percent of Newport Beach residents who reported a disability, the majority were independent living and ambulatory difficulties, which could be tied to the City’s senior population. Ease of reasonable accommodation procedures and opportunity for accessible housing can provide increased housing security for the population with disabilities.

**Table 3-22: Population by Disability Type, Compared by Geography, 2019**

Disability	City of Newport Beach	County of Orange	California
Total with a Disability	8%	8.5%	10.6%
Hearing Difficulty	2.7%	2.5%	2.9%
Vision Difficulty	1.5%	1.5%	2%
Cognitive Difficulty	3.0%	3.4%	4.3%
Ambulatory Difficulty	3.7%	4.5%	5.8%
Self-care Difficulty	1.7%	2.2%	2.6%
Independent Living	3.6%	4.3%	5.5%

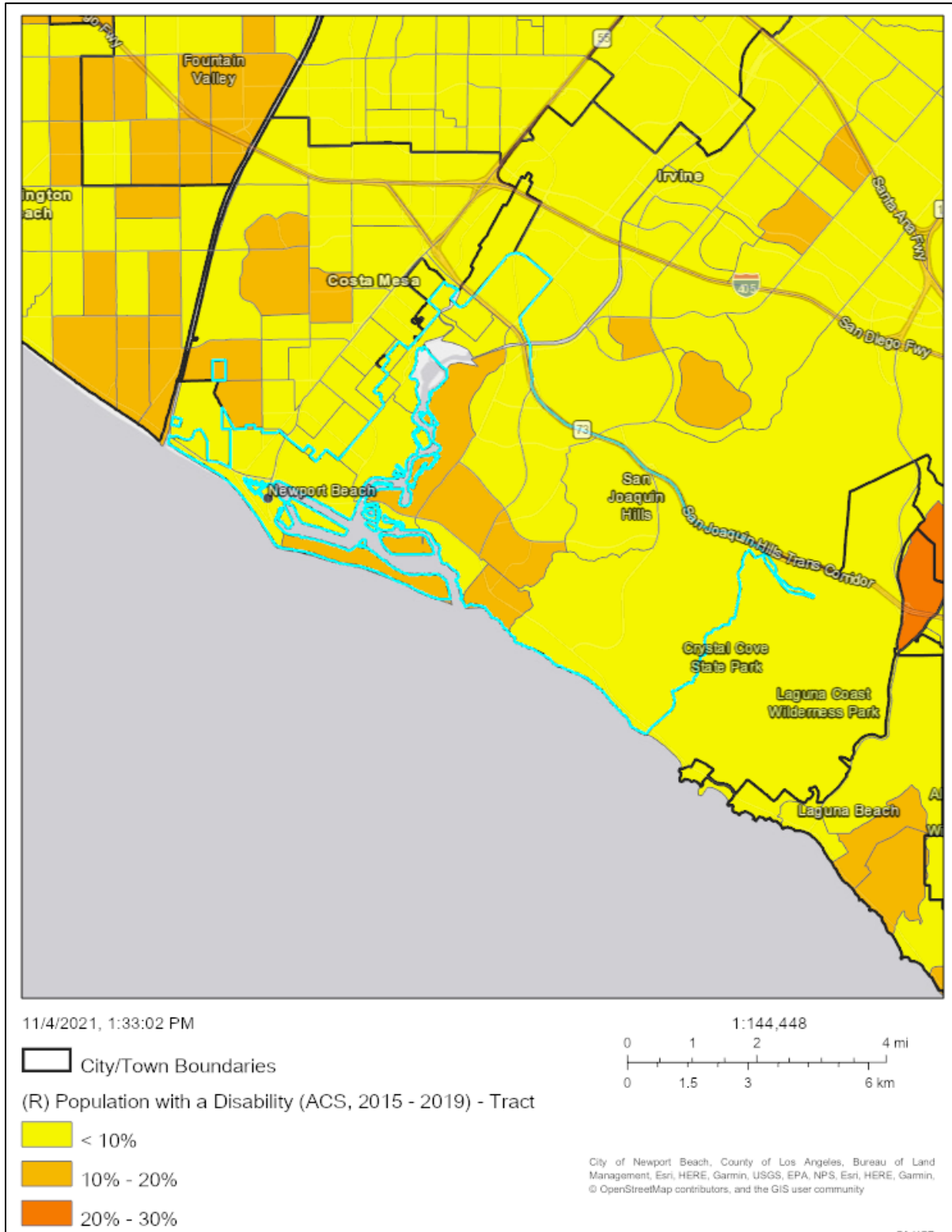
*Source: American Community Survey, 5-Year Estimates, 2019.*

The data in **Figure 3-14** below displays data for disability status in Newport Beach by census tract. The data shows that in Newport Beach most of the census tracts report under ten percent of the population to have at least one disability. Some census tracts to the northwest show that between 10 and 20 percent of the population report at least one disability. Overall, majority of the surrounding areas shows less than 10 percent of the population has reported at least one disability with some pockets of the region which have a population between 10 and 20 that reports a disability.





**Figure 3-14: Persons with Disabilities**



Source: HCD AFFH Database, American Community Survey. Accessed November 3, 2021.



**Income and Familial Status**

**Table 3-23** displays household type and income data for the State, County and City. Overall, the City has a smaller percentage of family households than the County and State; this includes family households, married-couple family households, and those with children. Of the three jurisdictions, the City has the largest percentage of non-family households (42.2 percent, compared to 28.3 at approximately 2 percent more than Orange County and about 6 percent more than the City. The City has a higher percentage of households with at least one senior over the age of 60 as compared to the state (29.2 percent) but a lower percentage than the County (39.9 percent).

**Table 3-23: Population by Familial Status, Compared by Geography, 2019**

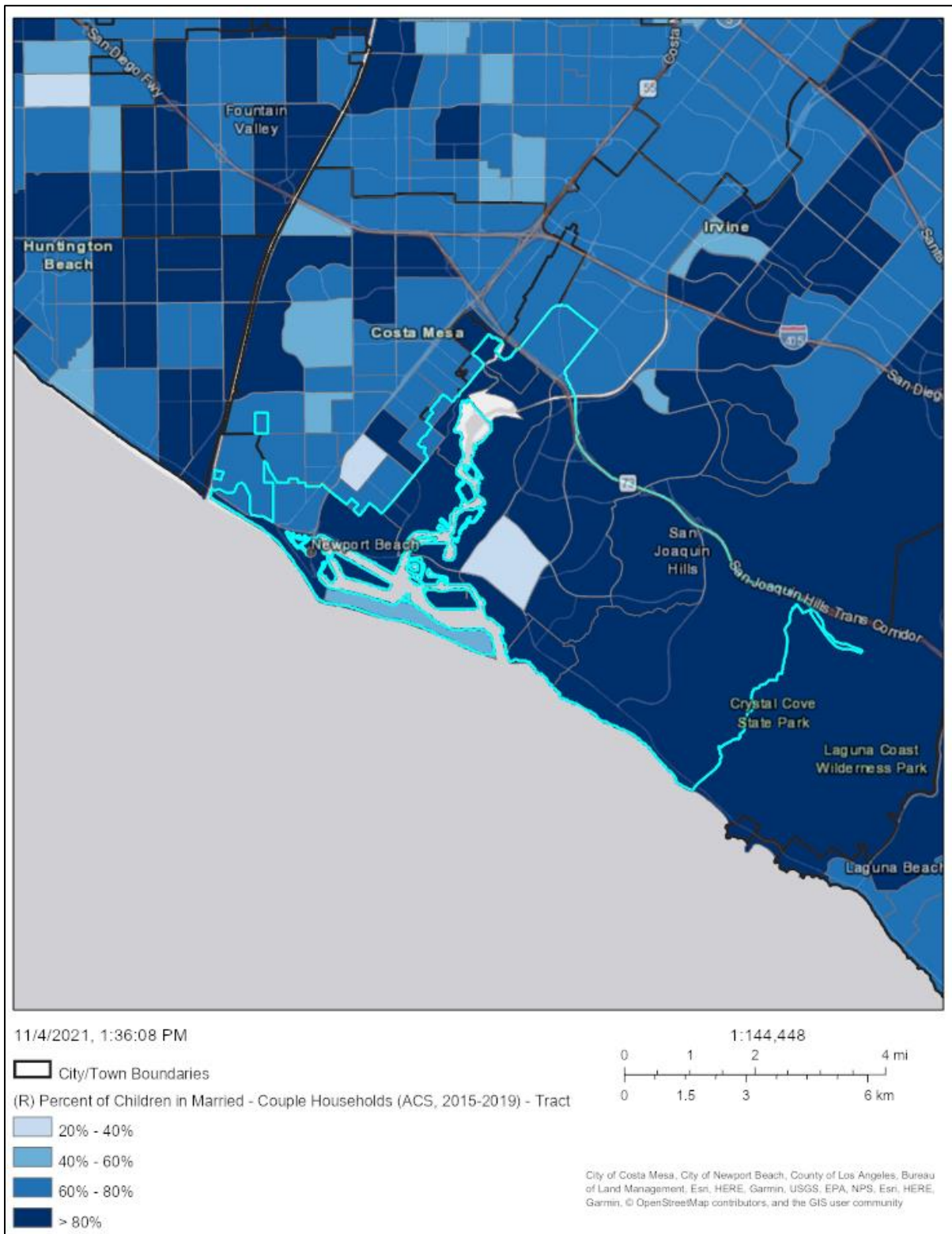
Familial Status	City of Newport Beach	County of Orange	California
Total Households	37,605	1,037,492	13,044,266
Family Households	57.7%	71.7%	68.7%
Married-Couple Family Households	49.6%	54.9%	49.8%
With Children	21.1%	30.9%	34%
Non-Family Households	42.2%	28.3%	31.3%
Households with one or more people 60 years+	35.5%	39.9%	29.2%
Female Headed Households, No Spouse Present with Children			

*Source: American Community Survey, 5-Year Estimates. 2019*

The data in **Figure 3-15** and **Figure 3-16** below shows living arrangements of children by census tract in Newport. **Figure 3-15** shows the percent of children in married couple households by census tract in Newport Beach. The data shows that most census tracts have children living in married couple households (above 80 percent per tract). There are few pockets adjacent to Costa Mesa and along the coast that show children living in married couple households where the census tract is between 60 and 80 percent. **Figure 3-16** shows the percent of children in female headed households with no spouse/partner by census tract in Newport. The data shows that most children are not in female headed households with no spouse and children present where the census tract shows less than 20 percent. There is one census tract where there is between 60 and 80 percent of children living in female headed households with no spouse/partner.



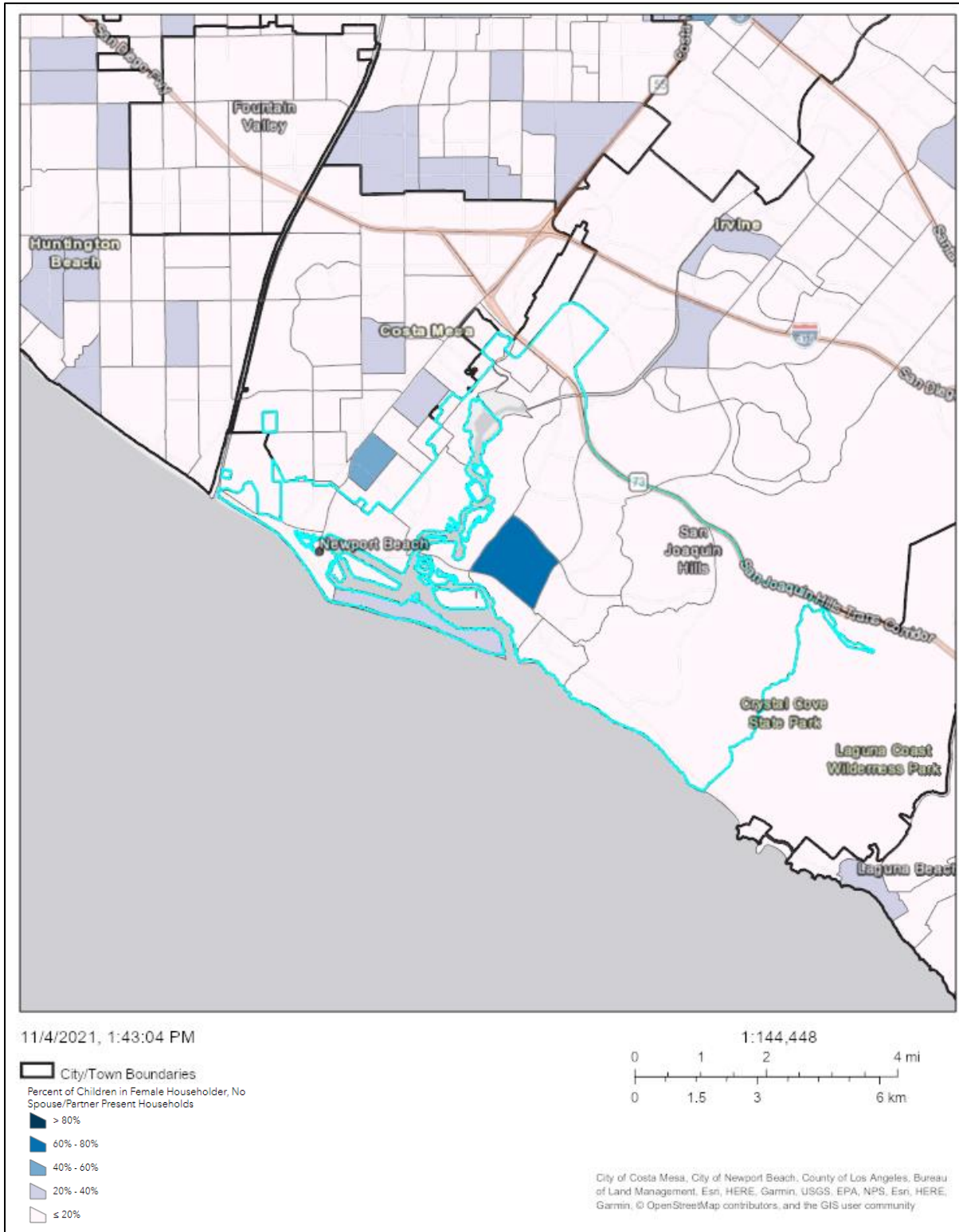
**Figure 3-15: Married Couple Households with Children**



Source: HCD AFFH Database, American Community Survey. Accessed November 3, 2021.



**Figure 3-16: Female Headed Households, No Spouse/Partner Present with Children**



Source: HCD AFFH Database, American Community Survey. Accessed November 3, 2021



Regarding household income, the City had a significantly higher median household income than the County and State in 2019 (\$127,223 in the City compared to \$90,234 in the County and \$75,235 in the State). As **Table 3-24** shows, majority of the City’s households are higher earning; in total 70.4 percent of households in Newport Beach earn more than the State median-income. Additionally, over 30 percent of households in Newport Beach earn \$200,000 or more annually. In the state, nearly 38 percent of households earn \$100,000 or more and 45.2 percent in the County of Orange. Just under 20 percent of City residents earn less than \$50,000 annually, compared to 27 percent and 34 percent for the County and State, respectively.

**Table 3-24: Households by Income, Compared by Geography, 2019**

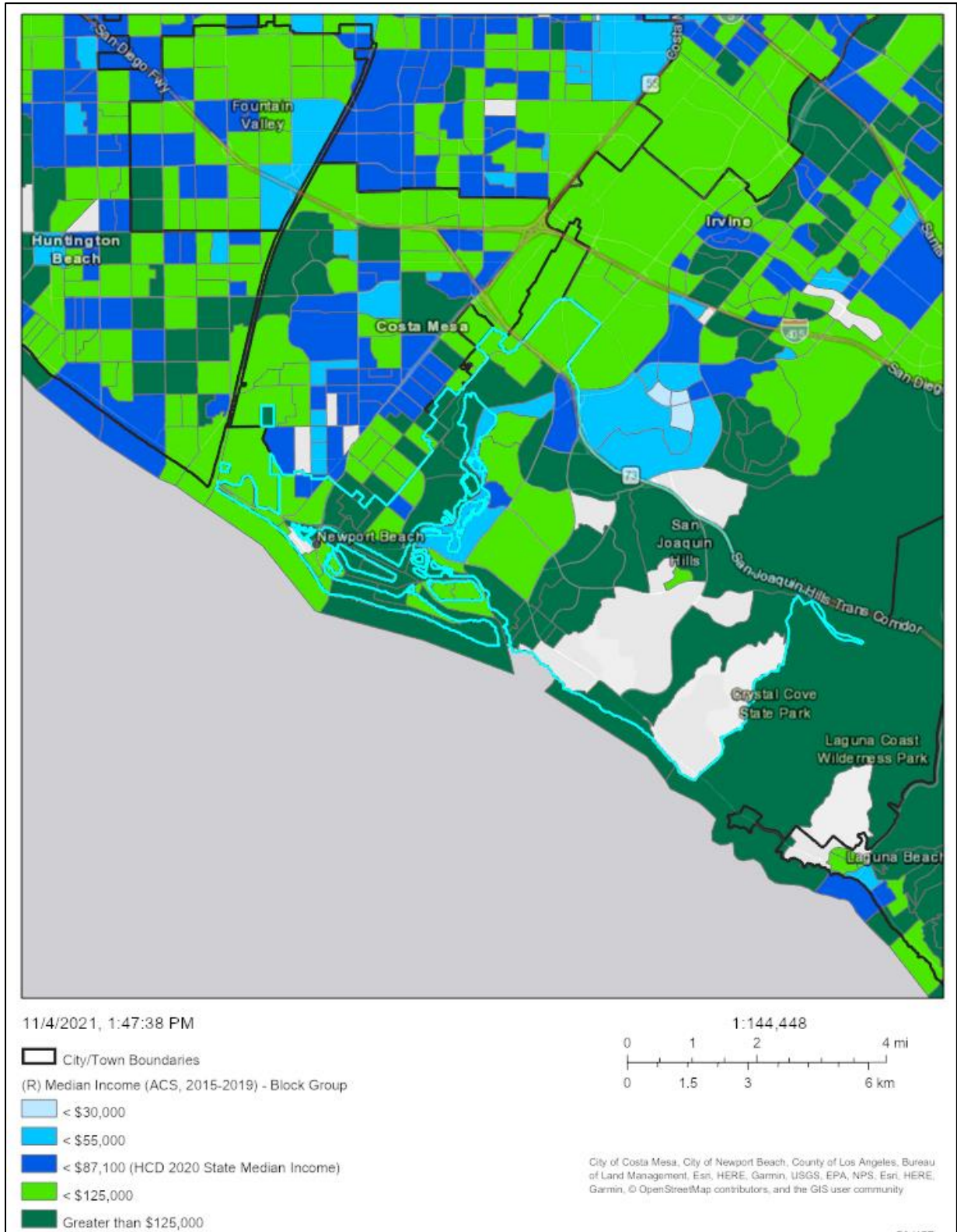
Households Income	City of Newport Beach	County of Orange	California
Less than \$10,000	3.8%	4.2%	4.8%
\$10,000-\$14,999	2.5%	2.7%	4.1%
\$15,000-\$24,999	4.3%	5.6%	7.5%
\$25,000-\$34,999	3.6%	6.0%	7.5%
\$35,000-\$49,999	5.7%	8.8%	10.5%
\$50,000-\$74,999	9.8%	14.6%	15.5%
\$75,000-\$99,999	10.1%	12.8%	12.4%
\$100,000-\$149,999	16.7%	18.6%	16.6%
\$150,000-\$199,999	10.8%	11.1%	8.9%
\$200,000 or More	32.8%	15.5%	12.2%
Median-Income	\$127,223	\$90,234	\$75,235

*Source: American Community Survey, 5-Year Estimates, 2019*

**Figure 3-17** shows median household income by block group in Newport Beach. The data shows that Newport Beach range at different median income levels. There is a large number of block groups in the southern portion and along the coast of Newport Beach whose median income for households is greater than \$125,000. There are block groups in the northern areas of Newport Beach ranging from less than \$55,000 and less than \$125,000.



**Figure 3-17: Median Income for Households in Newport Beach**



Source: HCD AFFH Database, American Community Survey. Accessed November 3, 2021.



**Overpayment**

**Table 3-25** displays data for households experiencing overpayment or cost burden in the State, County and City. Housing Cost burden has a number of consequences for a household, mainly displacement from their existing living situation creating limited access essential goods and often employment by potentially increasing commute times. Overall, the percentage of households that experience a cost burden greater than 30 percent is similar amongst the City, County, and State with all three reporting about 75 to 80 percent. The City has a slightly higher percentage of households that have a high-cost burden over 50 percent (21.4 percent in the City, compared to about 19 percent in the County and State). Increased opportunity for affordable housing and housing assistance funds help to prevent cost burden on households.

**Table 3-25: Households by Overpayment, Compared by Geography**

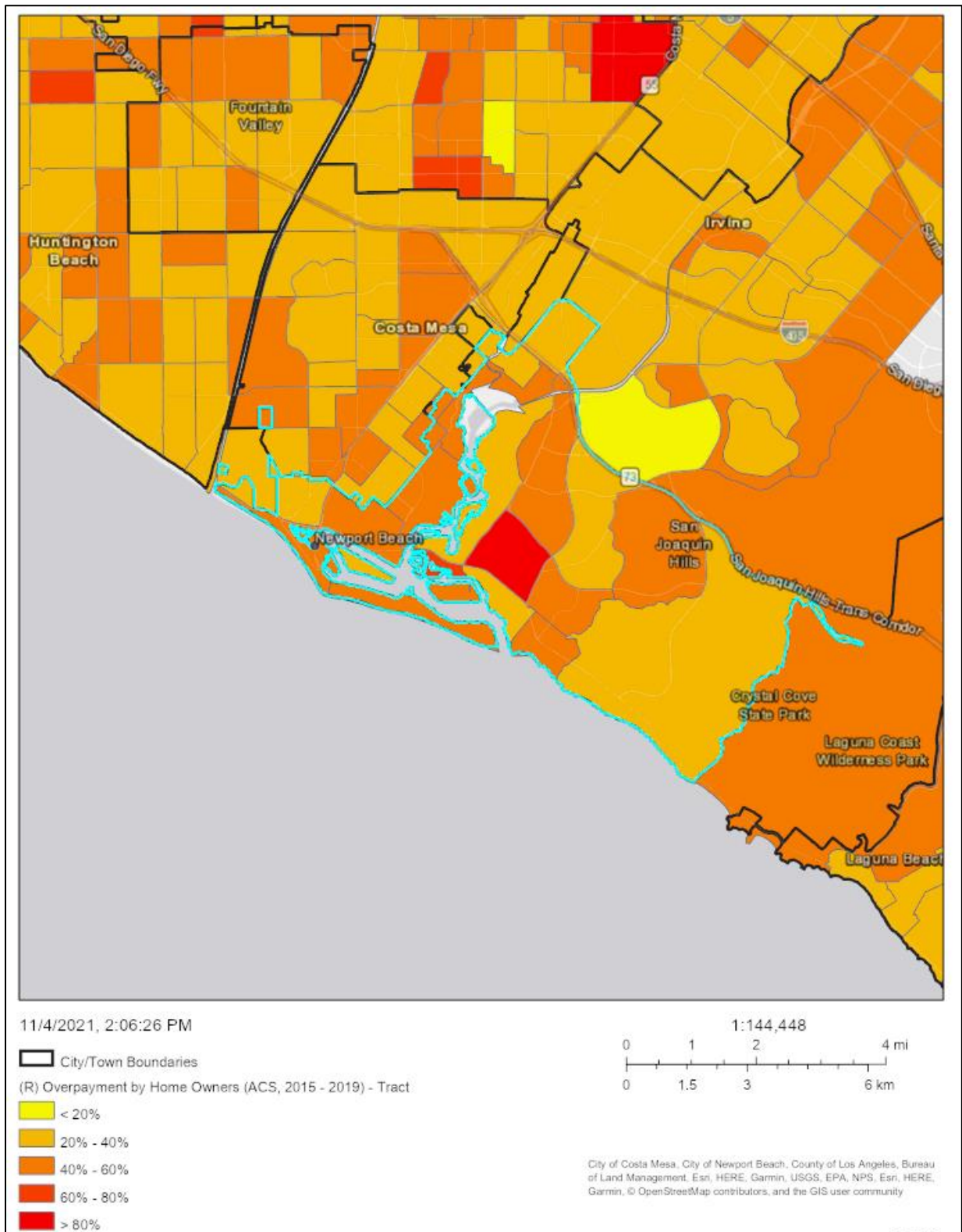
Overpayment/Cost Burden	City of Newport Beach	County of Orange	California
Cost Burden > 30%	76.3%	79.3%	79.2%
Cost Burden > 50%	21.4%	19.3%	19.4%
Cost Burden Not Available	2.1%	1.4%	1.4%

*Source: Consolidated Planning/CHAS Data, 2013- 2017.*

**Figure 3-18** and displays **Figure 3-19** the housing costs as a percentage of household income, specifically overpayment by homeowners and overpayment by renters, by census tract in Newport Beach. The data shows that most homeowners and renters in Newport Beach overpay for housing. **Figure 3-18** shows most areas are between 20 percent and 60 percent of homeowners with mortgages whose monthly costs are 30 percent or more of their household income. There is a census tract where the overpayment of homeowners is shown at above 80 percent. **Figure 3-19** shows most areas are between 20 and 60 percent of renter households whom gross rent is 30 percent or more of their household income.



**Figure 3-18: Overpayment by Homeowners**

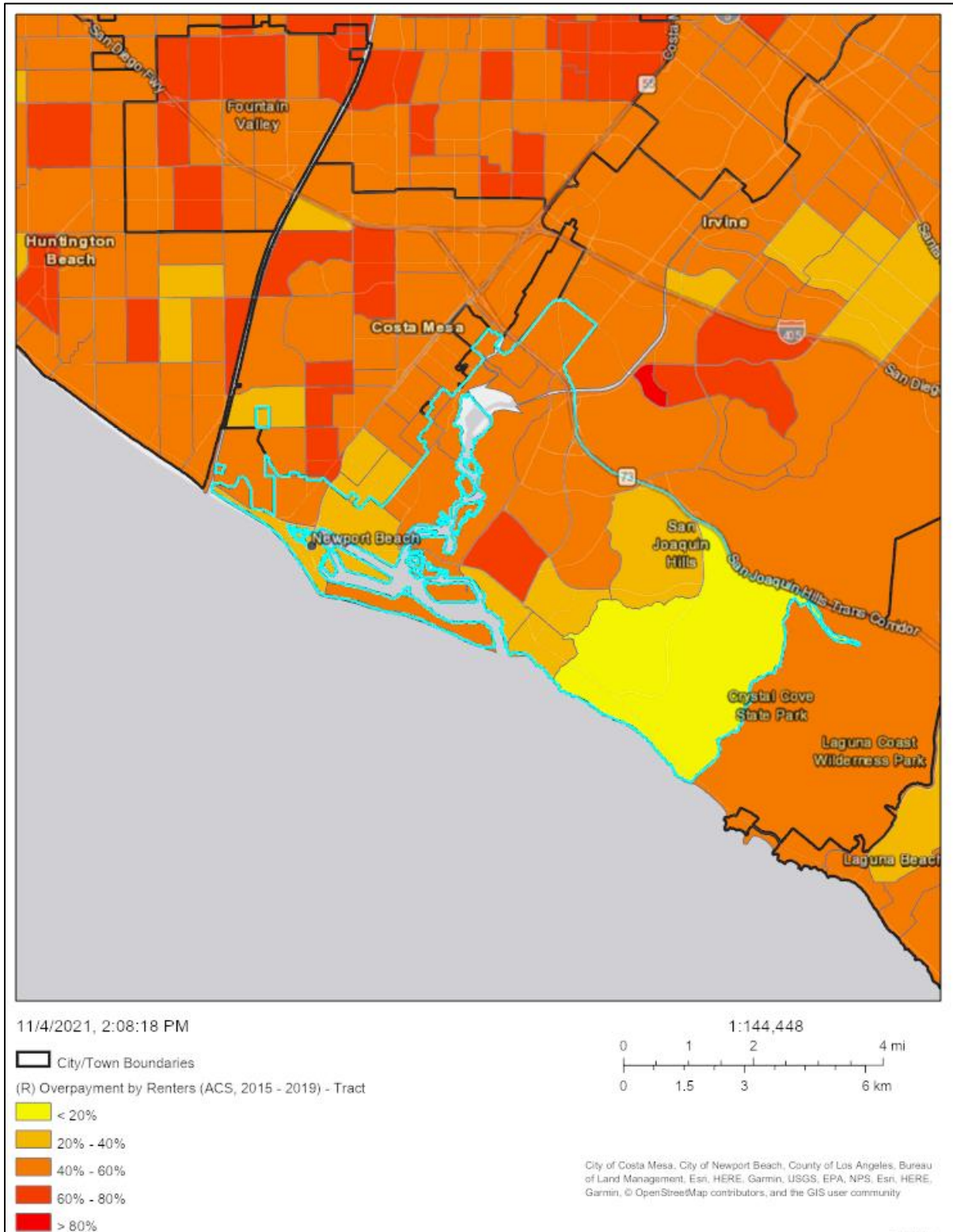


Source: HCD AFFH Database, American Community Survey. Accessed November 3, 2021.





**Figure 3-19: Overpayment by Renters**



Source: HCD AFFH Database, American Community Survey. Accessed November 3, 2021.



**Overcrowding and Tenure**

**Table 3-26** displays data for household tenure (owner vs. renter) for the State, County and City. Homeownership is a crucial foundation for helping families with low-income to build strength, stability and independence. The opportunity for transition into the homebuyer’s market is important for persons and households in different communities, homeownership allows for increased stability and opportunity to age in place. **Table 3-26** shows that the City has a comparable rate of homeownership to the County and a slightly lower ownership rate that the State.

**Table 3-26: Households by Tenure, Compared by Geography, 2019**

Household Tenure	City of Newport Beach	County of Orange	California
Owner Households	56.7%	57.4%	66.0%
Renter Households	43.3%	42.6%	34.0%
Total Occupied Housing Units	37,605	1,037,492	13,044,266

*Source: American Community Survey, 5-Year Estimates, 2019.*

Additionally, **Table 3-27** displays data for overcrowding in the State, County and City. Overcrowding is defined as between 1.01 and 1.5 persons per room in a household, and severe overcrowding is defined as more than 1.51 persons per room. Overcrowding often occurs when nonfamily members combine incomes to live in one household, such as college students and roommates, it also occurs when there are not enough size appropriate housing options for large or multigenerational families. The City experiences very low rates of overcrowding in comparison to the County and the State. According to the data, overcrowding occurs more frequently in renter households rather than owner households. In Newport Beach, owner households that are severely overcrowded represent 0 percent of all households, while severely overcrowded renter households represent 0.3 percent. In the County and state a trend similar in the County and State.

**Table 3-27: Households by Overcrowding, Compared by Geography**

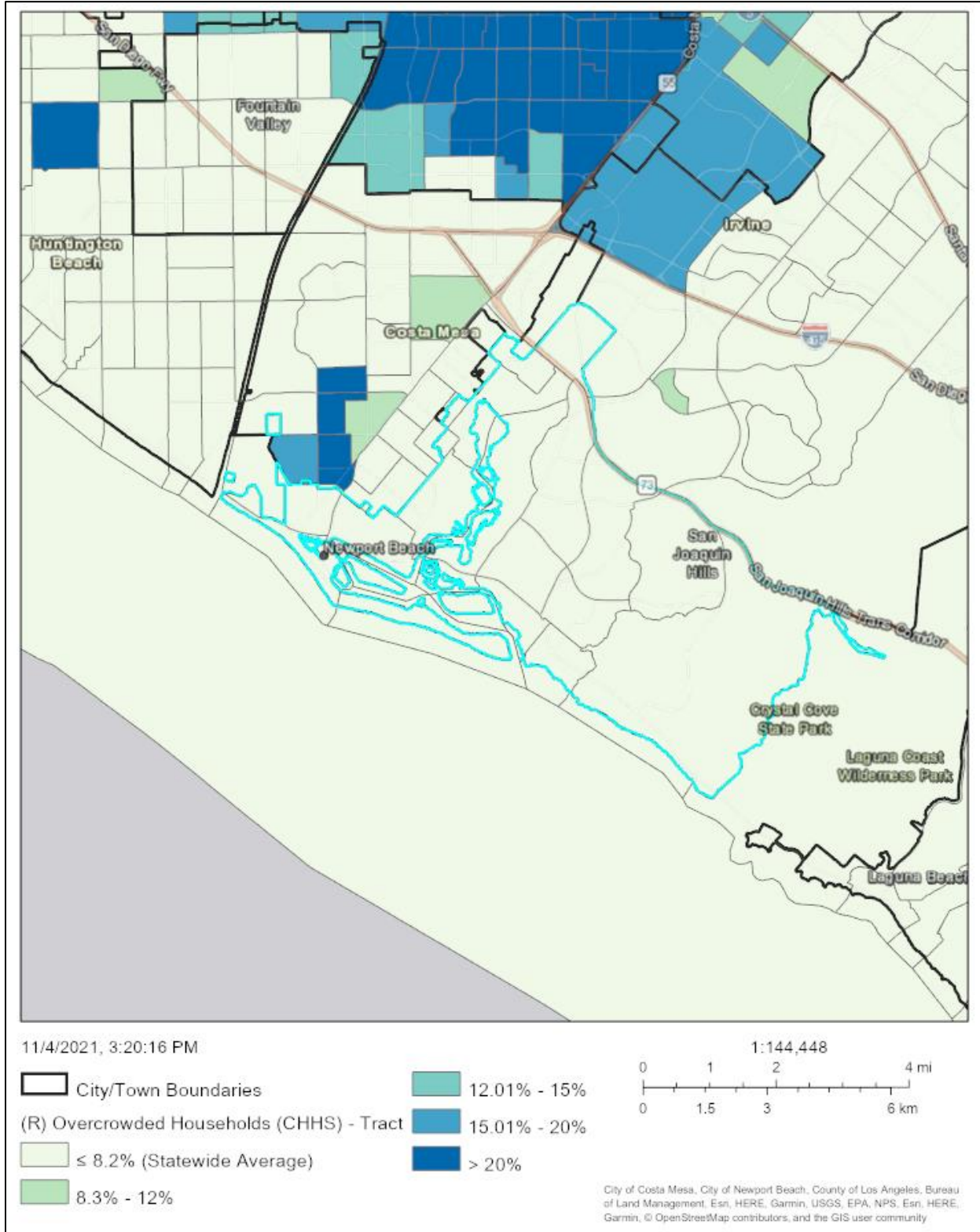
Overcrowding and Tenure	City of Newport Beach	County of Orange	California
<b>Owner Households</b>			
Overcrowded	0.5%	2.6%	1.6%
Severely Overcrowded	0%	1.0%	0.6%
<b>Renter Households</b>			
Overcrowded	3.1%	9.8%	3.6%
Severely Overcrowded	0.3%	6.0%	2.4%

*Source: American Community Survey, 5-Year Estimates, 2019.*

**Figure 3-20** and **Figure 3-21** show overcrowded households and severely overcrowded households, respectively. The data from these figures shows that overcrowded households is not a precedent issue for Newport Beach. **Figure 3-20** shows that all the census tracts in Newport Beach is less than the statewide average for overcrowded households.



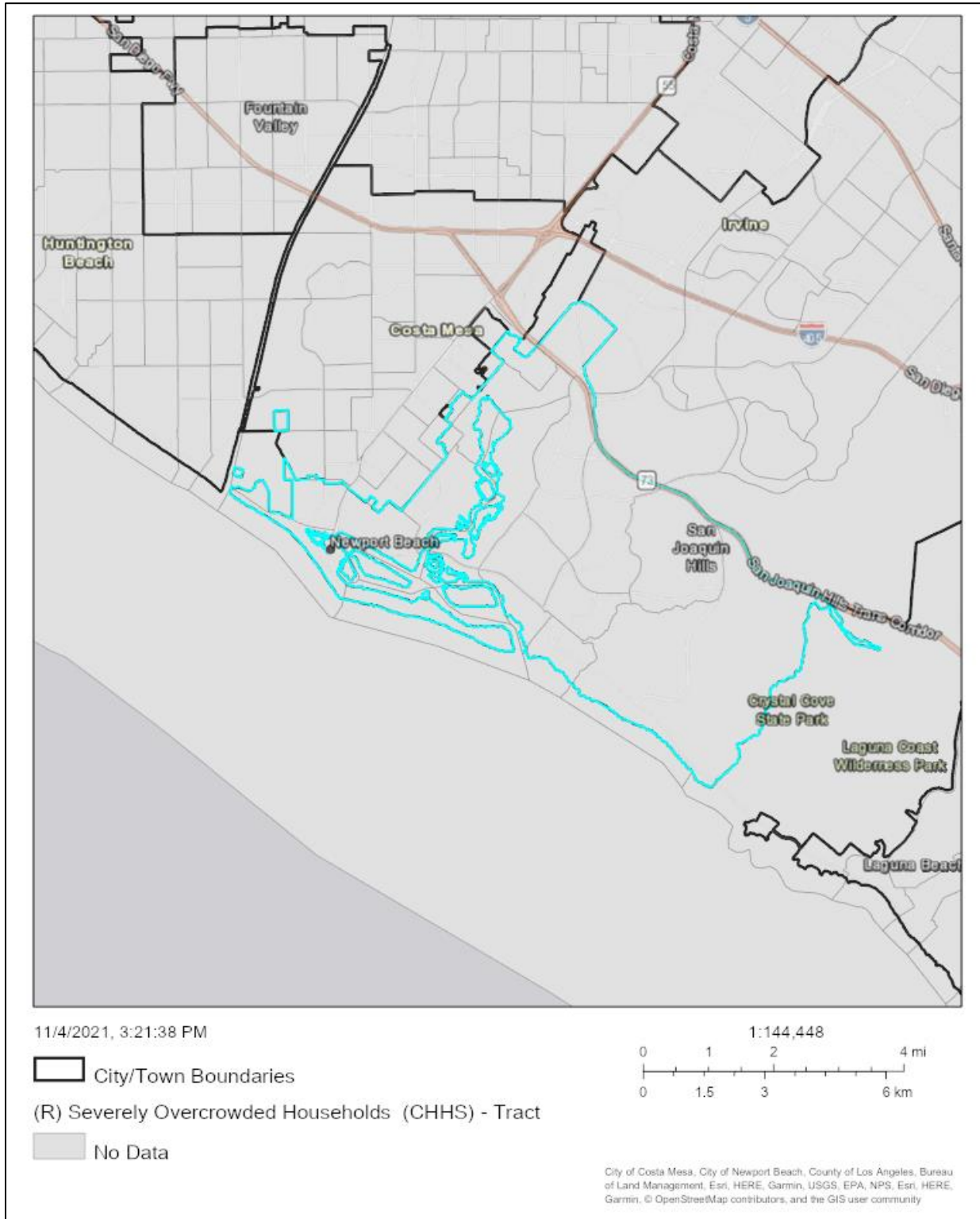
**Figure 3-20: Households Experiencing Overcrowding**



Source: HCD AFFH Database, American Community Survey. Accessed November 3, 2021.



**Figure 3-21: Households Experiencing Severe Overcrowding**



Source: HCD AFFH Database, American Community Survey. Accessed November 3, 2021.



### Housing Stock in Newport Beach

**Table 3-28** displays comparative housing stock data for the State, County and City. **Table 3-28** below shows data for occupied housing units by type. A variety of housing stock provides increased opportunity in communities for different size and households types. The majority of housing stock in Newport Beach is classified as one-unit-detached housing, or single-family housing. Just under 18 percent of Newport Beach homes include 20 or more units, referred to as multi-family housing. In comparison to the County Orange has a greater amount of single-family homes, and an overall smaller number multi-family housing (2 or more units).

**Table 3-28: Occupied Housing Units by Type, Compared by Geography**

Housing Unit Type	City of Newport Beach	County of Orange	California
1, detached	48.4%	50.6%	57.7%
1, attached	15.1%	12.3%	7.0%
2 units	4.8%	1.6%	2.4%
3 or 4 units	4.5%	6.9%	5.5%
5 to 9 units	4.4%	6.7%	6.0%
10 to 19 units	3.5%	5.4%	5.2%
20 or more units	17.9%	13.7%	12.3%
Mobile home or other type of housing	1.3%	2.7%	3.7%

*Source: American Community Survey, 5-Year Estimates, 2019.*

**Table 3-29** below displays housing stock by year built or the City, County, and State. A factor used to determine housing condition is the age and state of the home. Older housing generally requires more upkeep, regular maintenance and can cause a cost burden on both renters and homeowners. Majority of Newport Beach’s housing stock was built between 1960 and 1999. Development shows to have slowed significantly in the City after 2010, which could be indicative of the Great Recession. Majority of the County’s and State’s housing units were built between 1980 and 2009 whereas the distribution of development was more dispersed from 1950 to 1990 in the State. Majority of Newport Beach’s homes are over between 40 and 70 years old, built between 1950 and 1979 (53.4 percent). Homes over 50 years old have an increased likelihood of needing more major repairs to key systems and building components. Therefore, these homes are at a higher risk of needing repair or replacement. Overall, increased numbers of older housing which is not maintained can lead to cost burden and substandard living conditions.

**Table 3-29: Housing Unit by Type, Compared by Geography**

Year Built	City of Newport Beach	County of Orange	California
Built 2014 or later	1.6%	2.7%	1.7%
Built 2010 to 2013	1.7%	2.0%	1.7%
Built 2000 to 2009	10.4%	8.3%	11.2%
Built 1990 to 1999	14.3%	11.7%	10.9%
Built 1980 to 1989	10.9%	14.9%	15.0%
Built 1970 to 1979	22.7%	23.3%	17.6%
Built 1960 to 1969	19.8%	19.5%	13.4%
Built 1950 to 1959	10.9%	13.0%	13.4%



Year Built	City of Newport Beach	County of Orange	California
Built 1940 to 1949	3.6%	2.1%	5.9%
Built 1939 or earlier	4.1%	2.5%	9.1%

*Source: American Community Survey, 5-Year Estimates, 2019.*

Substandard units are those in need of repair or replacement. Based on 2019 ACS data, one (1) percent of housing units in Newport Beach display substandard conditions. Approximately .03 percent of housing units lack complete plumbing facilities and .08 percent lack complete kitchen facilities. Based on this data, at a minimum 377 units (1 percent) within Newport Beach are substandard and in need of rehabilitation. In the Orange County Area, 1.5 percent of homes are considered substandard, lacking complete kitchen or plumbing facilities. The current distribution of the age of homes in Newport Beach also indicates that a majority of homes in the City were built prior to the 1990 Americans with Disabilities Act (ADA), which may result in a lack of accessible homes for those residents experiencing a disability. The City’s older housing stock also reflects a rapidly gaining need to rehabilitate housing to meet minimum livability and quality requirements, which is a barrier to many homeowners and residents in Newport who have a lower income or a fixed income. However, the City of Newport Beach is moderate and above moderate income, therefore, substandard housing and units in need of rehabilitation may be passed on to renters with moderate to lower incomes.

### Displacement Risk

The potential for economic displacement risk can result from a variety of factors, including large-scale development activity, neighborhood reinvestment, infrastructure investments, and changes in local and regional employment opportunity. Economic displacement can be an inadvertent result of public and private investment, where individuals and families may not be able to keep pace with increased property values and market rental rates.

### Urban Displacement

The Urban Displacement Project developed a neighborhood change database to map neighborhood transformations and identify areas vulnerable to gentrification and displacement. This data was developed to assist local decision makers and stakeholders better plan for existing communities and provide additional resources to areas in need or at-risk of displacement and gentrification. **Table 3-30** provides the criteria used to identify each displacement typology and the total number of Newport Beach Census Tracts that currently fall within each category.

**Table 3-30: Displacement Typology Criteria and Newport Beach Census Tracts**

Modified Types and Criteria	Newport Beach Census Tracts
Low-Income/Susceptible to Displacement <ul style="list-style-type: none"> <li>• Low or mixed low-income tract in 2018.</li> </ul>	None
Ongoing Displacement of Low-Income Households <ul style="list-style-type: none"> <li>• Low or mixed low-income tract in 2018.</li> <li>• Absolute loss of low-income households, 2000-2018.</li> </ul>	None
At Risk of Gentrification	None



Modified Types and Criteria	Newport Beach Census Tracts	
<ul style="list-style-type: none"> <li>• Low or mixed low-income tract in 2018.</li> <li>• Housing affordable to low or mixed low-income households in 2018.</li> <li>• Didn't gentrify 1990-2000 OR 2000-2018.</li> <li>• Marginal change in housing costs OR Zillow home or rental value increases in the 90<sup>th</sup> percentile between 2012-2018.</li> <li>• Local and nearby increases in rent were greater than the regional median between 2012-2018 OR the 2018 rent gap is greater than the regional median rent gap.</li> </ul>		
<p>Early/Ongoing Gentrification</p> <ul style="list-style-type: none"> <li>• Low or mixed low-income tract in 2018.</li> <li>• Housing affordable to moderate or mixed moderate-income households in 2018.</li> <li>• Increase or rapid increase in housing costs OR above regional median change in Zillow home or rental values between 2-12-2018.</li> <li>• Gentrified in 1990-2000 or 2000-2018.</li> </ul>	None	
<p>Advanced Gentrification</p> <ul style="list-style-type: none"> <li>• Moderate, mixed moderate, mixed high, or high-income tract in 2018.</li> <li>• Housing affordable to middle, high, mixed moderate, and mixed high-income households in 2018.</li> <li>• Marginal change, increase, or rapid increase in housing costs.</li> <li>• Gentrified in 1990-2000 or 2000-2018.</li> </ul>	None	
<p>Stable Moderate/Mixed Income</p> <ul style="list-style-type: none"> <li>• Moderate, mixed moderate, mixed high, or high-income tract in 2018.</li> </ul>	None	
<p>At Risk of Becoming Exclusive</p> <ul style="list-style-type: none"> <li>• Moderate, mixed moderate, mixed high, or high-income tract in 2018.</li> <li>• Housing affordable to middle, high, mixed moderate, and mixed high-income households in 2018.</li> <li>• Marginal change or increase in housing costs.</li> </ul>	None	
<p>Becoming Exclusive</p> <ul style="list-style-type: none"> <li>• Moderate, mixed moderate, mixed high, or high-income tract in 2018.</li> <li>• Housing affordable to middle, high, mixed moderate, and mixed high-income households in 2018.</li> <li>• Rapid increase in housing costs.</li> <li>• Absolute loss of low-income households, 2000-2018.</li> <li>• Declining low-income in-migration rate, 2012-2018.</li> <li>• Median income higher in 2018 than in 2000.</li> </ul>	None	
<p>Stable/Advanced Exclusive</p> <ul style="list-style-type: none"> <li>• High-income tract in 2000 and 2018</li> <li>• Affordable to high or mixed high-income households in 2018.</li> <li>• Marginal change, increase, or rapid increase in housing costs.</li> </ul>	6059062604 6059062643 6059062702 6059062800 6059062645 6059062642 6059062644	6059063500 6059062900 6059063400 6059063302 6059063009 6059062612 6059062630



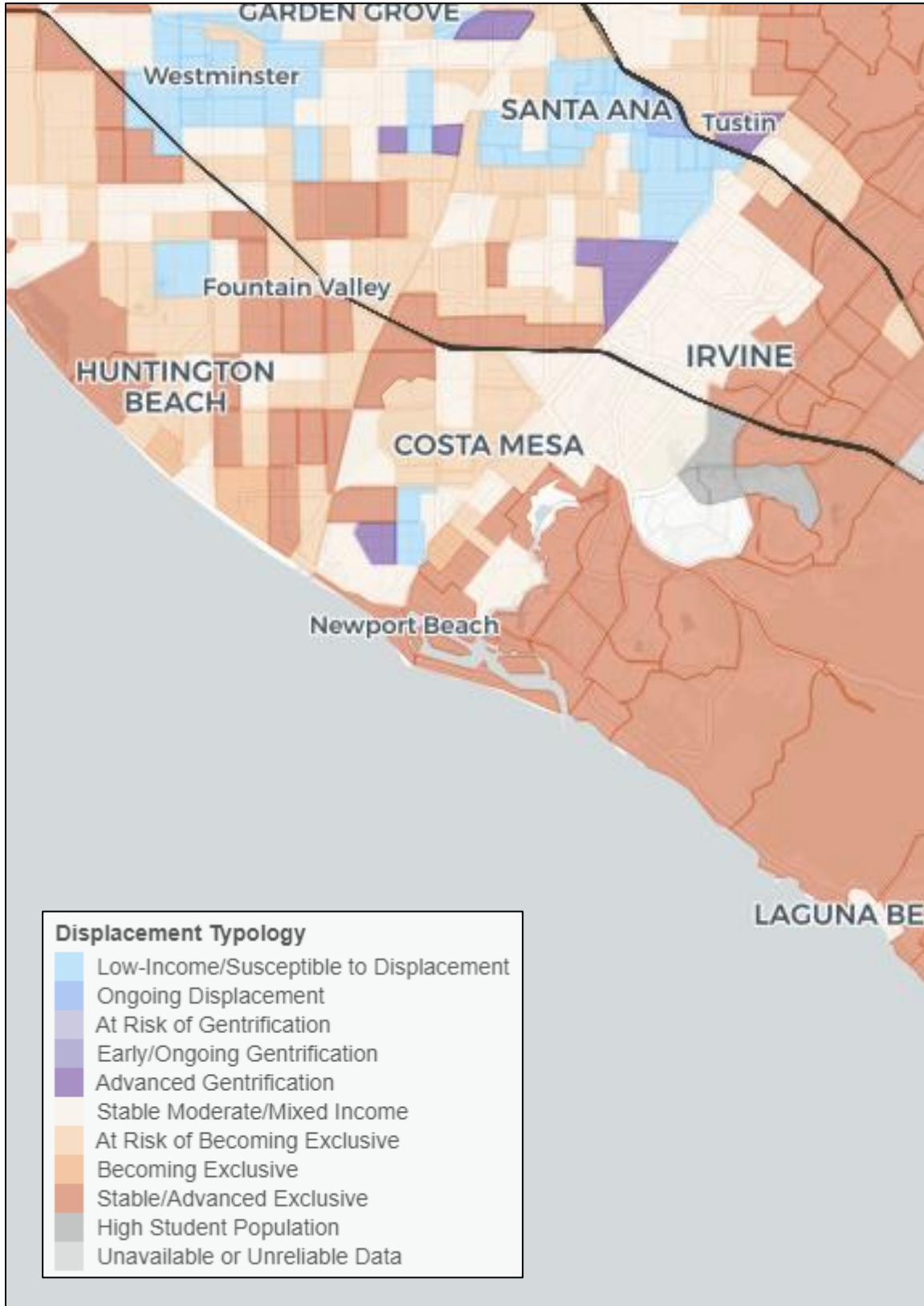
Modified Types and Criteria	Newport Beach Census Tracts	
	6059063008	6059062631
	6059063007	6059062629
	6059063004	6059063103
	6059063006	
High Student Population	None	
<i>Source: Urban Displacement Project, University of California Berkeley (2021).</i>		

**Table 3-30** and **Figure 3-22** show that all of Newport Beach is considered stable/advanced exclusive. Stable advanced exclusive means the households in the census tracts have high and above moderate incomes and that there is either little change in the cost of housing or rapid increases. Stable exclusive areas also means that it is very difficult for lower and moderate income households to partake in the housing market through ownership, and there is little mobility and fewer options in terms of rentership. The City of Newport Beach is one of the highest income cities in the County, consistent with income data for many coastal cities in Southern California, particularly Orange County. Paired with high costs of land and increasing costs of construction materials and labor, the housing market and cost of housing in Newport Beach will likely continue to increase. Affordable housing through density bonus and partnership with affordable developers is the key way to increase housing equity in Newport Beach. Additionally, the creation of accessory dwelling units can provide less costly housing opportunities within the City that would be available to a broader demographic.





**Figure 3-22: Urban Displacement Typologies, Newport Beach**



Source: Urban Displacement Project, University of California Berkeley (2021).



**Table 3-31** below identifies the assisted and affordable housing units within the City of Newport Beach and identifies the end date of each covenant. According to the table, 4 locations (with a total of 112 units) were up for renewal in the previous planning period (2014-2021). Additionally, 3 locations, with a total of 45 units are set to expire and be addressed for renewal over the next planning period (2021-2029).

The City of Newport Beach is committed to working with property owners and utilizing appropriate funds, as available, to review covenants set to expire for renewal.

**Table 3-31: City of Newport Beach Assisted (and Affordable) Housing Summary**

Project Name/ Location	Type of Assistance Received	Earliest Possible Date of Change	Number of Units/Type
Newport Harbor Apartments 1538 Placentia Avenue	Section 8 (rental assistance vouchers) Density Bonus Community Development Block Grant (CDBG)	2020	26 Low-Income
Newport Harbor II Apartments 1530 Placentia Avenue	Section 8 Density Bonus CDBG In-Lieu Fee Funds	2023	10 Low-Income 4 Very Low-Income
Newport Seacrest Apartments 843 15th Street	Section 8 CDBG Fee Waivers Tax Credit Financing	2016	20 Very Low-Income 45 Low-Income
Pacific Heights Apartments 881- 887 W. 15th Street	Section 8 Density Bonus	2019	7 Low-Income
Newport Seashore Apartments 849 West 15th Street	Section 8 Fee Waivers	2018	15 Low-Income
Newport Seaside Apartment 1544 Placentia	Section 8 CDBG Fee Waivers	2017	25 Very Low-Income
Seaview Lutheran Plaza (Seniors) 2800 Pacific View Drive	Section 202 (federal grant) Section 8	2039	100 Extremely Low and Very Low- Income Senior
Villa del Este 401 Seaward Road	-	2026	2 Moderate-Income (ownership)
Villa Siena 2101 15th Street	Density Bonus	2021	3 Moderate-Income (ownership)
Bayview Landing (Seniors) 1121 Back Bay Drive	In-lieu Fee Funds Fee Waivers Tax Credit Financing	2056	24 Very Low 95 Low-Income

**Cost of Replacement Analysis**

In general, the cost for new land in the City cost about \$115/square foot, per market research (noted in Section 3.A.1). The actual construction cost for residential development ranges from \$118/square foot up to \$131/square foot. The total replacement cost for the at-risk units identified in **Table 3-31** are summarized below

- The cost for replacing the 65-unit Newport Seacrest Apartments would total more than \$12,499,600. This cost assumes that 1.5 acres of land will be required, and each unit will have a total floor area of 650 square feet (1-bedroom units). The land cost will be approximately \$7,514,100 (assuming \$115/square foot) while the construction cost will be approximately \$4,985,500 (assuming \$118/square foot for a 650-square foot unit= \$76,700/unit).



- The cost of replacing the 7-units in the Pacific Heights Apartments would total more than \$1,789,550. This cost assumes that 0.25 acres of land will be required, and each unit will have a total floor area of 650 square feet (1- bedroom). The land cost will be approximately \$1,252,350 (assuming \$115/square foot) while the construction cost will be approximately \$536,900 (assuming \$118/square foot for a 650-square foot unit=\$76,700/unit).
- The cost of replacing the 15 units in Newport Seashore Apartments would total more than \$3,655,200. This cost assumes that 0.5 acres of land (average 650 square feet per dwelling unit) will be required and each unit will have a total floor area of 650 square feet (1-bedroom units). The land cost will be approximately \$2,504,700 (assuming \$115/square foot) while the construction cost will be approximately \$1,150,500 (assuming \$118/square foot for a 650-square foot unit= \$76,700/unit).
- The cost of replacing the 25 units in Newport Seaside Apartments would total more than \$4,422,200. This cost assumes that .5 acres of land (average 650 square feet per dwelling unit) will be required and each unit will have a total floor area of 650 square feet (1-bedroom units). The land cost will be approximately \$2,504,700 (assuming \$115/square foot) while the construction cost will be approximately \$1,917,500 (assuming \$118/square foot for a 650-square foot unit= \$76,700/unit).
- The cost of replacing the 5 units for ownership in Villa del Este and Villa Siena developments would total more than \$1,809,100. This cost assumes that 0.25 acres of land (average 850 square feet per dwelling unit) will be required and each unit will have a total floor area of 850 square feet (2-bedroom units). The land cost will be approximately \$1,252,350 (assuming \$115/square foot) while the construction cost will be approximately \$556,750 (assuming \$131/square foot for an 850-square foot unit= \$111,350/unit).

To address the risk of affordable units converting to market rate housing, the City has identified **Programs 5A and 5C** to monitor these units. The City will actively work to create programs and seek additional funding in which the focus is to preserve these units beyond the expiration of the covenant so that the owners are able to have affordable housing options.

### ***Resources to Preserve At-Risk Units***

A variety of programs exist to help cities acquire, replace, or subsidize at-risk affordable housing units. The following summarizes financial resources available:

- Community Development Block Grant (CDBG) – CDBG funds are awarded to cities on a formula basis for housing activities. The primary objective of the CDBG program is the development of viable communities through the provision of decent housing, a suitable living environment and economic opportunity for principally low- and moderate-income persons. Eligible activities include administration, fair housing, energy conservation and renewable energy sources, assistance for economic development, public facilities and improvements and public services.
- HOME Investment Partnership – Local jurisdiction can receive funds by formula from the Department of Housing and Urban Development (HUD) to increase the supply of decent, safe,



sanitary, and affordable housing to lower income households. Eligible activities include housing acquisition, rehabilitation, and development, homebuyer assistance, and rental assistance.

- Section 8 Rental Assistance Program – The Section 8 Rental Assistance Program provides rental assistance payments to owners of private, market rate units on behalf of very low-income tenants, senior citizens, disabled and/or handicapped persons, and other individuals for securing affordable housing.
- Section 202/811 Program – Non-profit and consumer cooperatives can receive no-interest capital advances from HUD under the Section 202 program for the construction of very low-income rental housing with the availability of supportive services for seniors and persons with disabilities. These funds can be used in conjunction with Section 811, which can be used to develop group homes, independent living facilities and immediate care facilities. The capital advance funding can also provide project rental assistance for the properties developed using the funds. Eligible activities include acquisition, rehabilitation, new construction, and rental assistance.
- California Housing Finance Agency (CalHFA) Multifamily Programs – CalHFA’s Multifamily Programs provide permanent financing for the acquisition, rehabilitation, and preservation or new construction of rental housing that includes affordable rents for low- and moderate-income families and individuals. One of the programs is the Preservation Loan program which provides acquisition/rehabilitation and permanent loan financing designed to preserve or increase the affordability status of existing multifamily housing projects.
- Low-Income Housing Tax Credit (LIHTC) – This program provides tax credits to individuals and corporations that invest in low-income rental housing. Tax credits are sold to those with high tax liability and proceeds are used to create housing. Eligible activities include new construction, rehabilitation, and acquisition of properties.
- California Community Reinvestment Corporation (CCRC) – The California Community Reinvestment Corporation is a multifamily affordable housing lender whose mission is to increase the availability of affordable housing for low-income families, seniors, and residents with special needs by facilitating private capital flow from its investors for debt and equity to developers of affordable housing. Eligible activities include new construction, rehabilitation, and acquisition of properties.

### ***Qualified Entities to Preserve At-Risk Units***

The following organizations may potentially assist in preserving future at-risk units:

- Jamboree Housing Corporation
- Irvine Housing Opportunities, Inc.
- Bridge Housing Corporation
- The Irvine Company
- Orange County Housing Authority
- Housing Corporation of America
- Southern California Housing Development Corporation
- Century Housing



**Quantified Objectives**

Housing Element law requires that cities establish the maximum number of units that can be preserved over the planning period. The City’s objective is to preserve the 52 affordable housing units “at-risk” of converting to market rate through policy programs provided in **Section 4**.

**Urban Displacement Analysis**

The UC Berkeley Urban Displacement projects provides a database for Los Angeles, Orange and San Diego Counties displaying gentrifications and socioeconomic indicators based on 2015 ACS data. The final (2018) version of the database shows whether each Census tract comprising these three Southern California counties gentrified between 1990 and 2000; gentrified between 2000 and 2015; gentrified during both of these periods; or exhibited characteristics of a “disadvantaged” tract that did not gentrify between 1990 and 2015. The outcome of the data is a map which displays displacement typology by census tract (outlined below).

Low Income/Susceptible to Displacement:	<ul style="list-style-type: none"> <li>• Low or mixed low-income tract in 2018</li> </ul>
Ongoing Displacement of Low-Income Households:	<ul style="list-style-type: none"> <li>• Low or mixed low-income tract in 2018</li> <li>• Absolute loss of low-income households, 2000-2018</li> </ul>
At Risk of Gentrification:	<ul style="list-style-type: none"> <li>• Low-income or mixed low-income tract in 2018</li> <li>• Housing affordable to low or mixed low-income households in 2018</li> <li>• Didn't gentrify 1990-2000 OR 2000-2018</li> <li>• Marginal change in housing costs OR Zillow home or rental value increases in the 90th percentile between 2012-2018</li> <li>• Local and nearby increases in rent were greater than the regional median between 2012-2018 OR the 2018 rent gap is greater than the regional median rent gap</li> </ul>
Early/Ongoing Gentrification:	<ul style="list-style-type: none"> <li>• Low-income or mixed low-income tract in 2018</li> <li>• Housing affordable to moderate or mixed moderate-income households in 2018</li> <li>• Increase or rapid increase in housing costs OR above regional median change in Zillow home or rental values between 2012-2018</li> <li>• Gentrified in 1990-2000 or 2000-2018</li> </ul>
Advanced Gentrification	<ul style="list-style-type: none"> <li>• Moderate, mixed moderate, mixed high, or high-income tract in 2018</li> <li>• Housing affordable to middle, high, mixed moderate, and mixed high• income households in 2018</li> <li>• Marginal change, increase, or rapid increase in housing costs</li> <li>• Gentrified in 1990-2000 or 2000-2018</li> </ul>

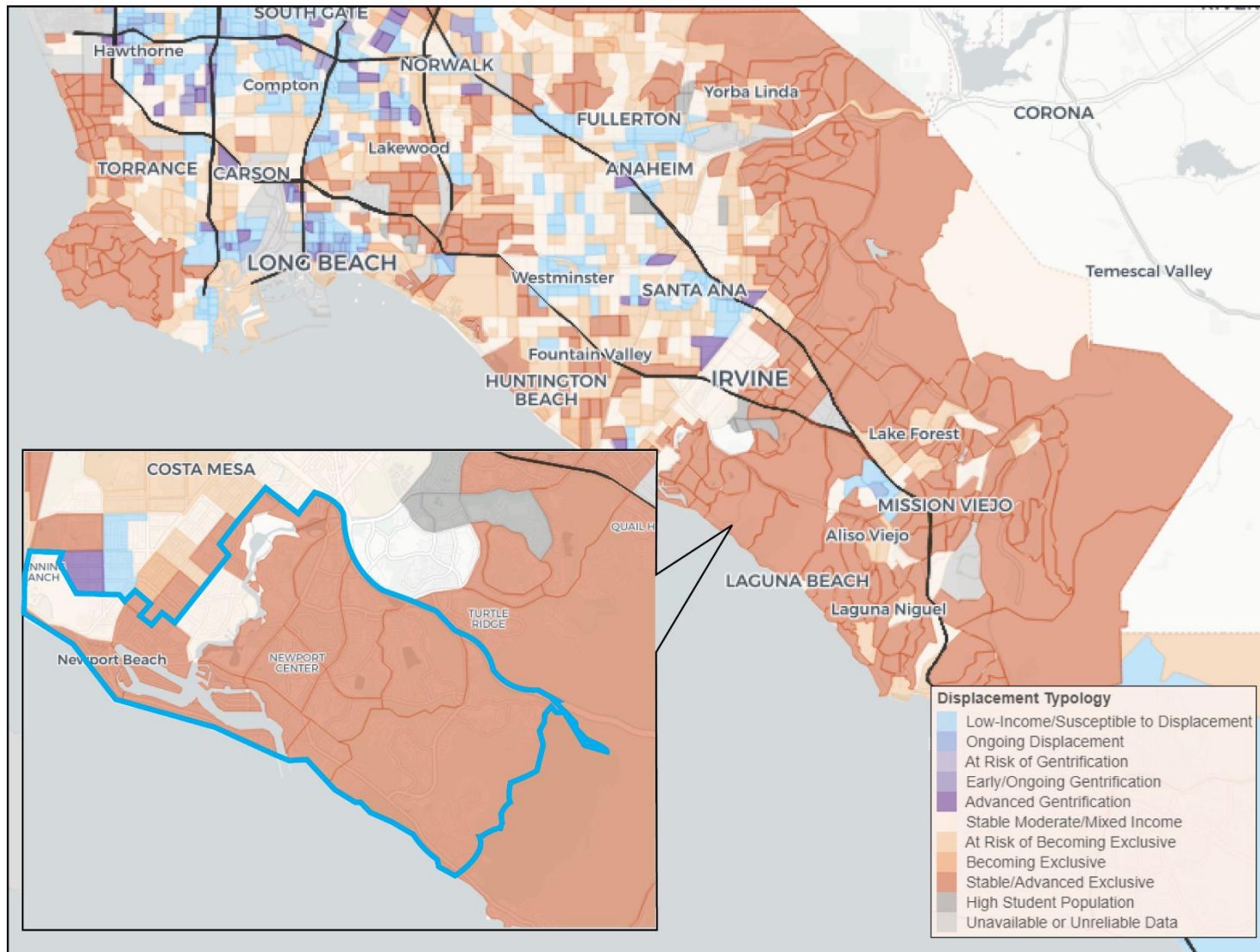


Stable Moderate/Mixed Income:	<ul style="list-style-type: none"> <li>Moderate, mixed moderate, mixed high, or high-income tract in 2018</li> </ul>
Risk of Becoming Exclusive:	<ul style="list-style-type: none"> <li>Moderate, mixed moderate, mixed high, or high-income tract in 2018</li> <li>Housing affordable to middle, high, mixed moderate, and mixed high• income households in 2018</li> <li>Marginal change or increase in housing costs</li> </ul>
Becoming Exclusive:	<ul style="list-style-type: none"> <li>Moderate, mixed moderate, mixed high, or high-income tract in 2018</li> <li>Housing affordable to middle, high, mixed moderate, and mixed high• income households in 2018</li> <li>Rapid increase in housing costs</li> <li>Absolute loss of low-income households, 2000-2018</li> <li>Declining low-income in-migration rate, 2012-2018</li> <li>Median income higher in 2018 than in 2000</li> </ul>
Stable/Advanced Exclusive:	<ul style="list-style-type: none"> <li>High-income tract in 2000 and 2018</li> <li>Affordable to high or mixed high-income households in 2018</li> <li>Marginal change, increase, or rapid increase in housing costs</li> </ul>

**Figure 3-23** below displays the mapped displacement typology for Newport Beach. The data shows that nearly all of Newport Beach is considered Stable/Advanced Exclusive, furthering previous conclusions that the City is an overall high income and high-cost City to live in.



Figure 3-23: Displacement Risk, Newport Beach



Source: UC Berkeley, Urban Displacement Project, "Mapping Neighborhood Change in Southern California." Accessed November 4, 2021



### **SB 330**

Effective January 1, 2020, Senate Bill 330 (SB 330) aims to increase residential unit development, protect existing housing inventory, and expedite permit processing. Under this legislation, municipal and county agencies are restricted in ordinances and policies that can be applied to residential development. The revised definition of “Housing Development” now contains residential projects of two or more units, mixed-use projects (with two-thirds of the floor area designated for residential use), transitional, supportive, and emergency housing projects. SB330 sets a temporary 5-year prohibition of residential density reduction associated with a “housing development project,” from January 1, 2020, to January 1, 2025. For example, during this temporary prohibition, a residential triplex cannot be demolished and replaced with a duplex as this would be a net loss of one unit.

None of the housing strategy sites contain significant existing housing with low-income tenants who will be displaced if the sites redevelop. To the extent that there is existing housing, all housing must be replaced (Government Code Section 66300).

The City of Newport Beach has developed an informative webpage on SB 330 available for the public. The State has also adopted just cause eviction provisions and statewide rent control to protect tenants from displacement. The City is committed to making diligent efforts to engage underrepresented and disadvantaged communities in studying displacement.

### **Assessment of Contributing Factors to Fair Housing Issues in Newport Beach**

The AI identifies the following regional goals for mitigating impediments to fair housing within jurisdictions in Orange County:

- **Goal 1:** Increase the supply of affordable housing in high opportunity areas.<sup>1</sup>
- **Goal 2:** Prevent displacement of low- and moderate-income residents with protected characteristics, including Hispanic residents, Vietnamese residents, other seniors, and people with disabilities
- **Goal 3:** Increase community integration for persons with disabilities.
- **Goal 4:** Ensure equal access to housing for persons with protected characteristics, who are disproportionately likely to be lower-income and to experience homelessness.
- **Goal 5:** Expand access to opportunity for protected classes.

### **Summary of Fair Housing Analysis**

The Housing Element programs incorporate these recommended goals as they relate to Newport Beach. The analysis above regarding other fair housing issues within Newport Beach yields the following results:

- The City does not have any racial or ethnic groups that score higher than 60 on the dissimilarity index. However, those who identify as Native Hawaiian, Asian, American Indian, Black and Some Other Race experience moderate levels of segregation (a dissimilarity index of greater than 30).





While there are no groups experience high segregation, the City should focus on the needs and targeted outreach to the populations experiencing moderate segregation.

- The City does not have any racially or ethnically concentrated census tracts (R/ECAPs) as identified by HUD. This indicates that there are no census tracts within Newport Beach with a non-white population of 50 percent or more or any census tracts that have a poverty rate that exceeds 40% or is three or more times the average tract poverty rate for the metropolitan/micropolitan area. However, one R/ECAP was identified in the neighboring city of Irvine, near the University of California Irvine. This will be considered in the housing plan as students within the R/ECAP may look for housing in Newport Beach.
- The UC Davis Regional Opportunity Index shows that the majority of residents within Newport Beach have a high level of access to opportunity throughout the majority of the City, with only two census tracts showing a moderate level of access to opportunity. No census tracts were shown as having the lowest level of access to opportunity. The City should focus on increasing resources, housing opportunity and encourage economic development in these areas.
- The analysis of the TCAC/HCD opportunity Area Maps show that most census tracts in Newport Beach are classified with the “Moderate Resource” “High Resource” or “Highest Resource” designation. This indicates that these census tracts are within the top forty percent in the region in terms of areas that lower-income residents may thrive if given the opportunity to live there. All but two census tracts within Newport Beach register within the top 20 percent in the index. One census tract registered as a “Low Resource” area, citing high economic opportunity and low educational opportunity.

The Opportunity Indices identify overall high access to quality resources including economic and job proximity, educational access, and transportation access. However, there is a low health index, indicating increased pollution and low environmental quality across all racial/ethnic groups in the City. Additionally, the opportunity indices identify low affordable transportation options to both the Asian or Pacific Islander (Non-Hispanic) and Native American (Non-Hispanic).

### ***Key Findings from Fair Housing Analysis***

As a part of the Housing Element, the City considers protected class (such as race, ethnicity, income, etc.) and opportunity indicators as key factors in fair housing. Federal, state, and local data provide regional context, background information and supportive data which helps the City to understand fair housing issues and to identify key fair housing factors for Newport Beach. The section below uses available data to identify key trends and local contributing factors for fair housing, key themes identified through this analysis are stated below:

- Persons who identify as Native Hawaiian or Other experience the moderate levels of segregation with persons who identify as White in the City of Newport Beach.
- The City has twelve census tracts characterized as Racially Concentrated Areas of Affluence (RCCA) and no R/ECAPs.
- Residents of Newport Beach are more likely to experience high housing cost burden as homeowners.



- Persons who earn incomes below the poverty rate are more likely to have lower access to opportunities as indicated by the Opportunity Indices analysis.

### ***Local Contributing Factors to Fair Housing***

There are a number of factors and elements that contribute to and cause fair housing issues. The following lists a number of contributing factors within the City of Newport Beach:

- **Opportunities for Persons with Disabilities** – The analysis shows disability and access as possible fair housing issues in Newport Beach. In comparison to **Figure D-14**, the City shows a moderate portion of residents report at least one disability (10 percent) as well as some census tracts reporting 10-20 percent having a disability. While the City is considered a high opportunity area, residents with disabilities may have lower access to resources and information. Housing Goals #3: Increase community integration for persons with disabilities, Housing Goal #4: Ensure equal access to housing for persons with protected characteristics, who are disproportionately likely to be lower-income and to experience homelessness, and Housing Goal #5: Expand access to opportunity for protected classes.
- **Expansion of Opportunities in Lower Resource Areas** – While the City of Newport Beach is considered a moderate to high resource region, some parts of the City are characterized as lower opportunity zones as depicted in **Figure 3-6**. When compared to the CalEnviroScreen map in **Figure 3-13**, the low resource areas align with regions identified at the highest degree of pollution burdens. Various Housing Programs have been adopted to ensure opportunities for residents in low opportunity areas. Housing Goal #5: Expand access to opportunity for protected classes.

## ***4. Analysis of Sites Pursuant to AB 686***

AB 686 requires that jurisdictions identify sites throughout the community in a manner that is consistent with its duty to affirmatively further fair housing. The site identification requirement involves not only an analysis of site capacity to accommodate the RHNA (provided in Appendix B), but also whether the identified sites serve the purpose of replacing segregated living patterns with truly integrated and balanced living patterns, transforming racially and ethnically concentrated areas of poverty into areas of opportunity.

**Figures 3-24 through 3-26** below identify the sites to accommodate future housing, as identified in the adequate sites analysis, overlaid on demographic data using the 2018 American Community Survey 5-year Estimates.

- **Figure 3-24** – Newport Beach Proposed RHNA Sites, Hispanic/Latino, 2019
- **Figure 3-25** – Newport Beach Proposed RHNA Sites, Non-White Population 2019
- **Figure 3-26** – Newport Beach Proposed RHNA Sites, Low and Moderate-Income, 2019

**Figure 3-24** shows the proposed candidate sites to meet the RHNA for Newport Beach in relation to the location of residents of Hispanic origin. These sites take into consideration access to vital goods, services, and public transportation and are therefore ideal areas for the City to focus much of its future housing growth. It is anticipated that accessory dwelling unit (ADU) growth, including growth for affordable ADUs, will occur in the less dense areas of the community. **Figure 3-24** shows the following findings:



- 291 proposed sites to accommodate the RHNA allocation (totaling 20,999 potential units, or 94% of the total potential units) are located within block groups that have a percentage of the population that identifies as Hispanic below 20 percent.
- 3 proposed sites to accommodate the RHNA allocation (totaling 153 potential units, or 1% of the total potential units) are located within block groups that have a percentage of the population that identifies as Hispanic between 20 and 40 percent.
- 17 proposed sites to accommodate the RHNA allocation (totaling 920 potential units, or 4% of the total potential units) are located within block groups that have a percentage of the population that identifies as Hispanic between 40 and 60 percent.
- 2 proposed sites to accommodate the RHNA allocation (totaling 188 potential units, or 1% of the total potential units) are located within block groups that have a percentage of the population that identifies as Hispanic between 60 and 80 percent.

The data shows that the proposed candidate sites to meet the very low and low-income RHNA allocation are evenly dispersed throughout the community with an emphasis on locating units where there is a high level of access to important public services and transit. The distribution of potential units does not disproportionately impact areas with larger concentrations of the Hispanic population.



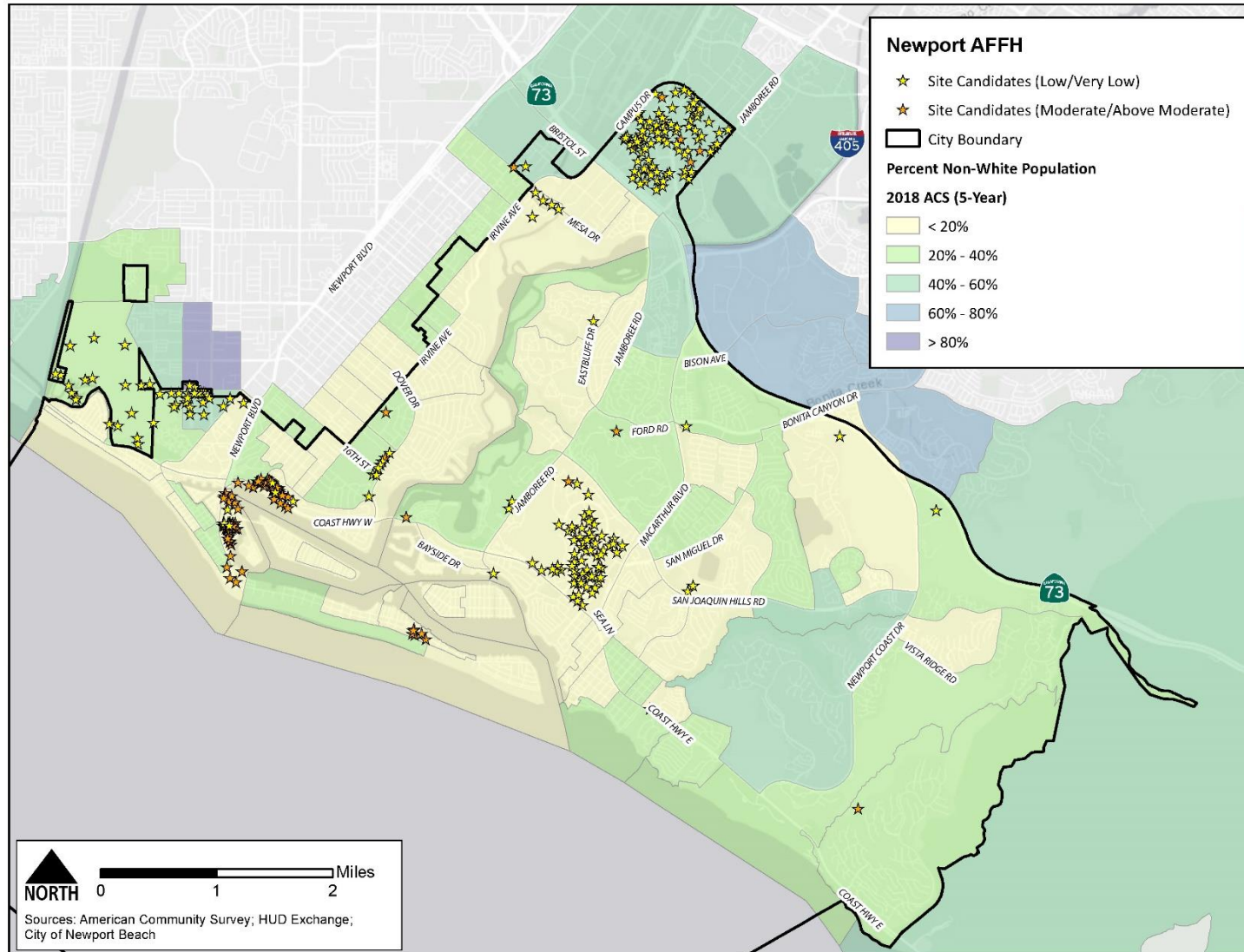


**Figure 3-25** shows the proposed candidate sites to meet the RHNA for Newport Beach in relation with census data showing the percentage of the population within each block group that is Non-white. **Figure 3-25** shows the following findings:

- 156 proposed sites to accommodate the RHNA allocation (totaling 9,867 potential units, or 44% of the total potential units) are located within block groups that have a percentage of the population that identifies as Non-White less than 20 percent.
- 46 proposed sites to accommodate the RHNA allocation (totaling 3,166 potential units, or 14% of the total potential units) are located within block groups that have a percentage of the population that identifies as Non-White between 20 and 40 percent.
- 109 proposed sites to accommodate the RHNA allocation (totaling 9,039 potential units, or 41% of the total potential units) are located within block groups that have a percentage of the population that identifies as Non-White between 40 and 60 percent.
- 2 proposed sites to accommodate the RHNA allocation (totaling 188 potential units, or 1% of the total potential units) are located within block groups that have a percentage of the population that identifies as Non-White between 60 and 80 percent.

The data shows that the proposed candidate sites to meet the very low and low-income RHNA allocation are evenly dispersed throughout the community with an emphasis on locating units where there is a high level of access to important public services and transit. The distribution of potential units does not disproportionately impact areas with larger concentrations of Non-white populations.

Figure 3-25: Candidate Sites – Non-White Analysis



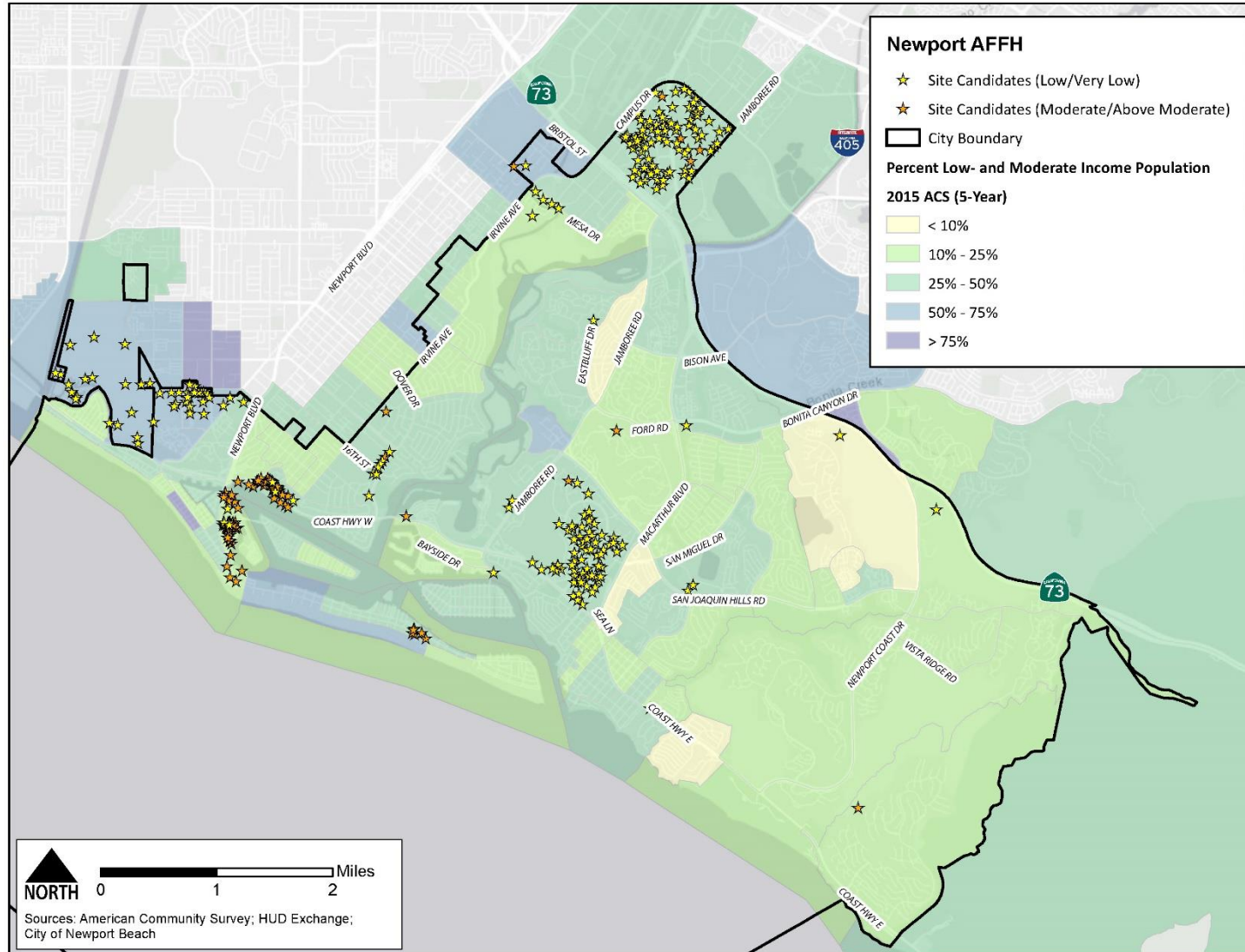


**Figure 3-26** shows location of proposed candidate sites to meet the RHNA for Newport Beach in comparison with census data showing the percentage of the population within each block group who is categorized as low-income or moderate by the American Community Survey. **Figure 3-26** shows the following findings:

- 1 proposed site to accommodate the RHNA allocation (totaling 1,046 potential units, or 5% of the total potential units) are located within block groups that have a percentage of the population that identifies as low-and-moderate-income less than 10.
- 54 proposed sites to accommodate the RHNA allocation (totaling 922 potential units, or 4% of the total potential units) are located within block groups that have a percentage of the population that identifies as low-and moderate-income between 10 and 25 percent.
- 212 proposed sites to accommodate the RHNA allocation (totaling 16,784 potential units, or 76% of the total potential units) are located within block groups that have a percentage of the population that identifies as low-and moderate-income between 25 and 50 percent.
- 44 proposed sites to accommodate the RHNA allocation (totaling 3,320 potential units, or 15% of the total potential units) are located within block groups that have a percentage of the population that identifies as low-and moderate-income between 50 and 75 percent.
- 2 proposed sites to accommodate the RHNA allocation (totaling 188 potential units, or 1% of the total potential units) are located within block groups that have a percentage of the population that identifies as low-and moderate-income greater than 75 percent.

The data shows that the proposed candidate sites to meet the very low and low-income RHNA allocation are evenly dispersed throughout the community with an emphasis on locating units where there is a high level of access to important public services and transit. The distribution of potential units provides increased opportunities for low-income housing in areas with higher rates of low-income persons.

Figure 3-26: Candidate Sites – Low/Moderate-Income Block Group Analysis







The concentration of low- and very low-income sites located in the northern, western, and central areas of the City as depicted in **Figures 3-24** through **3-26** above, are designated to include units at mixed income levels that would provide housing opportunity for both lower income households and moderate to above moderate-income households. Thus, the concentrations of low- and very low-income sites located in the northern, western, and central areas of the City would not exacerbate the current conditions in these areas.

### **Analysis of Exacerbating Current Conditions**

Through the City's sites analysis, which was conducted in compliance with the requirements of AB 1398, sites were selected to consider the following:

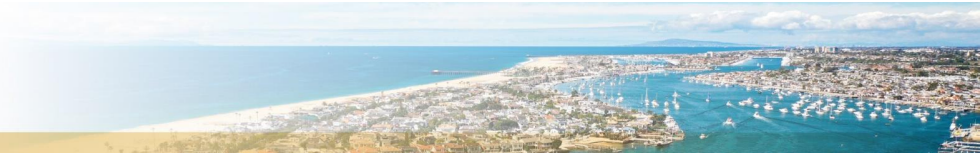
- Minimize over concentrations of affordable housing in one geographical area;
- Encouraging and expanding opportunities for mixed-income development; and
- Expanding mixed use, infill opportunities in areas adjacent to services and amenities.

The Airport Area and West Newport Area have been identified with a larger concentration of lower-income opportunities. These sites will help encourage mixed-income development and will expand opportunity in some of the City's highest resource areas proximate to jobs.

The Airport Area has a higher amount of existing affordable units that were constructed in conjunction with market-rate development projects and through the implementation of density bonus incentives and past inclusionary housing. Due to high land costs citywide, there are no opportunities to feasibly construct lower-income development unless they are in conjunction with larger scale market rate projects and would not have otherwise existed in this area. While the Airport Area scores in the 43<sup>rd</sup> percentile related to pollution burden according to OEHHA's California Communities Environmental Health Screening Tool, this is primarily due to transportation and air quality impacts given the proximity to John Wayne Airport. It is not related to majority polluting industries or other point sources. The area is experiencing a transition from low-scale, office/industrial uses to higher density, urban mixed-use development, as evidenced by the multiple project examples presented in Appendix B.

The Airport Area is also identified in the General Plan Recreation Element as deficient in park acreage. The Land Use Element currently provides policies for the dedication and improvement of neighborhood parks within future residential or mixed-use development. Three recently entitled projects have been required to dedicate and improve parks for future residents and the broader community (i.e., Uptown Newport, Newport Crossings, and the Residences at 4400 Von Karman). Continued implementation of these policies will further assist in the provision of necessary park spaces thereby improving access recreation and open space areas to enhance the livability of the area.

For the Airport Area, Policy Actions 1A and 4J require new development standards that will further enhance the City's ability to establish quality mixed-income communities



while helping to mitigate and/or avoid possible environmental considerations in the area. Examples include feasible and appropriate noise mitigation and possibly enhanced air filtration systems for buildings to reduce exposure of future resident to these environmental factors.

The West Newport Area contains most the City's mobile home parks and, thus, has long provided opportunities for affordable housing. It also has the largest industrial use area with several manufacturing uses concentrated in a smaller area. Industrial uses can be associated with increased noise and or pollution. Based on consultation with the City's Code Enforcement Division, there have been no recent complaints from residential uses regarding noise in this area. Air and ground pollutants are largely monitored and regulated by the South Coast Air Quality Management District (SCAQMD), as well as the Department of Toxic Substances Control (DTSC). The SCAQMD and DTSC began closely monitoring the emissions of a single operator in the West Newport Area between 2008 and 2015. The operator has implemented measures to reduce emissions to appropriate standards by installing a vapor extraction system as well as exhaust treatment equipment. The City has served as a coordinating partner in this effort and continues to assist in any inquiries related to pollutants in the area. Policy Action 4K is included in Section 4 to ensure the City continues to monitor industrial users while striving to improve the environmental score for the area.

Although there is a concentration of industrial type uses in this area, it has long been viewed as an opportunity area for redevelopment. While there is currently a temporary City-run community center in the area, the City continues to pursue the siting and development of a permanent community center. In 2015, the City approved the Ebb Tide Residential Project, an 81-unit condominium community. In 2016, the City Council adopted the West Newport Mesa Streetscape Master Plan, which includes streetscape improvements that are required as part of private development projects and improvements that could be implemented as part of the City's Capital Improvements Program (CIP). The Ebb Tide Residential Project was the first private project to implement components of the West Newport Mesa Streetscape Master Plan. Future redevelopment projects will also be required to implement streetscape improvements that will foster an enhanced and safer environment for workers and residents.

As the area transitions to a more urban, dense environment, it is important to include affordable housing opportunity sites to help preserve current affordable housing opportunities while serving to expand economic growth potential. In addition, there is an opportunity for workforce housing with the proximity of Hoag Hospital, one of Newport Beach's biggest employers. The West Newport area has experienced recent trends toward infill, mixed-income development that will continue in a high resource area. Policy Action 4K has a consideration to include residential-serving commercial as part of the rezoning program (Policy 1B) to allow flexibility beyond the underlying industrial zoning limits, which will allow new commercial uses that are more supportive of current and future residents as well as workers in the area.

Also notable, the West Newport Area is home to several education institutions such as Pacifica Christian High School, Coastline Community College, and Carden Hall. The City has seen recent reinvestment from the schools, which further demonstrates an improving neighborhood condition that shifts away from industrial to more mixed-use and mixed-income development.



Relevant to the West Newport Mesa Area, Policy Action 5D provides for the protection of mobile home opportunities. Policy Action 1B states provisions to include development standards, overlay text and entitlement procedures to encourage the development of housing for persons of very low and low incomes. In developing the overlay, or similar rezone strategy, the City will evaluate the potential to include a variety of incentive tools as appropriate, including but not limited to floor area bonus, density bonus, entitlement streamlining, fee waivers or reductions and other considerations. The intent in these incentive tools is to further opportunity for mixed-income developments in these areas.

Lastly, to ensure that these conditions are not exacerbated during the planning period, the City is introducing an inclusionary requirement (Policy 1K) that would further support mixed-use and mixed-income developments and provide additional incentives to increase lower-, moderate- and above moderate-income development in these areas.

### ***Racially and Ethnically Concentrated Areas of Poverty and Affluence***

The HUD R/ECAP maps do not identify any racially or ethnically concentrated areas of poverty in Newport Beach. The analysis conducted for this housing element concluded that there are approximately 12 census tracts that are considered racially concentrated areas of affluence (RCAA) in the City. The RCAA areas are clustered throughout the City predominately in the east and along the southern and western boundaries of the City. The concentrations of lower income households located in the northern, western, and central areas of the City are in high income areas surrounded by RCAAs. The location of these area provides affordable housing opportunities within areas with high access to resources.

### ***Access to Opportunity***

The majority of the City is considered highest resource according to the TCAC Opportunity Map composite score. The majority of the sites identified in the sites inventory are located in the highest resource areas which will give households access to more opportunities and resources.

### **Transit**

According to AllTransit the City of Newport Beach has a low transit performance score overall. The City has identified a significant number of low- and very low-income housing opportunity sites in the Airport Area Environs in the north, the West Newport Mesa Area in the west, and the Newport Center Area in the central area of the City. These three areas of the City have high connectivity scores compared to other areas throughout the City. Households within these areas have better access to jobs and key destinations through transit than those located elsewhere in the City. The majority of the low- and very low-income sites were strategically located within the Airport Area Environs, West Newport Mesa Area, and the Newport Center Area to take advantage of the increased transportation assets within these areas.

### **Environmental**

OEHHA's California Communities Environmental Health Screening Tool considers the City of Newport Beach as having a primarily low pollution burden through the entire City. There are concentrations of low- and very low-income sites located in the northern, western, and central areas of the City which have low to moderate pollution burdens. The Northern area, identified as Airport Area Environs, has the highest



pollution burden scoring in the 43<sup>rd</sup> percentile due to high exposure scores from traffic related pollutants. The northern area was selected to accommodate a number of housing opportunity sites due to its higher access to transit amenities and reduced, but high land values.

### *Disproportionate Housing Needs*

#### **Disability**

The City of Newport Beach has a fairly low disabled population. With a higher representation of persons with disabilities located throughout the greater central area of the City. The sites inventory has identified a concentration of low- and very low-income sites located in the Newport Center Area. The placement of these sites was strategically located to increase affordable housing opportunities where persons with disabilities are already present as well as where there are nearby service amenities which can provide increased housing security for the City's disabled population.

#### **Income**

The majority of the City has low rates of populations categorized as low- to moderate-income. The northern, western, and central areas of the City have higher rates of residents considered to be low- to moderate-income. The sites inventory predominately concentrates low- and very low-income sites within the Airport Area Environs, West Newport Mesa Area, and Newport Center Area as they have the highest opportunities ratings, moderate or highest resource ratings, and higher transit connectivity. The low- and very low-income site within these areas will provide increased affordable housing options where there are higher rates of lower-income residents. Additionally, the majority of the selected sites throughout the City are planned to accommodate mixed-income housing units which will prevent exacerbating the concentrations of lower income households.

#### **Overpayment**

The City of Newport Beach experiences low to moderate rates of overpayment generally with only one census tract in the central area of the City experiencing high rates of overpayment. Site selection emphasized the development of multifamily and mixed-use housing within six focus areas that will be rezoned to allow for high-density housing. Housing located throughout the City's six focus areas will facilitate additional affordable units through multifamily development. The low- and very low-income sites associated with the residential development in the central area of the City will provide access to supportive services such as job opportunity and transit amenities and will ensure that there are affordable housing options in geographical areas that are experiencing moderate to high rates of overpayment.

#### **Overcrowding**

The entirety of the City experiences low rates of overcrowding. The placement of lower and moderate- to above moderate-income sites throughout the six focus areas within the City will not exacerbate any instances of overcrowding as additional housing development at all income levels would alleviate impacts of overcrowding.



## 5. Analysis of Fair Housing Priorities and Goals

To enhance mobility and promote inclusion for protected classes, the chief strategy included in this housing element is to provide sites suitable for affordable housing in high-resource, high opportunity areas, as demonstrated by the analysis of the housing resource sites contained in this section. Other programs that affirmatively further fair housing include:

- Policy Action 4A: Affirmatively Furthering Fair Housing
- Policy Action 7A: Supportive Housing / Low Barrier Navigation Centers
- Policy Action 7B: Transitional and Supportive Housing
- Policy Action 7C: Housing for Persons with Developmental Disabilities
- Policy Action 7D: Fair Housing Services

## D. Housing Resources

### 1. Regional Housing Needs Allocation

This section of the Housing Element provides an overview of the resources available to the City to meet their Regional Housing Needs Allocation (RHNA).

#### Residential Sites Inventory

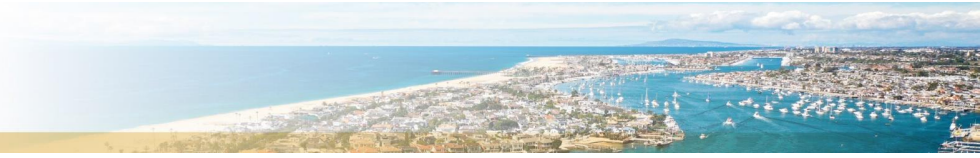
**Appendix B** of the Housing Element includes the required site analysis tables and site information for the vacant and non-vacant properties to meet the City's RHNA need through the 2021-2029 planning period. The following discussions summarize the City's site inventory and rezone plan.

#### Above Moderate- and Moderate-Income Sites

For the 2021-2029 planning period, the City's RHNA allocation is 1,050 for moderate-income site and 1,409 for above moderate-income sites. The City anticipates current planned growth, projects already in the approval process, to entirely meet the above moderate-income need within the planning period. The City will meet the moderate-income need through a combination of existing capacity on residentially zoned land, through the redevelopment of parcels rezoned within the focus areas, and through the development of accessory dwelling units (ADUs).

A total of 287 moderate-income and 40 above moderate-income units can be accommodated through existing zoning capacity on parcels. By subtracting existing units from maximum potential unit yield per parcel, the City projected additional capacity on several parcels. Each parcel included in the inventory was then vetted for likelihood of redevelopment and to ensure all HCD criteria were met. The required descriptive information for these sites can be found within **Appendix B**.

An additional 72 moderate and 5 above moderate-income units can be accommodated through the development of ADUs throughout the community. This is based on the methodology described within **Appendix D: Accessory Dwelling Units** and incorporates guidance from HCD's Housing Element Site Inventory Guidebook.



A supplemental 5,798 moderate and above moderate-income units can be accommodated through the rezone strategies proposed for six focus areas throughout the City. Originally identified by the Housing Element Update Advisory Committee (HEAUC), the focus areas guided the development of area-specific rezone policies and City actions to ensure that Newport Beach has sufficient capacity to meet the RHNA Allocation for the 6<sup>th</sup> Cycle.

**Analysis of The City’s Existing Capacity and Zoning**

**Table 3-32: Residential Capacity for Moderate and Above Moderate-Income Sites**

Significant Zone	Max Density	Reasonable Density*	Number of Parcels	Acreage	Potential Units
<b>Moderate-Income Sites</b>					
MU-MM	26 du/ac	26 du/ac	24	9 acres	180 units
MU-W2	26 du/ac	23 du/ac	13	4 acres	51 units
MU-V	25 du/ac	20 du/ac	6	1 acre	13 units
MU-CV/15 <sup>th</sup> Street	18 du/ac	15 du/ac	24	3 acres	43 units
<b>Subtotal</b>			<b>67</b>	<b>17 acres</b>	<b>287 units</b>
<b>Above Moderate-Income Sites</b>					
MU-W1	5 du/ac	5 du/ac	7	9 acres	40 units
<b>Subtotal</b>			<b>7</b>	<b>9 acres</b>	<b>40 units</b>
<b>TOTAL CAPACITY</b>			<b>74</b>	<b>26 acres</b>	<b>327 units</b>
*Note – Specific densities vary within these zoning designations and potential unit projections are based on the parcel-specific requirements and existing conditions on parcels.					

**Reasonable Capacity Assumptions**

This section describes the methodology developed to determine the site capacity for the moderate and above moderate-income sites. The City assumes that above moderate-income units will develop at a maximum up eight dwelling units per acre, and that moderate-income units will develop at a maximum of 26 dwelling units per acre. Reasonable capacity for sites identified to meet the City’s moderate and above moderate need was calculated based on a number of factors, including site size, existing zoning requirements, vacancy and total number of units entitled, and the maximum density achievable for projects within the following zones:

- MU-MM – Mixed-Use Mariners’ Mile:** The MU-MM Zoning District is intended to provide areas for the development of mixed-use structures that vertically integrate residential dwelling units above the ground floor with retail uses including office, restaurant, and retail. The zone permits a density range of 20.1 – 26.7 dwelling units per acre.
- MU-W1 – Mixed-Use Water:** This zoning district applies to waterfront properties along the Mariners’ Mile Corridor in which nonresidential uses and residential dwelling units may be intermixed. A minimum of fifty (50) percent of the allowed square footage in a mixed-use development shall be used for nonresidential uses in which marine-related and visitor-serving land uses are mixed. This zone permits a density range of up to 15 dwelling units per acre.

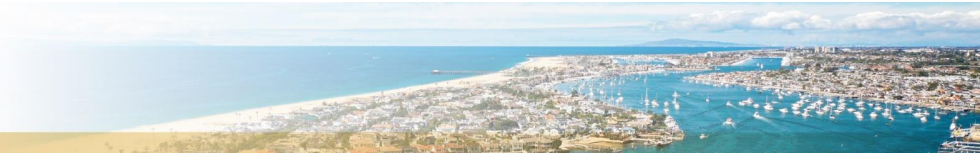


- **MU-W2 – Mixed-Use Water:** This zoning district applies to waterfront properties in which marine-related uses may be intermixed with general commercial, visitor-serving commercial and residential dwelling units on the upper floors. This zone permits a density range of up to 15 dwelling units per acre.
- **MU-V – Mixed-Use Vertical:** This zoning district is intended to provide for areas appropriate for the development of mixed-use structures that vertically integrate residential dwelling units above the ground floor with retail uses including office, restaurant, retail, and similar nonresidential uses located on the ground floor or above.
- **MU-CV/15th Street – Mixed-Use Cannery Village and 15<sup>th</sup> Street:** This zoning district applies to areas where it is the intent to establish a cohesively developed district or neighborhood containing multi-unit residential dwelling units with clusters of mixed-use and/or commercial structures on interior lots of Cannery Village and 15th Street on Balboa Peninsula. Allowed uses may include multi-unit dwelling units; nonresidential uses; and/or mixed-use structures, where the ground floor is restricted to nonresidential uses along the street frontage. Residential uses and overnight accommodations are allowed above the ground floor and to the rear of uses along the street frontage. Mixed-use or nonresidential structures are required on lots at street intersections and are allowed, but not required, on other lots. This zone permits a density range of 20.1 – 26.7 dwelling units per acre.

Potential constraints, to the extent they are known, such as environmentally sensitive areas and steep slopes were considered, and deductions made where those factors decreased the net buildable area of a parcel. Additionally, existing units’ non-vacant parcels were analyzed to determine the number of existing units currently on the parcel. Replacement of existing units was included as a factor to prevent no net loss of existing housing stock.

### ***Rezones to Accommodate the Moderate and Above Moderate RHNA***

In addition to residential use on specific plans and ADUs, the City of Newport Beach has identified 212 sites to be rezoned from commercial use to residential use or to be rezoned to a higher residential density. The sites for rezone are further detailed in **Appendix B** and a rezone program is identified in **Section 4: Housing Plan**. **Figure 3-27** displays the focus areas for rezone, accompanied by a corresponding table of strategy information shown below as **Table 3-33**. The specific development assumptions (both on affordability and overall development potential) that produce the Potential Units are described, area-by-area, in the **Sites Inventory of Appendix B**.



**Table 3-33: Moderate/Above Moderate-Income Rezone Strategy by Focus Area**

Focus Area	Feasible Acreage	Rezone Density	Potential Moderate-Income Units	Potential Above Moderate-Income Units
Airport Area Environs	172 acres	50 du/ac	258	1,546
West Newport Mesa Area	47 acres	50 du/ac	111	664
Dover-Westcliff Area	20 acres	50 du/ac	52	312
Newport Center Area	163 acres	50 du/ac	244	1,463
Coyote Canyon Area	34 acres	60 du/ac	153	995
<b>Total</b>	<b>436 acres</b>	-	<b>818 units</b>	<b>4,981 units</b>
Banning Ranch Area	30 acres	50 du/ac	148	884
<b>Total</b>	<b>466 acres</b>	--	<b>966 units</b>	<b>4,865 units</b>

**Development of Non-Vacant Sites and Converting to Residential Uses**

To analyze the potential for redevelopment of non-vacant sites, the City sent out more than 500 letters to property owners. Responses to the letters were recorded and are included within the inventory of sites within **Appendix B**. Although a positive response to the redevelopment interest letters does not guaranty the redevelopment of a parcel to residential as a primary use within the planning period, it is a strong indicator of likelihood of redevelopment and is used as sufficient evidence for inclusion within the Adequate Sites Inventory.

**Accessory Dwelling Unit Production**

The City of Newport Beach believes that ADUs present a viable option as part of the overall strategy to develop housing at all income levels during the 2021-2029 6<sup>th</sup> Cycle Housing Element planning period.

**Appendix D** describes:

- Recent ADU legislation and regional actions,
- Local factors that may increase ADU development over the next eight years, and
- Actions Newport Beach will take through housing programs to incentivizing ADU development

The City assumes a total development 240 ADUs from 2021-2029. Utilizing the Southern California Association of Governments (SCAG) approved ADU affordability assumptions, 163 ADUs will be allocated to the low and very low-income RHNA, 72 will be allocated to the City’s moderate-income RHNA and 5 will be allocated to the above moderate. This is based on the methodology described within **Appendix D: Accessory Dwelling Units** and incorporates guidance from HCD’s Housing Element Site Inventory Guidebook.

**Sites Suitable for Lower-Income Housing**

This section contains a description and listing of the candidate sites identified to meet the Newport Beach’s very low and low-income RHNA need. A full list of these sites is presented in **Appendix B**.

**Projects in the Pipeline and Accessory Dwelling Units**

The City has identified a number of projects currently in the entitlements process which are likely to be developed during the planning period and count as credit towards the 2021-2029 RHNA allocation.





Projects with planned affordable components include:

- Newport Airport Village
- Residences at 4400 Von Karman
- Newport Village Mixed-Use
- West Coast Highway Mixed-Use
- Newport Crossings

The total anticipated development of Projects in the Pipeline and Accessory Dwelling Units is summarized in **Table 3-34** below to calculate the Remaining Need.

**Table 3-34: Low and Very Low-Income Remaining Need**

	Very Low-Income	Low-Income
<b>RHNA Allocation</b>	<b>1,456</b>	<b>930</b>
Pipeline Projects	97	78
5 <sup>th</sup> Cycle Sites	0	0
Accessory Dwelling Units	60	103
<b>Remaining Low/Very Low-Income Need</b>	<b>1,299</b>	<b>749</b>

**Sites Identified for Rezone to Accommodate Low and Very low**

After the identification of projects in the pipeline and ADUs to accommodate the City’s low and very low RHNA, a remaining 2,048 units must be accommodated to meet the City’s RHNA. To account for this remaining need, the City conducted a community-driven process to identify several parcels for inclusion in the Adequate Sites Inventory. This process was led by the Housing Element Update Advisory Committee (HEUAC). To guide the identification of adequate sites, the committee created focus areas Sites identified by the committee and the public to meet the City’s very low and low-income RHNA were selected based on the AB 1397 size requirements of at least 0.5 acres but not greater than 10 acres.

The 221 parcels are currently zoned as the following:

- 157 parcels are zoned non-residential
- 64 parcels are zoned residentially at a lower density.

All parcels are non-vacant and will be rezoned to higher densities (densities are specific to each focus area) able to accommodate the development of lower-income housing. **Figure 3-28** below displays the sites identified to accommodate the City’s low and very low-income RHNA allocation. The **Housing Plan** section outlines actions the City will take to promote the development of affordable units within the following focus areas:

- Airport Vicinity Area
- West Newport Mesa Area
- Dover-Westcliff Area
- Newport Center Area
- Coyote Canyon Area
- Banning Ranch Area



The key assumptions and unit projections related to each focus area are shown below in **Table 3-35** and the focus areas are shown geographically below in **Figure 3-27**. The specific development assumptions (both on affordability and overall development potential) that produce the Potential Units are described, area-by-area, in the **Sites Inventory of Appendix B**.

**Table 3-35: Low/Very Low-Income Rezone Strategy by Focus Area**

Focus Area	Feasible Acreage (AC)	Rezone Density	Potential Low/Very Low-Income Units
Airport Area Environs	172 acres	50 du/ac	773
West Newport Mesa Area	47 acres	50 du/ac	332
Dover-Westcliff Area	20 acres	50 du/ac	156
Newport Center Area	163 acres	50 du/ac	732
Coyote Canyon Area	34 acres	60 du/ac	383
<b>Total</b>	<b>436 acres</b>	-	<b>2,376 units</b>
Banning Ranch Area	30 acres	50 du/ac	443
<b>Total</b>	<b>466 acres</b>	--	<b>2,819 units</b>

**Figure 3-27: Focus Areas for Rezones**





### *Development of Nonvacant Sites to Accommodate Low and Very Low-Income*

74 non-vacant sites were also identified in the 5<sup>th</sup> cycle. In accordance with AB 1397 the City will establish a program that permits By-Right development for projects that propose 20 percent of all units to be affordable to low and very low-income units. The program is outlined in detail in **Section 4: Housing Plan**.

### *Regional Housing Needs Allocation*

#### *Future Housing Needs*

Future housing need refers to the share of the regional housing need that has been allocated to the City. The State Department of Housing and Community Development (HCD) supplies a regional housing goal number to the Southern California Association of Governments (SCAG). SCAG is then mandated to allocate the housing goal to city and county jurisdictions in the region through a RHNA Plan. In allocating the region's future housing needs to jurisdictions, SCAG is required to take the following factors into consideration pursuant to Section 65584 of the State Government Code:

- Market demand for housing.
- Employment opportunities.
- Availability of suitable sites and public facilities.
- Commuting patterns.
- Type and tenure of housing.
- Loss of units in assisted housing developments.
- Over-concentration of lower-income households.
- Geological and topographical constraints.

HCD, through a determination process, allocates units to each region across California. It is then up to each region to determine a methodology and process for allocating units to each jurisdiction within that region. SCAG adopted its final Regional Housing Needs Allocation (RHNA Plan) in February 2021. This RHNA covers an 8-year planning period (starting in 2021) and addresses housing issues that are related to future growth in the region. The RHNA allocates to each city and county a “fair share” of the region's projected housing needs by household income group. The major goal of the RHNA is to assure a fair distribution of housing among cities and counties within the Southern California region, so that every community provides an opportunity for a mix of housing for all economic segments.

Newport Beach's share of the SCAG regional growth allocation is 4,845 new units for the current planning period (2021-2029). **Table 3-36, Housing Needs for 2021-2029**, indicates the City's RHNA need for the stated planning period.

**Table 3-36: Housing Needs for 2021-2029**

Income Category (% of County AMI)	Number of Units	Percent
Extremely Low (30% or less)	728 units	15%
Very Low (31 to 50%) <sup>1</sup>	728 units	15%
Low (51 to 80%)	930 units	19%
Moderate (81% to 120%)	1,050 units	22%
Above Moderate (Over 120%)	1,409 units	29%
<b>Total</b>	<b>4,845 units</b>	<b>100%</b>

Note 1: Pursuant to AB 2634, local jurisdictions are also required to project the housing needs of extremely low-income households (0-30% AMI). In estimating the number of extremely low-income households, a jurisdiction can use 50% of the very low-income allocation or apportion the very low-income figure based on Census data.

### **Adequacy of Sites For RHNA**

The City of Newport Beach has a total 2021-2029 RHNA allocation of 4,845 units. The City is able to take credit for 1,662 units currently within the planning process (Projects in the Pipeline), 327 units of 5<sup>th</sup> Cycle Sites being projected at existing buildout capacity, and 240 units of ADU’s (addressed in **Appendix B** and in **Appendix D**). These three categories of existing capacity lower the total RHNA planning need to a “Remaining Need” of 2,707 units as shown in **Table 3-37**. The Housing Element update lists sites that would be able to accommodate an additional 7,909 total units, well in excess of the remaining 2,707-unit RHNA need.

Newport Beach has identified sites with a capacity to accommodate 2,296 lower-income dwelling units, which is in excess of its 2,386-unit lower-income housing need. The identified sites for lower-income dwelling units are on parcels that will permit residential development as a primary use at a base density of between 30 and 60 dwelling units per acre and at an assumed density of between 50 and 60 dwelling units per acre.

The Banning Ranch Focus area is included in the sites inventory, but not assumed to accommodate the City’s 2021-2029 RHNA growth need. Banning Ranch is considered as additional dwelling unit opportunity in addition to those that accommodates the RHNA. When including Banning Ranch , the Housing Element would enable the City to increase its site surplus. This would result in a surplus of 691 low and very low income units compared to a 248 unit surplus without Banning Ranch.

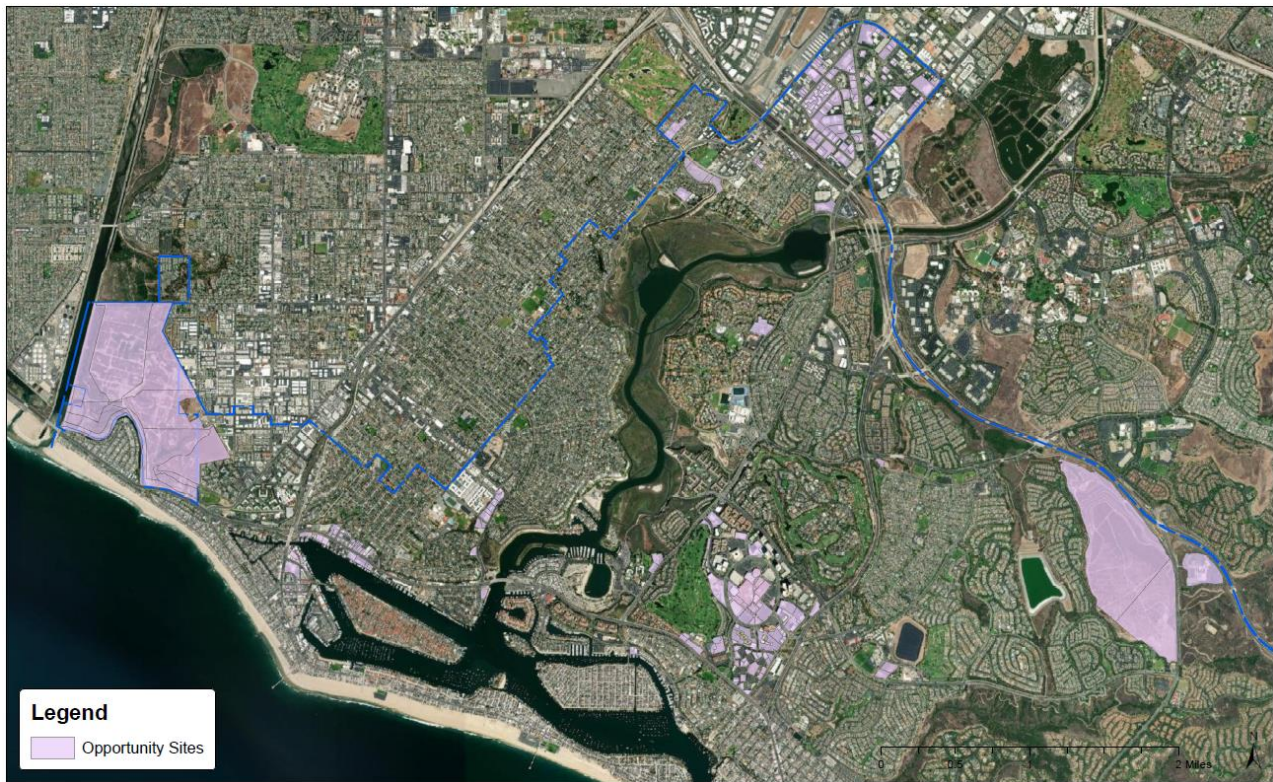
As described in **Appendix B**, the City believes that due to recent State legislation and local efforts to promote accessory dwelling unit (ADU) production, the City can realistically anticipate the development of 240 ADUs within the 8-year planning period. As outlined in the **Sites Inventory** within **Appendix B**, the City has compiled an inventory of sites for rezone that, combined, have development potential to wholly exceed and maintain the capacity to accommodate the RHNA Allocation throughout the 8-year planning period. Overall, the City has adequate capacity to accommodate its 2021-2029 RHNA.



**Table 3-37: Summary of RHNA Status and Sites Inventory**

	Extremely Low/ Very Low Income	Low Income	Moderate Income	Above Moderate Income	Total
2021-2029 RHNA	1,456	930	1,050	1,409	4,845
RHNA Credit (Units Built)	TBD	TBD	TBD	TBD	TBD
<b>Total RHNA Obligations</b>	<b>1,456</b>	<b>930</b>	<b>1,050</b>	<b>1,409</b>	<b>4,845</b>
<b>Sites Available</b>					
Projects in the Pipeline	175	32	1,455		1,662
Accessory Dwelling Units	163	72	5		240
5 <sup>th</sup> Cycle Sites	0	287	40		327
<b>Remaining RHNA</b>	<b>2,048</b>	<b>659</b>	<b>--</b>		<b>2,707</b>
Airport Area Environs Rezone	773	258	1,546		2,557
West Newport Mesa Rezone	332	111	664		1,107
Dover-Westcliff Rezone	156	52	313		521
Newport Center Rezone	732	244	1,463		2,439
Coyote Canyon Rezone	383	153	995		1,530
<b>Total Rezone</b>	<b>2,376</b>	<b>818</b>	<b>4,981</b>		<b>8,174</b>
<b>TOTAL POTENTIAL DEVELOPMENT CAPACITY</b>	<b>2,714</b>	<b>1,209</b>	<b>6,481</b>		<b>10,403</b>
<b>Sites Surplus/Shortfall (+/-)</b>	<b>+328</b>	<b>+159</b>	<b>+5,072</b>		<b>+5,558</b>
<b>Percentage Buffer</b>	<b>14%</b>	<b>15%</b>	<b>360%</b>		<b>115%</b>
Banning Ranch Rezone	443	148	884		1,475
<b>Total Rezone with Banning Ranch</b>	<b>2,819</b>	<b>966</b>	<b>5,775</b>		<b>9,649</b>
<b>TOTAL POTENTIAL DEVELOPMENT CAPACITY</b>	<b>3,156</b>	<b>1,357</b>	<b>1,366</b>		<b>11,878</b>
<b>Sites Surplus/Shortfall (+/-)</b>	<b>+770</b>	<b>+307</b>	<b>+5,957</b>		<b>+7,033</b>
<b>Percentage Buffer</b>	<b>32%</b>	<b>29%</b>	<b>423%</b>		<b>145%</b>

**Figure 3-28: Sites Inventory and RHNA Obligations**



### **Summary of Sites Inventory and RHNA Obligations**

The data and map detailed in **Figure 3-28** above shows the City of Newport Beach’s ability to meet the 4,845 RHNA allocation in full capacity with a 5,293-unit buffer. Along with the identifying appropriate sites to meet the current and future housing needs, the City has established a Housing Plan to support its efforts in providing housing opportunities for all income levels in Newport Beach.

### **2. Financial Resources**

Providing an adequate supply of decent and affordable housing requires funding from various sources, the City has access to the following finding sources.

#### **Section 8 Housing Choice Voucher**

The Section 8 Housing Choice Voucher program is a Federal government program to assist very low-income families, the elderly, and the disabled with rent subsidy payments in privately owned rental housing units. Section 8 participants can choose any housing that meets the requirements of the program and are not limited to units located within subsidized housing projects. They typically pay 30 to 40 percent of their income for rent and utilities. The Orange County Housing Authority administers Section 8 Housing Choice vouchers within the City of Newport Beach. As of October 30, 2020, the City has allocated 112 Section 8 vouchers to residents within the community: 30 for families, 20 for persons with disabilities, and 62 for seniors.



## **Community Development Block Grants (CDBG)**

The Community Development Block Grant (CDBG) program provides annual grants on a formula basis to cities to develop viable urban communities by providing a suitable living environment and by expanding economic opportunities, principally for low- and moderate-income persons (up to 80 percent AMI).

CDBG funds can be used for a wide array of activities, including:

- Housing rehabilitation.
- Lead-based paint screening and abatement.
- Acquisition of buildings and land.
- Construction or rehabilitation of public facilities and infrastructure, and:
- Public services for low-income households and those with special needs.

According to the Federal regulations, the City of Newport Beach is allowed to spend no more than of 20% of CDBG funding on program administration, and 15% on community services such as senior meal delivery or homeless prevention programs. The remaining amount must be used other eligible projects that meet national objectives that principally benefit low- and moderate-income households or the disabled.

HUD requires Newport Beach to complete a Five-Year Consolidated Plan (Con Plan) to receive HUD's formula grant programs. The Con Plan identifies the City's 5-year strategies related to priority needs in housing, homelessness, community development, and economic development. It also identifies short- and long-term goals and objectives, strategies, and timetables for achieving its goals. Developed with the input of citizens and community groups, the Con Plan serves four basic functions:

- It is a planning document for the community built upon public participation and input.
- It is the application for funds under the CDBG Program.
- It articulates local priorities.
- It is a five-year strategy the City will follow in implementing HUD programs.

Additionally, HUD requires the City to prepare a One-Year Action Plan for each of the five years covered by the Con Plan. The City of Newport Beach reports a total of \$372,831 CDBG funds from HUD in the 2020-2021 Action Plan. In same report, the City reports an anticipated \$2.07 million of CDBG resources during the five-year period from July 1, 2020, through June 30, 2025.

## **HOME Investment Partnership Program (HOME)**

The HOME program provides federal funds for the development and rehabilitation of affordable rental and ownership housing for households with incomes not exceeding 80 percent of area median-income. The program gives local governments the flexibility to fund a wide range of affordable housing activities through housing partnerships with private industry and non-profit organizations. HOME funds can be used for activities that promote affordable rental housing and homeownership by low-income households. The City of Newport Beach does not currently receive HOME funds.



### *3. Opportunities for Energy Conservation*

#### *Energy Use and Providers*

The primary uses of energy in urban areas are for transportation lighting, water heating, and space heating and cooling. The high cost of energy demands that efforts be taken to reduce or minimize the overall level of urban energy consumption. Energy conservation is important in preserving non-renewable fuels to ensure that these resources are available for use by future generations. There are also a number of benefits associated with energy conservation including improved air quality and lower energy costs.

Southern California Gas Company (SCG) provides natural gas service for the City. Natural gas is a “fossil fuel” and is a non-renewable resource. Most of the major natural gas transmission pipelines within the City are owned and operated by SCG. SCG has the capacity and resources to deliver gas except in certain situations that are noted in state law. As development occurs, SCG will continue to extend its service to accommodate development and supply the necessary gas lines. Electricity is provided on an as-needed basis to customers within existing structures in the City. Southern California Edison Company (SCE) is the distribution provider for electricity in Newport Beach. Currently, SCE has no immediate plans for expansion of infrastructure, as most of the City is built out. However, every year SCE expands and improves existing facilities according to demand

#### *Energy Conservation*

The City’s energy goals, stated in the Natural Resources Element of the General Plan, make every effort to conserve energy in the City thus reducing dependence on fossil fuels. The City’s policies relating to energy include increasing energy efficiency in City facilities and operations and in private developments and reducing the City’s reliance on fossil fuels. In order to reach the City’s goals, objectives include the following:

- Develop incentives that encourage the use of energy conservation strategies by private and public developments,
- Promote energy-efficient design features,
- Promote or provide incentives for “Green Building” programs that go beyond the requirements of Title 24 of the California Administrative Code and encourage energy efficient design elements as appropriate to achieve “green building” status; and,
- Provide incentives for implementing Leadership in Environmental and Energy Design (LEED) certified building such as fee waivers, bonus densities, and/or awards recognition programs.<sup>18</sup>

The City of Newport Beach’s Energy Action Plan (EAP) is identified as a roadmap for the City of Newport Beach to reduce GHG through reductions in energy used in facility buildings and operations. According to the City’s EAP, the City’s long-term vision for energy efficiency focuses on the following objectives:

- Reduce the City’s carbon footprint and its adverse effect on the environment
- Conserve energy at the local government facilities

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<sup>18</sup> City of Newport Beach Natural Resource Element, 2006.





- Raise energy conservation awareness in local community and improve the quality of life

Currently, the City of Newport Beach has developed the “Building Green” construction manual, created by the City’s Task Force on Green Development. The City has also enacted a City-wide streetlight LED replacement program, replacing 400 units to date, and is continuing marketing, education, and outreach to the community regarding energy efficiency and conservation.

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# **Attachment No. PC 5**

Housing Element Section 4 Redline-Strikeout

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**Newport,  
Together.**



# **Section 4:**

## **HOUSING PLAN**

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The Housing Plan describes the City of Newport Beach 2021-2029 policy program. The Housing Plan describes the specific goals, policies, and programs to assist City decision makers to achieve the long-term housing objectives set forth in the Newport Beach Housing Element. This Plan identifies goals, policies, and programs aimed at providing additional housing opportunities, removing governmental constraints to affordable housing, improving the condition of existing housing, and providing equal housing opportunities for all residents. These goals, policies, and programs further the City’s overall housing policy goal to encourage a more diverse, sustainable, and balanced community through implementation of strategies and programs that will result in economically and socially diversified housing choices that preserve and enhance the special character of Newport Beach. The City will make every effort to budget, plan for and comply with the timelines for implementation set forth in this Section, but may be contingent upon funding and staffing resources.

## **A. Regional Housing Needs Assessment**

The Southern California Association of Governments (SCAG) has conducted a Regional Housing Needs Assessment (RHNA) to determine the City’s share of the affordable housing needs for the Orange County region. The RHNA quantifies Newport Beach’s local share housing needs for the region by income category. Income categories are based on the most current Median Family Income (MFI) for Orange County. The current 2021 MFI (for an assumed family of 4 persons) for Orange County is \$106,700. The MFI may change periodically, as it is updated on an annual basis. The City’s 2021-2029 RHNA growth need of 4,845 housing units is allocated into the following income categories:

- 1,456 units - Very low-income (0-50% County MFI)
- 930 units - Low-income (51-80% of County MFI)
- 1,050 units - Moderate-income (81-120% of County MFI)
- 1,409 units - Above moderate-income (120% or more of County MFI)

### **A. Housing Goals**

The City of Newport Beach has identified the following housing goals as part of this Housing Element Update:

**Housing Goal #1:** Provision of adequate sites to accommodate projected housing unit growth needs identified by the 2021-2029 RHNA.

**Housing Goal #2:** Quality residential development and the preservation, conservation, and appropriate redevelopment of housing stock.

**Housing Goal #3:** A variety of housing types, designs, and opportunities for all social and economic segments.

**Housing Goal #4:** Housing opportunities for as many renter- and owner-occupied households as possible in response to the market demand and RHNA obligations for housing in the City.



**Housing Goal #5:** Preservation of the City’s housing stock for extremely low-, very low-, low-, and moderate-income households.

**Housing Goal #6:** Housing opportunities for special needs populations.

**Housing Goal #7:** Equal housing opportunities in the City for all people.

**Housing Goal #8:** Effective and responsive housing programs and policies.

The goals listed above are described below and on the following pages with accompanying policies and programs to achieve them.

**B. Housing Policies and Program Actions**

This Housing Element expresses the Newport Beach community’s overall housing goals and supporting policies and program actions to achieve them. The stated Housing Program Actions are based on a review of past performance of the 5<sup>th</sup> Cycle Housing Element, analysis of current constraints and resources, and input from Newport Beach residents and stakeholders.

<b>Housing Goal #1</b>
<b>Provision of adequate sites to accommodate projected housing unit growth needs.</b>

**Housing Policy 1.1:** identify a variety of sites to accommodate housing growth need by income categories to serve the needs of the entire community.

**Implementation Actions**

**Adequate Sites to Accommodate 2021-2029 RHNA**

The City of Newport Beach has a total Regional Housing Needs Assessment (RHNA) allocation of 4,845 units. State law requires the City of Newport Beach to identify adequate sites to accommodate its fair share allocation for the 6<sup>th</sup> Cycle Housing Element. This City has identified a variety of candidate sites through extensive analysis in collaboration with the community and stakeholders through Newport Together’s “Listen and Learn” process, multiple meetings of the City’s Housing Element Update Advisory Committee (Committee), participation by interested residents at a variety of public meetings, workshops, and consultation with property owners. The City of Newport Beach has identified an adequate amount of land that was determined by the Committee as “Feasible” or “Potentially Feasible” for future development. Only a portion of these candidate sites will be necessary to accommodate the City’s RHNA planning obligation. These sites have undergone a rigorous process to evaluate site features, development potential, developer/owner interest and other factors to deem them appropriate for housing during the 2021-2029 Planning Period.

As part of the analysis of adequate sites, the City has comprehensively reviewed opportunity sites citywide and ~~have has identify identified~~ eight (8) primary areas of opportunity:

- Airport Area Environs
- West Newport Mesa
- Banning Ranch
- Dover/Westcliff
- Newport Center
- 5th Cycle Housing Element Sites





- Coyote Canyon
- Accessory Dwelling Units

Since the City has identified several opportunity sites in the 5<sup>th</sup> Cycle Housing Element that will be utilized in the 6<sup>th</sup> Cycle Housing Element, additional policy considerations are stated in this Policy Program.

These opportunities sites are described in map and tabular format in Appendix B of this Housing Element. Each of the opportunity areas described in this Housing Element have been assigned a targeted acreage, and a targeted number of new housing units (see following implementing Policy Action statements). Collectively, these targets must meet the unmet RHNA need as required by sState law. It is expected there may be deviations from the targets with future implementing zoning actions. New opportunity sites may be identified, and other sites may be deemed unsuitable, or densities may be modified, all based on new information received over time. The City may adopt future zoning strategies that are more or less than the identified targets in this Housing Element provided the total unmet RHNA need by income category is accommodated within state-defined deadlines. If future zoning strategies deviate from the targets expressed in this Housing Element but still meet the requirement to identify adequate sites to accommodate unmet RHNA need, no amendment to the Housing Element would be required and deviations of any magnitude may be considered subject to the City Council’s review and approval in consultation with the Community.

~~All sites proposed for rezoning through implementation of Policy Actions 1A through 1F provided in Section 4 of this Housing Element will require a companion Land Use Element amendment that will be subject to a vote of the electorate pursuant to Charter Section 423. The City will initiate an election and conduct community outreach to educate the public on the benefits of higher density housing and pay for all costs associated with the ballot measure(s). The table below presents a timeline for the process including the vote. If the vote fails, the City will propose alternative Policy Actions and call for a second election. If the second vote fails to pass, the City Council will seek a legal opinion from the State Attorney General’s Office as to how to proceed.~~

**~~Milestones for Housing Element Adoption, Implementation and Charter Section 423 Election~~**

<del>Anticipated Date</del>	<del>Action</del>	<del>Requirements</del>
<del>February 2022</del>	<del>Housing Element Adoption</del>	<del>Public Hearing</del>
<del>February — 2022— September 2023</del>	<del>Preparation of Land Use Element amendment(s), Zoning to implement Policy Actions 1A — 1F, and completion of Environmental Impact Report</del>	<del>Community — meetings and Public Hearings</del>
<del>September 2023</del>	<del>Initiate ballot measure for Charter Section 423 vote</del>	<del>133 days prior to election date</del>
<del>March 2024</del>	<del>Charter Section 423 election date for voter approval on proposed Land Use Element Amendment</del>	
<del>If Charter 423 vote fails:</del>		
	<del>Amend Housing Element for HCD review and amend Land Use Element and adopt corresponding zoning strategies after conducting environmental review</del>	<del>Community — meetings and Public Hearings</del>
	<del>Conduct second Charter Section 423 election on revised amendments</del>	



<del>If second Charter 423 fails:</del>	
	<del>Request opinion from State Attorney General's Office as to City's options</del>

For all Rezone Policy Actions 1A to 1F, Pursuant to Government Code 65583.2, subdivisions (h) & (i), which rezone sites to accommodate the City's shortfall in satisfying the RHNA, the City commits to the following:

- permit owner-occupied and rental multifamily uses by-right for developments in which 20 percent (20%) or more of the units are affordable to lower-income households. By-right means local government review must not require a CUP, planned unit development permit, or other discretionary review or approval.
- accommodate a minimum of sixteen (16) units per site;
- require a minimum density of twenty (20) units per acre; and
- at least 50 percent (50%) of the lower-income need must be accommodated on sites designated
- for residential use only or on sites zoned for mixed uses that accommodate all of the very low and low-income housing need, if those sites:
  - allow 100 percent (100%) residential use, and
  - require residential use occupy 50 percent (50%) of the total floor area of a mixed-use project.

***Policy Action 1A: Airport Environs Sub Area***

The City will establish a housing opportunity overlay district, or similar rezoning strategy, in the Airport Environs area for 172 acres of land to provide for the accommodation of at least 2,577 housing units in the Very Low, Low, Moderate and Above Moderate-income categories. A Map and Table Summary of these sites are provided in Appendix B of this Housing Element. The overlay, or similar rezone strategy, will allow development of a variety of residential product types at a permitted average density of 50 dwelling units per acre.

Implementation of this program will also include but not limited to development standards, overlay text and entitlement procedures to, among other things, encourage the development of housing for persons of Very Low and Low incomes. In developing the overlay, or similar rezone strategy, the City will evaluate the potential to include a variety of incentive tools as appropriate, including but not limited to floor area bonus, density bonus, entitlement streamlining, fee waivers or reductions and other considerations.

For Policy 1A, pursuant to Government Code 65583.2, subdivisions (h) & (i), which rezone sites to accommodate the City's shortfall in satisfying the RHNA, the City commits to the following:

- permit owner-occupied and rental multifamily uses by-right for developments in which 20 percent or more of the units are affordable to lower-income households. By-right means local government review must not require a CUP, planned unit development permit, or other discretionary review or approval.
- accommodate a minimum of 16 units per site;
- require a minimum density of 20 units per acre; and
- at least 50 percent of the lower-income need must be accommodated on sites designated for residential use only or on sites zoned for mixed uses that accommodate all of the very low and low-income housing need, if those sites:



- allow 100 percent residential use, and
- require residential use occupy 50 percent of the total floor area of a mixed-use project.

**Timeframe:** Complete Code Amendments within 36 months of Housing Element Adoption

**Responsible Agency:** City of Newport Beach Community Development

**Funding Source:** General Fund

***Policy Action 1B: West Newport Mesa***

The City will establish a housing opportunity overlay, or similar rezoning strategy, in the West Newport Mesa area for 47 acres of land to provide for the accommodation of at least 1,107 housing units in the Very Low, Low, Moderate and Above Moderate-income categories. A Map and Table Summary of these sites are provided in Appendix B of this Housing Element. The overlay, or similar rezone strategy, will allow development of a variety of residential product types at a permitted average density of 50 dwelling units per acre.

Implementation of this program will also include but not limited to development standards, overlay text and entitlement procedures to, among other things, encourage the development of housing for persons of Very Low and Low incomes. In developing the overlay, or similar rezone strategy, the City will evaluate the potential to include a variety of incentive tools as appropriate, including but not limited to floor area bonus, density bonus, entitlement streamlining, fee waivers or reductions and other considerations.

For Policy 1B, pursuant to Government Code 65583.2, subdivisions (h) & (i), which rezone sites to accommodate the City’s shortfall in satisfying the RHNA, the City commits to the following:

- permit owner-occupied and rental multifamily uses by-right for developments in which 20 percent or more of the units are affordable to lower-income households. By-right means local government review must not require a CUP, planned unit development permit, or other discretionary review or approval.
- accommodate a minimum of 16 units per site;
- require a minimum density of 20 units per acre; and
- at least 50 percent of the lower-income need must be accommodated on sites designated for residential use only or on sites zoned for mixed uses that accommodate all of the very low and low-income housing need, if those sites:
  - allow 100 percent residential use, and
  - require residential use occupy 50 percent of the total floor area of a mixed-use project.

**Timeframe:** Complete Code Amendments within 36 months of Housing Element Adoption

**Responsible Agency:** City of Newport Beach Community Development

**Funding Source:** General Fund



***Policy Action 1C: Newport Center***

The City will establish a housing opportunity overlay, or similar rezoning strategy, in the Newport Center area for 163 acres of land to provide for the accommodation of at least 2,439 housing units in the Very Low, Low, Moderate and Above Moderate-income categories. A Map and Table Summary of these sites are provided in Appendix B of this Housing Element. The overlay, or similar rezone strategy, will allow development of a variety of residential product types at a permitted average density of 50 dwelling units per acre.

Implementation of this program will also include but not be limited to development standards, overlay text and entitlement procedures to, among other things, encourage the development of housing for persons of Very Low and Low incomes. In developing the Overlay, or similar rezone strategy, the City will evaluate the potential to include a variety of incentive tools as appropriate, including but not limited to floor area bonus, density bonus, entitlement streamlining, fee waivers or reductions and other considerations.

For Policy 1C, pursuant to Government Code 65583.2, subdivisions (h) & (i), which rezone sites to accommodate the City’s shortfall in satisfying the RHNA, the City commits to the following:

- permit owner-occupied and rental multifamily uses by-right for developments in which 20 percent or more of the units are affordable to lower-income households. By-right means local government review must not require a CUP, planned unit development permit, or other discretionary review or approval.
- accommodate a minimum of 16 units per site;
- require a minimum density of 20 units per acre; and
- at least 50 percent of the lower-income need must be accommodated on sites designated for residential use only or on sites zoned for mixed uses that accommodate all of the very low and low-income housing need, if those sites:
  - allow 100 percent residential use, and
  - require residential use occupy 50 percent of the total floor area of a mixed-use project.

**Timeframe:** Complete Code Amendments within 36 months of Housing Element Adoption  
**Responsible Agency:** City of Newport Beach Community Development  
**Funding Source:** General Fund

***Policy Action 1D: Dover / Westcliff***

The City will establish an overlay, or similar rezoning strategy, in the Dover / Westcliff area for 20 acres of land to provide for the accommodation of at least 521 housing units in the Very Low, Low, Moderate and Above Moderate-income categories. A Map and Table Summary of these sites are provided in Appendix B of this Housing Element. The overlay, or similar rezone strategy, will permit development of a variety of residential product types at a permitted average density of 50 dwelling units per acre.

Implementation of this program will also include but not limited to development standards, overlay text and entitlement procedures to, among other things, encourage the development of housing for persons of Very Low and Low incomes. In developing the overlay, or similar rezone strategy, the City will evaluate



the potential to include a variety of incentive tools as appropriate, including but not limited to floor area bonus, density bonus, entitlement streamlining, fee waivers or reductions and other considerations.

For Policy 1D, pursuant to Government Code 65583.2, subdivisions (h) & (i), which rezone sites to accommodate the City’s shortfall in satisfying the RHNA, the City commits to the following:

- permit owner-occupied and rental multifamily uses by-right for developments in which 20 percent or more of the units are affordable to lower-income households. By-right means local government review must not require a CUP, planned unit development permit, or other discretionary review or approval.
- accommodate a minimum of 16 units per site;
- require a minimum density of 20 units per acre; and
- at least 50 percent of the lower-income need must be accommodated on sites designated for residential use only or on sites zoned for mixed uses that accommodate all of the very low and low-income housing need, if those sites:
  - allow 100 percent residential use, and
  - require residential use occupy 50 percent of the total floor area of a mixed-use project.

**Timeframe:** Complete Code Amendments within 36 months of Housing Element Adoption  
**Responsible Agency:** City of Newport Beach Community Development  
**Funding Source:** General Fund

***Policy Action 1E: Banning Ranch***

The City has identified the Banning Ranch area as a potential site to accommodate future housing needs. The City has previously approved housing development on this site, but the approved project was subsequently denied by the California Coastal Commission. Additionally, there is a potential the site will be purchased by an entity to preserve the area as open space. The State Department of Housing and Community Development and California Coastal Commission have expressed they do not support the City utilizing the site to the accommodate future RHNA needs based on this potential. Despite these statements, the City believes this site is still a viable opportunity to provide housing for a variety of income levels on a small portion of the 400+ acre site while protecting environmental resources. The City will continue to support development potential in the Banning Ranch Area, but will not assume the potential buildout of the area to demonstrate adequate sites for the 2021-2029 RHNA planning period.

The site is currently within the City’s Sphere of Influence. The City will continue to work collaboratively with the County of Orange for annexation and with other agencies/entities regarding future use of the property. The City will continue to pursue residential opportunities on a portion of the Banning Ranch site, consistent with existing General Plan policies to provide opportunities for up to 1,475 residential units at an average density of 50 dwelling units per acre.

Implementation of this program will also include development standards and entitlement procedures to encourage the development housing for persons of Very Low and Low incomes.



For Policy 1E, pursuant to Government Code 65583.2, subdivisions (h) & (i), which rezone sites to accommodate the City’s shortfall in satisfying the RHNA, the City commits to the following:

- permit owner-occupied and rental multifamily uses by-right for developments in which 20 percent or more of the units are affordable to lower-income households. By-right means local government review must not require a CUP, planned unit development permit, or other discretionary review or approval.
- accommodate a minimum of 16 units per site;
- require a minimum density of 20 units per acre; and
- at least 50 percent of the lower-income need must be accommodated on sites designated for residential use only or on sites zoned for mixed uses that accommodate all of the very low and low-income housing need, if those sites:
  - allow 100 percent residential use, and
  - require residential use occupy 50 percent of the total floor area of a mixed-use project.

**Timeframe:** Complete necessary Code, General Plan and LCP Amendments within 36 months of Housing Element Adoption  
**Responsible Agency:** City of Newport Beach Community Development  
**Funding Source:** General Fund

***Policy Action 1F: Coyote Canyon***

The Coyote Canyon property is a closed landfill that is owned and managed by the County or Orange but leased to a private developer. The area is of substantial acreage but has limited development potential due to various environmental considerations. The developer has evaluated the entire landfill area and has concluded that 34 acres of the property is not subject to environmental constraints. Additionally, the City has been advised that the County has expressed interest in participating in a transfer of a portion of the property to accommodate residential opportunity.

The City will rezone at least 34 acres of land on the Coyote Canyon site, as shown in Appendix B, to accommodate up to 1,530 housing units at an average density of 60 dwelling units per acre.

Implementation of this program will also include development standards and entitlement procedures to encourage the development of housing for persons of Very Low and Low incomes.

**Timeframe:** Complete Code Amendments within 36 months of Housing Element Adoption  
**Responsible Agency:** City of Newport Beach Community Development  
**Funding Source:** General Fund

***Policy Action 1G: 5<sup>th</sup> Cycle Housing Element Sites***

The City has identified a number of sites in the sites inventory contained in Appendix B contain infill sites that were identified in the 5<sup>th</sup> Cycle Housing Element to accommodate the Very Low and Low-income categories. To comply with State law, the City will amend Title 20 of the Newport Beach Municipal Code (NBMC) to permit residential uses by-right for housing development projects in which at least 20-percent



of the units are affordable to lower-income households. For the purpose of implementation of this program, by-right shall mean the City will not require a discretionary permit application, such as a Conditional Use Permit or Planned Unit Development Permit, that would constitute a “project” as described in Section 21100 of the Public Resources Code. For sites in the coastal zone, the City will continue to require coastal development permits to determine compliance with the City’s certified Local Coastal Program.

The City commits to zoning these 5<sup>th</sup> Cycle sites to allow Newport Beach’s default density of 30 du/ac, pursuant to Government Code 65583.2, subdivision(c) or at densities demonstrated to be appropriate for the development of housing for lower-income households. Additionally, if any vacant sites in the inventory are being used to accommodate the lower RHNA and have been identified in two prior planning periods, the program must ensure that those sites meet the same requirements.

<p><b>Timeframe:</b> Complete Code Amendments within 36 months of Housing Element Adoption</p> <p><b>Responsible Agency:</b> City of Newport Beach Community Development</p> <p><b>Funding Source:</b> General Fund</p>
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***Policy Action 1H: Accessory Dwelling Unit Construction***

Accessory Dwelling Units (ADUs) are an accepted method of providing affordable housing in the City. Due to recent legislation, the ability to entitle and construct ADUs has increased significantly. The City recognizes the significance of this legislation as evidenced by a marked increase in ADU permit applications. Due to this legislation, the City believes aggressive support for ADU construction will result in increased opportunities for housing including affordable units.

The City will aggressively support and accommodate the construction of at least 240 ADUs by a variety of methods, including but not limited to:

- Developing and implementing a public awareness campaign for construction of ADUs with a systematic approach utilizing all forms of media and outreach distribution
- Preparing and maintaining a user-friendly website committed to information related to codes, processes, and incentives pertaining to the development of ADUs and JADUs in the City.
- Evaluating and assessing the appropriateness of additional incentives to encourage ADU development.
- Approve permit-ready standard plans to permit new ADU construction to minimize design costs, expedite permit processing, and provide development certainty for property owners.

<p><b>Timeframe:</b> Analyze methods within 12 months of Housing Element adoption; Establish programs within 24 months of Housing Element adoption.</p> <p><b>Responsible Agency:</b> City of Newport Beach Community Development</p> <p><b>Funding Source:</b> General Fund</p>
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***Policy Action 1I: Accessory Dwelling Units Monitoring Program***

The City will annually monitor its progress in permitting an average of 30 ADUs annually, for a total of 240 ADUs during the planning period, in conjunction with Annual Housing Element Progress Report. The analysis will track applications for ADUs, location, affordability, and other important features. If ADU permitting falls below 20 ADUs for more than two consecutive years, the City re-evaluate the City's ADU standards and procedures and modify accordingly within 6 months. If actual production of ADUs is far from anticipated trends, then the City will commit to increasing the capacity or inventory of sites within six months. This increase in capacity would apply to the proposed rezoning focus areas to demonstrate the City has remaining capacity to accommodate RHNA need previously assumed through ADU construction. If actual production is near anticipated trends, then the City will consider additional outreach and marketing

**Timeframe:** Ongoing, Annual, Developing Monitoring Program within 6 months of adoptions of Housing Element, Increase capacity in rezone areas withing 6 months if monitoring program is far from anticipated trends.

**Responsible Agency:** City of Newport Beach Community Development

**Funding Source:** General Fund

***Policy Action 1J: Accessory Dwelling Units Amnesty Program***

The City will establish a program to allow owners with existing unpermitted ADUs to obtain permits to legalize the ADUs during the 2021-2029 planning period. The Amnesty Program should consist of two parts: 1) education; and 2) incentives. The intent of Part 1 (education) of the program is to create an information guide to help educate and inform the importance and benefits of legalizing and bringing their unpermitted units into compliance. The information guide will include an overview of the necessary life safety code requirements and improvements that will need to be provided for permit issuance and advice on how to discuss and ask questions of permitting staff without the risk of Code Enforcement action. The information guide will also explain how the City's ADU regulations have created an easier path towards compliance whereas previously not feasible. Part 2 (Incentives) of the program will provide property owners incentives, such as fee waivers, courtesy inspections, or grants, to encourage property owners to seek permits to legalize units and make them safe for habitation.

**Timeframe:** Develop Amnesty Program within 24 months of Housing Element adoption, Target 10 Households annually to participate in the program.

**Responsible Agency:** City of Newport Beach Community Development

**Funding Source:** General Fund

***Policy Action 1K: Inclusionary Housing Policy***

The City has a substantial RHNA obligation of affordable housing that will be a challenge to accommodate due to prevailing project development costs include high land values. Therefore, the City must evaluate a variety of policy prescriptions that will encourage and facilitate the construction of below market-rate housing. The City will investigate inclusionary housing policy options as an additional means to provide a variety of housing types and opportunities for very low, low- and moderate-income households in Newport Beach. The City will assess and analyze a variety of inclusionary housing policy options, standards, requirements and regulations to determine the best course of action. Based upon this initial assessment, the City will determine the appropriateness and application of inclusionary policies, and





adopt policies, programs or regulations that will produce housing opportunities affordable to very low, low and moderate-income households.

The City has determined that a base inclusionary requirement of 15 percent for new residential development to be affordable to very low-, low-, and moderate-income households is appropriate as an interim measure prior to the adoption of a final inclusionary ordinance or policy. The final inclusionary policy shall address development of rental and for-sale housing affordable to very low, low- and moderate-income households, as well as the applicability of this requirement and its alternatives.

<p><b>Timeframe:</b> Adopt interim inclusionary policy within 6 months of Housing Element adoption. Evaluate Inclusionary options and adopt an Ordinance within 36 months of Housing Element adoption.</p> <p><b>Responsible Agency:</b> City of Newport Beach Community Development</p> <p><b>Funding Source:</b> General Fund</p>
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## Housing Goal #2

**Quality residential development and preservation, conservation, and appropriate redevelopment of housing stock.**

**Housing Policy 2.1:** Support all reasonable efforts to preserve, maintain, and improve availability and quality of existing housing and residential neighborhoods, and ensure full utilization of existing City housing resources for as long into the future as physically and economically feasible.

### *Implementation Actions*

#### ***Policy Action 2A: Neighborhood Preservation***

The City will continue to improve housing quality and prevent deterioration of existing neighborhoods by strictly enforcing applicable Building Code, Fire Code, and Zoning Code regulations and abating Code violations and nuisances. The City of Newport Beach will continue to prepare a quarterly report on code enforcement activities in the 6<sup>th</sup> Cycle.

<p><b>Timeframe:</b> Ongoing, Semi-Annual</p> <p><b>Responsible Agency:</b> City of Newport Beach Community Development</p> <p><b>Funding Source:</b> General Fund</p>
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#### ***Policy Action 2B: Residential Building Record Program***

The City will maintain and continue to implement the Residential Building Records (RBR) program to reduce and prevent violations of building and zoning ordinances by providing a report to all parties involved in a transaction of sale of residential properties, and providing an opportunity to inspect properties to identify potentially hazardous conditions, resources permitting. The report provides information as to permitted and illegal uses/construction, and verification that buildings meet applicable zoning and building requirements.

The City will continue to implement this program as RBR applications are submitted to the City. The City will continue to promote the availability of program to the public and local real estate professionals by maintaining information on its website and developing brochures and other promotional materials.



**Timeframe:** Ongoing  
**Responsible Agency:** City of Newport Beach Community Development  
**Funding Source:** General Fund

***Policy Action 2C: Preservation of At-Risk Units***

There are a number of assisted housing developments or individual housing units within development that may be at-risk of converting to market rate during the 10-year period from the beginning of the 2021-2029 Housing Element planning period. “Assisted housing developments” shall mean multifamily rental housing that receives governmental assistance under federal programs listed in subdivision (a) of Government Code Section 65863.10, state and local multifamily revenue bond programs, local redevelopment programs, the federal Community Development Block Grant Program, or local in-lieu fees. “Assisted housing developments” shall also include multifamily rental units that were developed pursuant to a local housing program or used to qualify for a density bonus pursuant to Government Code Section 65916. During the planning period, preservation of the assisted housing developments shall utilize, to the extent necessary, all available federal, state, and local financing and subsidy programs including those listed above, except where a City demonstrates it has other urgent needs for which alternative funding sources are not available. The city will include strategies that involve local regulation and technical assistance, including maintaining registration as a Qualified Preservation Entity with HCD to ensure that the City will receive notices from all owners intending to opt out of their Section 8 contracts and/or prepay their HUD-insured mortgages. The City will proactively consult with the property owners identified in Table 3-31 of the Housing Element and potential preservation organizations regarding use of all federal, state and local resources to be used for maintaining affordable housing opportunities in those developments listed in Table 3-31 of Chapter 3 of this Housing Element. The City will provide technical assistance to non-profit entities for acquisition of the units to ensure long-term affordability, upon receiving notice that a property owner of an existing affordable housing development intends to convert the units to a market-rate development. The City will provide specific assistance to owners of these units by making initial contact within 9 months of Housing Element adoption to identify and coordinate assistance. The City will provide in-kind assistance, through information dissemination, to assist in partnering local assisted unit owners with agencies or entities that can provide financial or other assistance to preserve the affordability of these units.

The City will maintain registration as a Qualified Preservation entity with HCD and continuously implement the above policy as notices are received from property owners in the 6<sup>th</sup> Cycle.

**Timeframe:** Ongoing, as necessary to preserve affordability. Initial contact with owners within 9 months of Housing Element adoption.  
**Responsible Agency:** City of Newport Beach Community Development  
**Funding Sources:** General Fund, State, Federal funding



**Housing Goal #3**

**A variety of housing types, designs, and opportunities for all social and economic segments.**

**Housing Policy 3.1:** Encourage preservation of existing and provision of new housing affordable to extremely low-, very low-, low-, and moderate-income households.

**Housing Policy 3.2:** Encourage housing developments to offer a wide spectrum of housing choices, designs, and configurations.

**Implementation Actions**

**Policy Action 3A: Objective Design Standards**

State Housing law includes various exemptions for projects with an affordable housing component, which limits the City’s ability to apply discretionary design review requirements to certain residential projects. State Housing law specifies having objective design standards available to apply to housing projects where the City’s discretion over design review is otherwise preempted per State law. The City of Newport Beach will review existing entitlement processes for housing development and will eliminate discretionary review for all housing development proposals that include a minimum affordable housing component. The City will also review the appropriateness of its current development standards to ensure that it reasonably accommodates the type and density of housing it is intended to support. The City will also amend existing development standards to replace or remove all subjective standards for projects with a minimum affordable housing component with objective standards that do not impede the type and density of housing it is intended to allow.

**Timeframe:** Adopt standards within 24 months of Housing Element adoption

**Responsible Agency:** City of Newport Beach Community Development

**Funding Source:** General Fund

**Policy Action 3B: SB 35 Streamlining**

The City will establish written procedures to comply with California Government Code Section 65913.4 and publish those procedures for the public, as appropriate, to comply with the requirements of SB 35, Chapter 366 Statues 2017. These requirements apply at any point in time when the City does not meet the State mandated requirements, based upon the SB 35 Statewide Determination Summary Report for Housing Element progress and reporting on Regional Housing Needs Assessment (RHNA)., the City will process development projects with at least 50 percent affordable units through a streamlined permit process (i.e., 90 days for projects with up to 150 units). All projects covered by SB 35 are still subject to the objective development standards of the Newport Beach Municipal Code that includes the Building and Fire Codes. However, qualifying projects cannot be subject to discretionary review or public hearings; and in many cases the City cannot require parking. Reduced parking requirements would be established consistent with the requirements of SB 35 for qualified streamlining projects.



The City currently has consistently exceeded RHNA performance goals during the 5<sup>th</sup> Cycle. The City’s status regarding SB 35 could change during the 6<sup>th</sup> Cycle dependent upon RHNA progress throughout the 2021-2029 Planning Period.

<p><b>Timeframe:</b> Adopt procedures within first year of the planning period <b>Responsible Agency:</b> City of Newport Beach Community Development <b>Funding Source:</b> General Fund</p>
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***Policy Action 3C: Preservation of Rental Opportunities***

The City will continue to maintain rental housing opportunities by restricting conversions of rental units to condominiums in a development containing 15 or more units unless the rental housing vacancy rate in Newport Beach is 5 percent or higher, and unless the property owner complies with condominium conversion regulations contained in Newport Beach Municipal Code Chapter 19.64. The City’s intent is to ensure no net loss in rental opportunities in existing sites that contain 15 or more units and that the conversion of rentals do not create an imbalance of opportunity in the community. The City will conduct an annual vacancy rate survey to support the implementation of this policy.

To protect lower and moderate-income rental housing, the City shall amend the Municipal Code to restrict the demolition of lower and moderate-income rental housing on sites that provide more than 15 units unless the units maintain the same income categories after demolition.

<p><b>Timeframe:</b> Ongoing. Update Municipal Code within 24 months of Housing Element adoption. <b>Responsible Agency:</b> City of Newport Beach Community Development <b>Funding Source:</b> General Fund</p>
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***Policy Action 3D: Priority of Affordable Housing***

The City will continue to take all feasible actions, through use of development agreements, expedited development review, and expedited processing of grading, building and other development permits, to ensure expedient construction and occupancy for projects approved with lower- and moderate-income housing requirements. The City will continue to implement this program as affordable housing projects are submitted to the City.

<p><b>Timeframe:</b> Ongoing <b>Responsible Agency:</b> City of Newport Beach Community Development <b>Funding Source:</b> General Fund</p>
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***Policy Action 3E: Mortgage Revenue Bonds***

The City will continue to participate with the County of Orange in the issuance of tax-exempt mortgage revenue bonds to facilitate and assist in financing, development, and construction of housing affordable to low and moderate-income households. The City will continue to implement program per project submittal as the developer applies for these bonds. The City will adjust this policy to include the promotion of available bonds to the public and developers in the 6<sup>th</sup> Cycle.

<p><b>Timeframe:</b> Ongoing, Annual <b>Responsible Agency:</b> City of Newport Beach Community Development <b>Funding Source:</b> General Fund</p>
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***Policy Action 3F: Annual Reporting Program***

The City will conduct an annual compliance-monitoring program for units required to be occupied by very low-, low-, and moderate-income households. The City of Newport will complete review by the last quarter of each year and report within the annual General Plan Status Report including the Housing Element Report provided to OPR and HCD by April 1st each year.

<p><b>Timeframe:</b> Ongoing. Annual <b>Responsible Agency:</b> City of Newport Beach Community Development <b>Funding Source:</b> General Fund</p>
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***Policy Action 3G: Entitlement Assistance***

The City will provide entitlement assistance, expedited entitlement processing, and waive application processing fees for developments in which 5 percent of units are affordable to extremely low-income households. To be eligible for a fee waiver, the units shall be subject to an affordability covenant for a minimum duration of 55 years. The affordable units provided shall be granted a waiver of park in-lieu fees (if applicable) and City traffic fair share fees.

The City will continue to implement this program as affordable housing projects are submitted to the City in the 6<sup>th</sup> Cycle.

<p><b>Timeframe:</b> Ongoing <b>Responsible Agency:</b> City of Newport Beach Community Development <b>Funding Sources:</b> General Fund</p>
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***Policy Action 3H: Prioritization of Affordable Housing Funds***

The City will give highest priority for use of Affordable Housing Fund monies to affordable housing developments providing units affordable to extremely-low-income households and senior households. The City will continue to implement this program as affordable housing projects are submitted to the City.

The City shall establish objective priorities to allow for the ranking/scoring of future affordable housing projects so that expenditures that most meet the City’s objectives are prioritized for funding.

<p><b>Timeframe:</b> Ongoing. Establish objective priorities with project ranking/scoring within 16 months of Housing Element adoption. <b>Responsible Agency:</b> City of Newport Beach Community Development <b>Funding Sources:</b> Affordable Housing Fund, based upon available funds</p>
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***Policy Action 3I: Public Information About Affordable Housing***

The City will continue to maintain a brochure of incentives offered by the City for the development of affordable housing including fee waivers, expedited processing, density bonuses, and other incentives. A copy of this brochure shall be located at the Planning Counter, on the City’s website and shall also be provided to potential developers.

The City will update the brochure as needed to provide updated information regarding incentives including updated fees and a reference to the most up to date Site Analysis and Inventory.



**Timeframe:** Ongoing  
**Responsible Agency:** City of Newport Beach Community Development  
**Funding Sources:** General Fund

***Policy Action 3J: Priority in Kind Assistance for Affordability***

The City shall provide more assistance for projects that provide a higher number of affordable units or a greater level of affordability. At least 15 percent of units shall be affordable when assistance is provided from Community Development Block Grant (CDBG) funds or the City’s Affordable Housing Fund. The City will continue to implement the program as housing projects are submitted to the City in the 6<sup>th</sup> Cycle.

**Timeframe:** Ongoing  
**Responsible Agency:** City of Newport Beach Community Development  
**Funding Sources:** General Fund

***Policy Action 3K: Coastal Zone Development Affordability***

The City shall follow Government Code Section 65590 and implement Municipal Code Titles 20.34 and 2134 “Conversion or Demolition of Affordable Housing” for new developments proposed in the Coastal Zone areas of the City. All required affordable units shall have restrictions to maintain their affordability for a minimum of 55 years.

**Timeframe:** Ongoing  
**Responsible Agency:** City of Newport Beach Community Development  
**Funding Sources:** General Fund

***Policy Action 3L: Proactive Education and Outreach to Prospective Developers***

The City will continue to advise and educate existing landowners and prospective developers of affordable housing development opportunities available within Banning Ranch, the Airport Area, West Newport Mesa, Dover-Westcliff, Newport Center, Mariners’ Mile, and Balboa Peninsula areas. The City of Newport Beach will continue to implement its program as prospective developers contact the City seeking development information. The City will maintain designated staff persons that can be contacted to provide housing opportunity information and incentives for development of affordable housing during the 6<sup>th</sup> Cycle.

**Timeframe:** Ongoing  
**Responsible Agency:** City of Newport Beach Community Development  
**Funding Sources:** General Fund

***Policy Action 3M: Regional Coordination of Housing Issues***

The City will continue to participate in other programs that assist production of housing. The City will attend quarterly OCHA (Cities Advisory Committee) meetings to keep up to date on rehabilitation programs offered by the County in order to continuously inform homeowners and rental property owners within the City of opportunities and to encourage preservation of existing housing stock in the 6<sup>th</sup> Cycle.

**Timeframe:** Ongoing  
**Responsible Agency:** City of Newport Beach Community Development  
**Funding Sources:** General Fund



***Policy Action 3N: Housing Impact Studies***

The City will continue to study housing impacts of proposed larger-scale, significant commercial/industrial projects during the development review process. Prior to project approval, a housing impact assessment shall be developed by the City with the active involvement of the developer. Such assessment shall indicate the magnitude of jobs to be created by the project, where housing opportunities are expected to be available, and what measures (public and private) are requisite, if any, to ensure an adequate supply of housing for the projected labor force of the project and any restrictions on development due to the City “Charter Section 423”. The City will continue to implement such program as major commercial/industrial projects are submitted to the City in the 6<sup>th</sup> Cycle.

**Timeframe:** Ongoing  
**Responsible Agency:** City of Newport Beach Community Development  
**Funding Sources:** General Fund

***Policy Action 3O: Single Resident Occupancies (SROs)***

The City will continue to study housing impacts of proposed larger-scale, significant commercial/industrial Use State and federal funding to continue to provide assistance and make provisions for development of single-room occupancy (SRO) housing and other forms of housing for people experiencing homelessness in the City. The City will ensure that such housing options include reasonable accommodations and supportive services for people with disabilities. The City will seek to encourage the development of at least one SRO development within the Planning Period.

**Timeframe:** Ongoing, with targeted outreach on an annual basis.  
**Responsible Agency:** City of Newport Beach Community Development  
**Funding Sources:** : To be determined as State and federal funding sources become available.

***Policy Action 3P: Residential Care Facilities***

The City will review and amend the permitting procedures, application requirements, and development standards applicable to residential care facilities for persons of 7 or more to ensure consistency with state and federal laws to promote objectivity and greater approval certainty.

**Timeframe:** By October 2022 and amend the Zoning Code by April 2023 if needed.  
**Responsible Agency:** City of Newport Beach Community Development  
**Funding Sources:** General Fund.



## Housing Goal #4

**Housing opportunities for as many renter- and owner-occupied households as possible in response to the market demand and RHNA obligations for housing in the City.**

**Housing Policy 4.1:** Mitigate potential governmental constraints to housing production and affordability by increasing the City’s role in facilitating construction of market-rate housing and affordable housing for all income groups.

**Housing Policy 4.2:** Enable construction of new housing units sufficient to meet City quantified goals by identifying adequate sites for their construction.

### *Implementation Actions*

#### ***Policy Action 4A: Affirmatively Furthering Fair Housing***

Pursuant to AB 686, Chapter 958, Statutes 2018, the City will affirmatively further fair housing by taking meaningful actions in addition to resisting discrimination, that overcomes patterns of segregation and fosters inclusive communities free from barriers that restrict access to opportunity based on protected classes, as defined by State law.

To accomplish this, the City or designated contracted organization will collaborate with local and regional organizations to review any housing discrimination complaints, assist in dispute resolution, and, where necessary, refer complainants to appropriate state or federal agencies for further investigation, action, and resolution.

Section 3 of this Housing Element contains an analysis of fair housing activities in Newport Beach and the Orange County region.

The analysis found that:

- The City does not have any racial or ethnic groups that score higher than 60 on the dissimilarity index, indicating that while the City of Newport Beach has no racial or ethnic populations with a dissimilarity index above 60, all populations (with the exception of the Hispanic/Latino population) have a score above 30, meaning all groups experience moderate segregation from the White population.
- The City does not have any racially or ethnically concentrated census tracts (R/ECAPs) as identified by HUD. This indicates that there are no census tracts within Newport Beach with a non-white population of 50 percent or more or any census tracts that have a poverty rate that exceeds 40 percent or is three or more times the average tract poverty rate for the metropolitan/micropolitan area. However, one R/ECAP was identified in the neighboring City of Irvine, near the University of California Irvine. This will be considered in the housing plan as students within the R/ECAP may look for housing in Newport Beach.





- The UC Davis Regional Opportunity Index shows that most residents within Newport Beach have a high level of access to opportunity throughout the majority of the City, with only two census tracts showing low access to opportunity.
- The analysis of the TCAC/HCD opportunity Area Maps shows that most census tracts in Newport Beach are classified with the “Moderate Resource” “High Resource” or “Highest Resource” designation. This indicates that these census tracts are within the top 40 percent in the region in terms of areas that lower-income residents may thrive if given the opportunity to live there. All but two census tracts within Newport Beach register within the top 20 percent in the index. One census tract registered as a “Low Resource” area, citing high economic opportunity and low educational opportunity.
- The Opportunity Indices identify overall high access to quality resources including economic and job proximity, educational access, and transportation access. However, there is a low health index, indicating increased pollution and low environmental quality across all racial/ethnic groups in the City. The opportunity indices identify low affordable transportation options to both the Asian or Pacific Islander (Non-Hispanic) and Native American (Non-Hispanic). Additionally, the index identified that households who earn below the poverty rate in Newport Beach have lower levels of opportunity access across all indicators as well as race and ethnicities.
- Racially Concentrated Areas of Affluence (RCAA) are characterized by census tract areas in which 80 percent or more of the population is White and that have a median income of at least \$125,000. There are 12 census tracts within the City that are identified as RCAAs.
- Newport Beach and the State have the same rate of home ownership, but residents of Newport Beach experience higher rates of cost burden. Housing adequacy and affordability are similar in both the City and State, where California has a slightly higher rate of affordability.
- Newport Beach scored a 3.9 AllTransit performance score, illustrating a low combination of trips per week and number of jobs accessible that enable a moderate number of people to take transit to work. In total, 138,164 jobs are accessible within a 30-minute trip from Newport Beach, however just 0.55 percent of commuters use transit. By comparison, Newport Beach scored lower than neighboring jurisdictions of Costa Mesa (5.4), Huntington Beach (4.4), and Irvine (3.6), however slightly higher than Laguna Beach (3.8). Overall, the City of Newport Beach has a lower AllTransit score than the County of Orange (3.9) in Newport Beach and 4.2 in the County).

During the planning period, the City will take the following explicit actions to address and implement Fair Housing issues and to affirmatively further fair housing in the community:



**Table 4-1: Fair Housing Actions**

Identified Fair Housing Issue	Local Contributing Factors	Geographic Target	City Actions	Priority	Timeline and Metrics
<p><b>Anti-Displacement / Housing Mobility</b></p>	<p>The City does not have any racially or ethnically concentrated census tracts (R/ECAPs) as identified by HUD. This indicates that there are no census tracts within Newport Beach with a non-white population of 50 percent or more or any census tracts that have a poverty rate that exceeds 40 percent or is three or more times the average tract poverty rate for the metropolitan/ micropolitan area. However, one R/ECAP was identified in the neighboring City of Irvine, near the University of California Irvine. This will be considered in the housing plan as students within the R/ECAP may look for housing in Newport Beach.</p>	<p>Airport Area, adjacent to UC Irvine</p>	<p>To help address this issue, the City will take the following actions:</p> <ol style="list-style-type: none"> <li>1. Address potential R/ECAP and Environmental Justice issues by adopting an amendment to include policies addressing environmental justice in the General Plan; and</li> <li>2. Facilitate an annual meeting with representatives from the City of Irvine and UC Irvine or other major employers to address any local affects these R/ECAP areas may have on opportunity for housing in Newport Beach.</li> </ol>	<p>Low</p>	<p>Timeline(s):</p> <p>By December 2024, the City will aim to adopt amendments to the General Plan to include environmental justice policies that promote a reduction in poverty rate, promote diversity, and require consideration of environmental justice principles in City decision-making.</p> <p>Evaluative Metric(s):</p> <ol style="list-style-type: none"> <li>1. The City will strive to meet annually with representatives from the City of Irvine and UC Irvine to review whether the R/ECAP is contributing to any fair housing issues. If determined to be a contributor, the City will coordinate additional actions that will seek to reduce or eliminate the R/ECAP identified adjacent to UC Irvine.</li> </ol>



**Table 4-1: Fair Housing Actions**

Identified Fair Housing Issue	Local Contributing Factors	Geographic Target	City Actions	Priority	Timeline and Metrics
<p><b>Access to Opportunity / Place Based Strategies</b></p>	<p>The UC Davis Regional Opportunity Index shows that most residents within Newport Beach have a high level of access to opportunity throughout the majority of the City, with portions of only two census tracts showing low access to opportunity.</p>	<p>Two census tracts with low access to opportunity. In the following areas:</p> <ol style="list-style-type: none"> <li>In the West Newport Focus Area adjacent to Hoag Hospital</li> <li>In the Airport Focus Area, adjacent to John Wayne Airport</li> </ol>	<p>To help address this issue, the City will take the following actions:</p> <ol style="list-style-type: none"> <li>Adopt and codify accessory dwelling unit (ADU) regulations that facilitate and incentivize ADU development beyond State law minimum requirements, create new housing development incentives and fee waivers, and that provide for access into areas of high opportunity that contribute to the following community development actions: <ul style="list-style-type: none"> <li><i>Increase residential development opportunities;</i></li> <li><i>Maximize infill development in “built-out” neighborhoods; and</i></li> <li><i>Increase affordable housing options.</i></li> </ul> </li> <li>Target outreach to the two census tracts with low access to opportunity; and</li> </ol>	<p>High</p>	<p>Timeline(s):</p> <p>By June 2023, the City will aim to adopt revised ADU regulations. By December 2023, the City will conduct two community workshops that are focused within the geographic target.</p> <p>Evaluative Metric(s):</p> <ol style="list-style-type: none"> <li>The City will seek to produce 20 to 30 ADUs per calendar year within higher resource areas; and</li> <li>The City will seek to make contact with at least 50% of the households in the affected census tracts.</li> </ol>



**Table 4-1: Fair Housing Actions**

Identified Fair Housing Issue	Local Contributing Factors	Geographic Target	City Actions	Priority	Timeline and Metrics
			<p>3. Conduct two community workshops that will accomplish the following:</p> <ul style="list-style-type: none"> <li>○ <i>Identify local issues that are influencing low access to opportunity;</i></li> <li>○ <i>Identify potential solutions to address those local issues;</i></li> <li>○ <i>Identify opportunities to increase the housing supply for all income levels; and</i></li> <li>○ <i>Establish economic development priorities to help stimulate the creation of jobs and access to services.</i></li> </ul>		
<p><b>Access to Opportunity / Place Based Strategies</b></p>	<p>The analysis of the TCAC/HCD opportunity Area Maps shows that most census tracts in Newport Beach are classified with the “Moderate Resource” “High Resource” or “Highest Resource”</p>	<p>Two census tracts with low access to opportunity are in the following areas:</p>	<p>To help address this issue, the City will take the following actions:</p> <ul style="list-style-type: none"> <li>• Adopt an Inclusionary Housing Ordinance (See Policy Action 1K) to ensure lower income units are developed in conjunction</li> </ul>		<p>Timeline(s):</p> <p>Starting 2023, the City will annually review and update its housing-related webpages. Within 6 months of Housing Element adoption, the City will adopt an interim inclusionary housing policy. Within 36 months of Housing Element</p>



**Table 4-1: Fair Housing Actions**

Identified Fair Housing Issue	Local Contributing Factors	Geographic Target	City Actions	Priority	Timeline and Metrics
	<p>designation. This indicates that these census tracts are within the top 40 percent in the region in terms of areas that lower-income residents may thrive if given the opportunity to live there. All but two census tracts within Newport Beach register within the top 20 percent in the index. One census tract registered as a “Low Resource” area, citing high economic opportunity and low educational opportunity.</p>	<ol style="list-style-type: none"> <li>In the West Newport Focus Area adjacent to Hoag Hospital</li> <li>In the Airport Focus Area, adjacent to John Wayne Airport</li> </ol>	<p>with new market-rate development equitably throughout the City and higher resource census tracts;</p> <ul style="list-style-type: none"> <li>Target outreach to two low-access census tracts via mailers or by other means including social media to provide website information about local entrepreneurship and educational opportunities;</li> <li>Maintain and promote the City’s Business Ambassador Program to local residents as a way to support local businesses and entrepreneurship; and</li> <li>Continually update the City’s housing related webpages to ensure current available data.</li> </ul>		<p>adoption, the City will adopt an inclusionary housing ordinance.</p> <p>Evaluative Metric(s):</p> <ol style="list-style-type: none"> <li>By December 2026, the City will aspire to have approved between 750 and 1,000 affordable housing units or to have collected a commensurate in-lieu affordable housing fee for use to subsidize future affordable housing projects;</li> <li>The City will improve upon its existing Business Ambassador Program and will seek to assist at least 35-45 persons annually with establishing their own business opportunities; and</li> <li>The Business Ambassador Program will be advertised within the lower-opportunity census tracts with a goal of reaching at least 50% of the households.</li> </ol>



**Table 4-1: Fair Housing Actions**

Identified Fair Housing Issue	Local Contributing Factors	Geographic Target	City Actions	Priority	Timeline and Metrics
<p><b>Housing Mobility</b></p>	<p>Availability of financing affects a person’s ability to purchase or improve a home. Under the Home Mortgage Disclosure Act (HMDA), lending institutions are required to disclose information on the disposition of loan applications and the income, gender, and race of loan applicants. The primary concern in a review of lending activity is to determine whether home financing is available to residents of a community.</p> <p>According to available data, applicants in the 120 percent median-income or more had the highest rates of loans approved. Of that income category, applicants who reported White had the highest percentage of approval and the number of applications. Applicants in the less than 50 percent of the MSA/MD median-income</p>	<p>Citywide</p>	<p>To help address this issue, the City will take the following actions:</p> <ol style="list-style-type: none"> <li>1. Disseminate online information to the community about home loans and the loan application and approval process;</li> <li>2. Conduct biannually affordable housing workshops with invited guests from the local lending industry and local affordable housing advocates; and</li> <li>3. Conduct annual report of loan dispositions in the City and identify any trends or issues. Provide findings to local lenders and financial institutions.</li> </ol>	<p>Medium</p>	<p>Timeline(s):</p> <p>By June 2023, the City will provide information to the community about home loans and the loan process. By December 2023, the City will conduct its first biannual affordable housing workshop with affordable housing lenders and local affordable housing advocates.</p> <p>Evaluative Metric(s):</p> <ol style="list-style-type: none"> <li>1. The City will seek to reach between 10,000 and 15,000 households with loan information and will further seek to reduce any occurrence of loan disposition discrimination, if found to be prevalent.</li> </ol>



**Table 4-1: Fair Housing Actions**

Identified Fair Housing Issue	Local Contributing Factors	Geographic Target	City Actions	Priority	Timeline and Metrics
	<p>categories were showed higher percentages of denied loans than loans originated. According to the data, applicants who reported white were, on average, more likely to be approved for a loan than another race or ethnicity.</p>				
<p><b>Access to Opportunity</b></p>	<p>The majority of the City of Newport Beach is classified as a high opportunity zone. This indicates a high level of relative opportunities that people can achieve as well as a high level of relative opportunities that Newport Beach provides.</p> <p>While most of the census tracts within the City are areas of high opportunity, there are two census tracts identifying as low opportunity. Together these areas contain 86 sites which</p>	<p>Citywide w/ focus on two census tracts in the following locations:</p> <ol style="list-style-type: none"> <li>In the West Newport Focus Area adjacent to Hoag Hospital</li> <li>In the Airport</li> </ol>	<p>To help address this issue, the City will take the following actions:</p> <ul style="list-style-type: none"> <li>Conduct two public workshops for residents of the two census tracts identifying as lower opportunity;</li> <li>Collaborate with the Chamber of Commerce to disseminate economic opportunity through entrepreneurship, job training on the City's website;</li> <li>Maintain and promote the City's Business Ambassador Program to local residents as a way to support local businesses and entrepreneurship; and</li> </ul>		<p>Timeline(s):</p> <p>Within the first half of the planning period, the City will conduct two public workshops on entrepreneurship and job training.</p> <p>Evaluative Metric(s):</p> <ol style="list-style-type: none"> <li>The City will improve upon its existing Business Ambassador Program and will seek to assist at least 35-45 persons annually with establishing their own business opportunities; and</li> <li>The Business Ambassador Program will be advertised within the lower-opportunity census tracts with a goal</li> </ol>



**Table 4-1: Fair Housing Actions**

Identified Fair Housing Issue	Local Contributing Factors	Geographic Target	City Actions	Priority	Timeline and Metrics
	<p>accommodate 1,941 potential units intended to meet the City’s RHNA for lower-income units (shown in <b>Section 3: Housing Resources</b> and outlined in <b>Appendix B</b>).</p> <p>The data for both regions with lower opportunity show very low housing access, but conversely show high civic life, health, transportation, economic and educational access..</p> <p>Therefore, the consideration and identification of these areas for housing, affordable to low and very low-income households will address the deficiency to housing access in these otherwise high opportunity and high resources areas.</p>	<p>Focus Area, adjacent to John Wayne Airport</p>	<ul style="list-style-type: none"> <li>• Provide direct contact to residents within the lower opportunity census tracts via mailers or other means including social media to invite them to workshop.</li> </ul>		<p>of reaching at least 50% of affected households.</p>





**Table 4-1: Fair Housing Actions**

Identified Fair Housing Issue	Local Contributing Factors	Geographic Target	City Actions	Priority	Timeline and Metrics
<p><b>Access to Opportunity</b></p>	<p>Access to education is generally above average in Newport Beach. Additionally, access to quality education system is high among all racial/ethnic groups (each group has an opportunity index score above 80).</p>	<p>Citywide</p>	<p>To further improve access to education, the City will take the following action:</p> <ol style="list-style-type: none"> <li>1. Conduct an annual meeting with local educational institutions to discuss housing needs related to education</li> </ol>	<p>High</p>	<p>Timeline(s):</p> <p>Beginning 2023, the City will conduct meetings annually with local educational institutions.</p> <p>Evaluative Metric(s):</p> <ol style="list-style-type: none"> <li>1. The City will leverage the input from the annual meetings to identify up to two additional City policies or actions that will help enhance access to education.</li> </ol>
<p><b>Place Based Strategies / Access to Opportunity</b></p>	<p>The City of Newport Beach has a low transit performance score overall. The City has identified low- and very low-income housing opportunity sites in the Airport Area Environs in the north, the West Newport Mesa Area in the west, and the Newport Center Area in the central area of the City. While these three areas of the City have low transit performance scores, they have high connectivity scores compared to other areas throughout the City. Households within these</p>	<p>Citywide, with focus on the Airport Area environs.</p>	<p>To help improve access to transit, the City will take the following actions:</p> <ol style="list-style-type: none"> <li>1. In adopting the annual Capital Improvements Program (CIP), the City will seek and consider projects that will help improve access to transit near housing opportunity sites;</li> <li>2. Maintain a proactive working partnership with the Orange County Transportation Authority (OCTA) to continue to plan and coordinate public transit routes to serve existing community facilities and future development.</li> </ol>	<p>Medium</p>	<p>Timeline(s):</p> <p>Starting with the adoption of the FY23-24 Capital Improvement Program , the City will annually consider projects that enhance access to transit in the targeted areas of need. By December 2024, the City will consider updating the Land Use Element to include policies encouraging denser residential near transit stops.</p> <p>Evaluative Metric(s):</p> <ol style="list-style-type: none"> <li>1. The City will seek improve or trend the City’s AllTransit Score from 3.9 to 5.0 or greater by the end of the Housing Elementplanning period.</li> </ol>



**Table 4-1: Fair Housing Actions**

Identified Fair Housing Issue	Local Contributing Factors	Geographic Target	City Actions	Priority	Timeline and Metrics
	<p>areas have better access to jobs and key destinations through transit than those located elsewhere in the City. The majority of the low- and very low-income sites were strategically located within the Airport Area Environs, West Newport Mesa Area, and the Newport Center Area to take advantage of the increased transportation assets within these areas.</p>		<p>Continue to provide local input on the Long-Range Transportation Plan (LRTP); and</p> <p>3. With the Land Use Element Update, the City will consider policies that would encourage denser housing projects closer to transit stops consistent with the housing opportunity sites identified in Appendix B.</p>		
<p><b>Place Based Strategies / Displacement</b></p>	<p>The City of Newport Beach has very high comparative rental and sales prices. The cost of housing limits upward mobility and the costs of upkeep, repairs or rehabilitation, especially for older housing units, may be prohibitive for some segments of the population.</p>	<p>Citywide</p>	<p>To help address this issue, the City will take the following actions:</p> <p>1. Continue to provide quarterly and virtual training to landlords and tenants on fair housing requirements including allowable rent increases, source of income discrimination, and benefits of marketing housing units for vouchers to expand the locations of registered units in the City. Provide update information on the City's website;</p>	<p>Medium</p>	<p>Timeline(s):</p> <p>By December 2023, the City will revamp and provide updated information on the website related to fair housing.</p> <p>Within 6 months of Housing Element adoption, the City will adopt an interim inclusionary housing policy.</p> <p>Within 36 months of Housing Element adoption, the City will adopt an inclusionary housing ordinance.</p> <p>Evaluative Metric(s):</p>



**Table 4-1: Fair Housing Actions**

Identified Fair Housing Issue	Local Contributing Factors	Geographic Target	City Actions	Priority	Timeline and Metrics
			<ol style="list-style-type: none"> <li>2. Encourage development of ADUs in high opportunity areas through targeted public outreach, user-friendly websites, pre-approved standard plans, fee waivers, and priority processing; and</li> <li>3. Incentivize development of affordable housing units through inclusionary housing policies (Policy 1K).</li> </ol>		<ol style="list-style-type: none"> <li>1. Ensure the provision of quarterly fair housing educational workshops conducted by a qualified fair housing service provider;</li> <li>2. The City will seek to assist at least 5 households annually through rehab assistance. The City will seek to abate 75% of major deferred maintenance incidents during the planning period; and</li> <li>3. The City will seek to produce 20 to 30 ADUs per calendar year within higher resource areas.</li> </ol>
<p><b>Access to Opportunity</b></p>	<p>There are approximately 12 census tracts that are considered racially concentrated areas of affluence (RCAA) in the City.</p> <p>The RCAA areas are clustered throughout the City predominately in the east and along the southern and western boundaries of the City. The concentrations of lower income households located in the northern,</p>	<p>Citywide, predominately in the east and along the southern and western boundaries of the City</p>	<p>To help address this issue, the City will take the following actions:</p> <ol style="list-style-type: none"> <li>1. Conduct summary review of RCAA census tracts to identify potential redlining; and</li> <li>2. Use findings from redlining study to develop potential greenlining policies that can be employed to benefit RCAA areas.</li> </ol>	<p>Medium</p>	<p>Timeline(s):</p> <p>By June 2024, the City will conduct a summary review of RCAA census tracts. By June 2025, the City will use findings from the study to develop potential policies.</p> <p>Evaluative Metric(s):</p> <ol style="list-style-type: none"> <li>1. The City will seek to reduce the incidents of unlawful redlining (if found) in these RCAA by between 35-50% during the planning period.</li> </ol>



**Table 4-1: Fair Housing Actions**

Identified Fair Housing Issue	Local Contributing Factors	Geographic Target	City Actions	Priority	Timeline and Metrics
	<p>western, and central areas of the City are in high income areas surrounded by RCAAs.</p> <p>The location of these area provides affordable housing opportunities within areas with high access to resources.</p>				



The City will maintain compliance with Fair Housing Laws and Regulations. The City will annually review and, if necessary, amend its Municipal Code to comply with State Housing Laws and Fair Housing Laws and Regulations.

**Timeframe:** Review annually, amend actions and modify Municipal Code as necessary to continue to affirmatively further fair housing and comply with State Housing Laws and Fair Housing Laws and Regulations.  
**Responsible Agency:** City of Newport Beach Community Development  
**Funding Sources:** General Fund

***Policy Action 4B: Streamlined Project Review***

The City will provide a streamlined “fast-track” development review process for proposed affordable housing developments. The City of Newport will continue to implement this program as affordable housing projects are submitted to the City in the 6<sup>th</sup> Cycle.

**Timeframe:** Evaluate program features within 24 months, Adopt updated procedures within 36 months of Housing Element adoption  
**Responsible Agency:** City of Newport Beach Community Development  
**Funding Sources:** General Fund

***Policy Action 4C: Density Bonus and Incentives for Affordable Housing***

The City will update its Density Bonus Ordinance (Newport Beach Municipal Code Chapter 20.32) to be consistent with State Law, as amended. Additionally, the City shall either grant a density bonus as required by state law if requested, or provide other incentives of equivalent financial value when a residential developer agrees to construct housing for persons and families of very low, low, and moderate-income above mandated requirements. The City will continue to implement provisions of Chapter 20.32, as amended (Density Bonus) of the Zoning Code as housing projects are submitted to the City during the 6<sup>th</sup> Cycle. The City will further encourage affordable housing and the potential use of density bonus statutes to accommodate additional affordable units.

**Timeframe:** Update to Newport Beach Municipal Code Chapter 20.32 within 12 months of the adoption of this Housing Element and implement future updates to maintain consistency with applicable State law on an ongoing basis.  
**Responsible Agency:** City of Newport Beach Community Development  
**Funding Sources:** General Fund

***Policy Action 4D: List of Pre-Approved Development Incentives***

The City will develop a pre-approved list of incentives and qualifications for such incentives to promote the development of affordable housing. Such incentives could include the waiver of application and development fees or modification to development standards (e.g., setbacks, lot coverage, etc.). The City will continue to work with the Affordable Housing Task Force to develop the list within the 6<sup>th</sup> Cycle.

**Timeframe:** Evaluate program features within 24 months, Adopt procedures within 36 months of Housing Element adoption  
**Responsible Agency:** City of Newport Beach Community Development  
**Funding Sources:** General Fund



***Policy Action 4E: Airport Area Policy Exceptions for Affordable Housing***

The City recognizes that General Plan Policy LU6.15.6 may result in a potential constraint to the development of affordable housing in the Airport Area, and as a result, the City shall maintain an exception to the minimum 10-acre village requirement for projects that include a minimum of 30 percent of the units affordable to lower-income households. It is recognized that allowing a smaller scale development within an established commercial and industrial area may result in land use compatibility problems and result in a residential development that does not provide sufficient amenities (i.e., parks) and/or necessary improvements (i.e., pedestrian walkways). Therefore, it is imperative that the exception includes provisions for adequate amenities, design considerations for the future integration into a larger residential village, and a requirement to ensure collaboration with future developers in the area. The City of Newport Beach will maintain the exception and continue to implement this program as projects are submitted to the City in the 6<sup>th</sup> Cycle.

<p><b>Timeframe:</b> Ongoing <b>Responsible Agency:</b> City of Newport Beach Community Development <b>Funding Sources:</b> General Fund</p>
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***Policy Action 4F: Encourage Development of Opportunity Sites***

The City will continue to encourage and facilitate residential and/or mixed-use development on sites listed in Appendix B by providing technical assistance to interested developers with site identification and entitlement processing. The City will continue to support developers funding applications from other agencies and programs.

The City shall post the Sites Inventory, as showing in Appendix B on the City’s webpage and produce marketing materials for residential and mixed-use opportunity sites, and it will equally encourage and market the sites for both for-sale development and rental development. The City shall educate developers of the benefits of density bonuses and related incentives, identify potential funding opportunities, offer expedited entitlement processing, and offer fee waivers and/or deferrals to encourage the development of affordable housing within residential and mixed-use developments. The City will continuously implement this program as housing projects are submitted to the City. Review and update as necessary the Site Inventory and provide information to interested developers.

<p><b>Timeframe:</b> Ongoing <b>Responsible Agency:</b> City of Newport Beach Community Development <b>Funding Sources:</b> General Fund</p>
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***Policy Action 4G: Annual RHNA Sites Inventory Monitoring***

The City will monitor and evaluate the development of vacant and underdeveloped parcels on an annual basis and report the success of strategies to encourage residential development in its Annual Progress Reports required pursuant to Government Code 65400. The City of Newport will respond to market conditions and will revise or add additional sites where appropriate or add additional incentives, if identified strategies are not successful in generating development interest. The City will include the report in its annual General Plan Status Report including Housing Element Report to OPR and HCD by April 1st each year.



**Timeframe:** Ongoing, Annual  
**Responsible Agency:** City of Newport Beach Community Development  
**Funding Sources:** General Fund

***Policy Action 4H: Review Mixed-Use Zones***

As part of the 2006 Comprehensive General Plan Update and 2010 Zoning Code Update, new mixed-use housing opportunity zones were created throughout the City as a strategy to enhance and revitalize underperforming and underutilized properties. These areas included the Airport Area, Dover/Westcliff, Newport Center, Mariners Mile, and portions of the Balboa Peninsula. The Airport Area and Newport Center have proven the most successful with several approved and constructed mixed-use developments, such as Uptown Newport and Villas Fashion Island. The Balboa Peninsula has had some limited success while Dover/Westcliff and Mariners’ Mile have not proven successful to-date.

Despite the housing opportunity that was created in these areas, a majority of these sites remain underutilized with a single, non-residential use, such as retail or office. It is evident the City’s existing development standards (e.g., setbacks, height, density, parking, dedications, etc.) related to mixed-use development may create constraints to the redevelopment of these properties.

Therefore, to ensure that mixed-use opportunities are maximized, the City will review established mixed-use land use categories and corresponding zoning regulations in the City and recommend policy or code changes to the City Council that reduce regulatory barriers and incentivize mixed-use residential development.

**Timeframe:** Complete the review and provide recommendations to the City Council within 12 months of Housing Element Adoption, and then complete a review annually thereafter.  
**Responsible Agency:** City of Newport Beach Community Development  
**Funding Source:** General Fund

***Policy Action 4I: Establish Mixed-Use Resort Opportunities***

Mixed-use resorts are an established trend in the hospitality industry that incorporate hotel-branded residential units as an accessory use located within a resort hotel complex where residents enjoy access to the full range of services, facilities, and amenities provided by the hotel operator or brand. The residential use cannot exist without the hotel’s services, facilities, and amenities.

The hotel industry has been one of the hardest hit industries due to the COVID-19 pandemic and a full recovery of the industry is not anticipated for many years. Mixed-use resorts provide an opportunity to revitalize older or underperforming hotels and maintain their competitive standing by creating multiple revenue streams.

Economies of scale created by shared facilities, amenities, and services add additional benefit to mixed-use resort developments. This cross pollination of business benefits both the hotel and the resident. It may also increase occupancy rates at the resort by creating increased synergy between uses and social gathering opportunities, boosting transient occupancy taxes while providing in-fill housing opportunities to partially assist the City in meeting its RHNA obligation in highly desirable and built-out areas.



Incorporating residences also helps to off-set cyclical variations in hotel occupancy rates that can, for instance, result in seasonal decreases in revenue for the hotel’s food and beverage offerings.

Therefore, to further encourage and incentivize the development of mixed-use hotels, the City will consider policies, regulations and/or interpretations to: 1) clarify ambiguities in General Plan, Zoning Code, and/or Local Coastal Plan Program provisions to allow hotels and motels, located outside of the Coastal Commission Appeal Areas, to convert up to thirty percent (30%) of their permitted hotel and motel rooms into residential units on a one-for-one basis; 2) establish parking programs (e.g., shared parking) and/or reduced residential parking requirements that mitigate the need for any additional parking due to the conversion to residential use; 3) require a fiscal impact analysis to disclose and mitigate any reduction in transient occupancy tax due to a potential conversion; 4) increase the flexibility in use of transfer of development rights to allow for transfer of unbuilt residential units to hotel sites; 5) require property owners converting permitted hotel and motel rooms into residential units to mitigate impacts to on affordable housing production by either constructing affordable housing units within the development or through a contribution of in-lieu fees; 6) require mitigation of impacts to public access for potential conversions located within the Coastal Zone; and 7) require property owners converting permitted hotel and motel rooms into residential units to enter into a development agreement to ensure implementation of this policy at the project level.

**Timeframe:** Establish policies, regulations and/or interpretations within 24 months of Housing Element Adoption.

**Responsible Agency:** City of Newport Beach Community Development

**Funding Source:** General Fund

#### ***Policy Action 4J: Airport Environs Sub Area Environmental Constraints***

As discussed in Section 3 (Analysis of Exacerbating Current Conditions), the Airport Area is potentially exposed to heightened noise and a lower environmental score primarily due to the proximity of John Wayne Airport.

The City will take the following actions to address potential environmental constraints in the Airport Environs Sub Area and ensure continued feasibility of sites, particularly for lower-income RHNA:

- Require new residential development projects in the Airport Environs Sub Area provide noise studies and acoustical analyses to ensure designs include proper sound attenuation;
- Require new residential development projects in the Airport Environs Sub Area to explore advanced air filtration systems for buildings to promote cleaner air;
- Encourage on-site indoor amenities, such as fitness facilities or recreation and entertainment facilities; and
- Continue to implement park dedication requirements consistent with the City’s Park Dedication ordinance and Land Use Element Policy LU 6.15.13 (Neighborhood Parks – Standards) and Policy LU 6.15.16 (On-Site Recreation and Open Space) to ensure adequate recreational space to ensure at least 8-percent of a project’s gross land area (exclusive of existing rights-of-way) of the first phase for any development in each neighborhood or ½ acre, whichever is greater, is developed as a neighborhood park, unless waived through Density Bonus Law.





**Timeframe:** Ongoing  
**Responsible Agency:** City of Newport Beach Community Development  
**Funding Source:** General Fund

***Policy Action 4K: West Newport Mesa Environmental Constraints***

As discussed in Section 3 (Analysis of Exacerbating Current Conditions), the West Newport Area is possibly exposed to heightened noise and pollutants largely due to a historic concentration of industrial type uses in the area.

The City will take the following actions to address environmental constraints and ensure feasibility of sites, particularly for lower-income RHNA, in the West Newport Mesa Area:

- Continue to coordinate with the South Coast Air Quality Management District (SCAQMD) and other responsible regulatory agencies to monitor compliance of industrial operators on an as-needed basis if any issues are identified;
- Closely examine new light industrial uses that may locate in the area to avoid and mitigate potential environmental impacts to ensure the use/activity is compatible with nearby residential uses;
- Provide a Code Enforcement Division response when complaints are made and track the nature of the complaints; review for trends or patterns that may require stronger enforcement actions to abate identified nuisances;
- Require implementation of the West Newport Mesa Streetscape Master Plan for new private development projects and consider including improvement projects in the City’s Capital Improvements Program (CIP);
- Consider including residential-serving commercial as part of a zoning overlay (or similar rezoning mechanism) to support the future residents and to allow zoning flexibility beyond the underlying industrial zoning limits as part of the overall rezoning program within 36 months of Housing Element adoption; and
- Pursue the siting and development of a community center to serve the West Newport area. If a potential site is identified, the Community Development Department will research the feasibility from a land use and entitlement perspective and will present findings during at least one study session with the City Council.

**Timeframe:** Ongoing  
**Responsible Agency:** City of Newport Beach Community Development  
**Funding Source:** General Fund

***Policy Action 4L: Coyote Canyon Environmental Constraints***

As noted, the Coyote Canyon property is located on a closed landfill or is proximate to the landfill. The bulk of conceptual residential development is sited away from former landfill areas; however, the City understands the importance of ensuring the health and safety of future residents and the surrounding neighborhood.

The City will take the following actions to address environmental constraints on the Coyote Canyon landfill site:



- During the Coyote Canyon project design and entitlement phase, work closely with developer(s) and property owner(s) to ensure all residential units and construction comply with the proper building and safety code requirements (e.g., ensure seismic standards are met, provide appropriately designed landfill gas mitigation); and
- Implement the requirements of California Environmental Quality Act and other applicable environmental regulations.

**Timeframe:** Ongoing  
**Responsible Agency:** City of Newport Beach Community Development  
**Funding Source:** General Fund

**Housing Goal #5**  
**Preservation of the City’s housing stock for extremely low-, very low-, low-, and moderate-income households.**

**Housing Policy 5.1:** Continue or undertake the following programs to mitigate potential loss of “at risk” units due to conversion to market-rate units. These efforts utilize existing City and local resources. They include efforts to secure additional resources from public and private sectors should they become available.

**Housing Policy 5.2:** Improve energy efficiency of all housing unit types (including mobile homes).

**Implementation Actions**

**Policy Action 5A: Preservation of Affordability Covenants**

The City will contact owners of 19 affordable units approaching the expiration of affordability covenants to obtain information regarding their plans for continuing affordability on their properties, inform them of financial resources available, and to encourage the extension of the affordability agreements for the developments listed beyond the years noted.

The City will conduct an annual compliance monitoring program and a contact list shall be maintained on City website and updated annually during the 6<sup>th</sup> Cycle.

**Timeframe:** Ongoing, as necessary  
**Responsible Agency:** City of Newport Beach Community Development  
**Funding Sources:** General Fund

**Policy Action 5B: Section 8 Participation**

The City shall maintain information on the City’s website and prepare written communication for tenants and other interested parties about Orange County Housing Authority Section 8 opportunities and to assist tenants and prospective tenants acquire additional understanding of housing law and related policy issues.

The City will attend quarterly OCHA (Cities Advisory Committee) that provide updates on OCHA Section 8 waiting list and housing opportunities to ensure information provided on City website is up to date. If



Section 8 waiting list is opened, promote the availability of the program through marketing materials made available to the public.

**Timeframe:** Ongoing, Annual  
**Responsible Agency:** City of Newport Beach Community Development  
**Funding Sources:** General Fund

***Policy Action 5C: Incentivize for Preserving of Affordability Covenants***

The City will investigate the potential for providing additional incentives or modify its current policy to incentivize property owners to maintain the affordability of units on their property during the 6<sup>th</sup> Cycle.

**Timeframe:** Investigate and adopt incentives, as appropriate, within 24 months of Housing Element Adoption  
**Responsible Agency:** City of Newport Beach Community Development  
**Funding Sources:** General Fund

***Policy Action 5D: Mobile Home Park Conversions***

The City will continue to employ the provisions of NBMC Title 20 provision of the Mobile Home Park Overlay to maintain and protect mobile home parks in a stable environment with a desirable residential character. The City will review the existing provisions of the Mobile Home Park Overlay for consistency with State law in accordance with Government Code Section 65863.7. The City will continue to implement program as projects are submitted to the City.

**Timeframe:** Ongoing  
**Responsible Agency:** City of Newport Beach Community Development  
**Funding Sources:** General Fund

***Policy Action 5E: Orange County Housing Authority Advisory Committee***

The City of Newport Beach will continue to participate as a member of the Orange County Housing Authority (OCHA) Advisory Committee and work in cooperation with the OCHA to provide Section 8 Rental Housing Assistance to residents of the community. The City will continue to attend quarterly OCHA (Cities Advisory Committee). Continue to maintain information on City’s website informing landlords of the program benefits of accepting Section 8 Certificate holders.

The City will, in cooperation with the Housing Authority, recommend and request use of modified fair-market rent limits to increase the number of housing units within the City that will be eligible to participate in the Section 8 program. The Newport Beach Planning Division will prepare and implement a publicity program to educate and encourage landlords within the City to rent their units to Section 8 Certificate holders, and to make very low-income households aware of availability of the Section 8 Rental Housing Assistance Program.

**Timeframe:** Ongoing  
**Responsible Agency:** City of Newport Beach Community Development  
**Funding Sources:** General Fund



***Policy Action 5F: Water Efficiency for Residential Projects***

The City will continue to implement and enforce the Water Efficient Landscape Ordinance and Landscape and Irrigation Design Standards in compliance with AB 1881 (Chapter 559 Statutes 2006). The ordinance establishes standards for planning, designing, installing, and maintaining and managing water-efficient landscapes in new construction and rehabilitated projects. The City will continue to implement such program as housing projects are submitted to the City. The City will also encourage the retrofit of existing residential developments to install water efficient appliances and fixtures.

**Timeframe:** Ongoing  
**Responsible Agency:** City of Newport Beach Community Development  
**Funding Sources:** General Fund

***Policy Action 5G: Energy Efficiency in Residential Projects***

The City of Newport Beach will continue to require that any affordable housing developments that receive City assistance from Community Development Block Grant (CDBG) funds or from the City’s Affordable Housing Fund shall be required, to the extent feasible, to include installation of energy efficient appliances and devices that will contribute to reduced housing costs for future occupants of the units. The City will continue to implement program as housing projects are awarded funds from the City in the 6<sup>th</sup> Cycle.

**Timeframe:** Ongoing  
**Responsible Agency:** City of Newport Beach Community Development  
**Funding Sources:** General Fund & Community Development Block Grant (CDBG) funds

**Housing Goal #6**

**Housing opportunities for special needs populations.**

**Housing Policy 6.1:** Encourage approval of housing opportunities for senior citizens and other special needs populations.

***Implementation Actions***

***Policy Action 6A: Homeless Program Assistance***

In the 5<sup>th</sup> Cycle, the City was successful in providing funding to local organizations for providing shelter and services to the individuals experiencing homelessness.

The City will continue to apply annually for United States Department of Urban Development Community Development Block Grant (CDBG) funds and allocate a portion of such funds to sub-recipients who provide shelter and other services for the homeless as well as submit Annual Action Plan to HUD in May of each year.

**Timeframe:** Ongoing  
**Responsible Agency:** City of Newport Beach Community Development  
**Funding Sources:** General Fund



***Policy Action 6B: Repair Loans and Grant Programs for Seniors, Persons with Physical and Developmental Disabilities and Lower-Income Households***

The City, in partnership with OASIS Senior Center and Habitat for Humanity Orange County, has developed a Senior Home Repair Assistance Program (SHARP) that is aimed at assisting low-income seniors in need of critical home repair or modifications due to accessibility needs, safety concerns, health and well-being. The program is available to homeowners aged 60 and older who fall within the 50<sup>th</sup> percentile of the Orange County median-income.

Additionally, the City will continue to cooperate with the Orange County Housing Authority to pursue establishment of a Senior/Disabled or Limited Income Repair Loan and Grant Program to underwrite all or part of the cost of necessary housing modifications and repairs. Cooperation with the Orange County Housing Authority will include continuing City of Newport Beach participation in the Orange County Continuum of Care and continuing to provide CDBG funding.

The City will continue to attend quarterly OCHA (Cities Advisory Committee) meetings to keep up to date on rehabilitation programs offered by the County in order to continuously inform homeowners and rental property owners within the City of opportunities and to encourage preservation of existing housing stock.

**Timeframe:** Ongoing

**Responsible Agency:** City of Newport Beach Community Development

**Funding Sources:** General Fund

***Policy Action 6C: Leverage CDGB and other Federal Formula Grant Funding***

The City receives annual allocation of CDBG and other Federal formula grant funds for use in a variety of housing-related activities. The City shall make every effort to leverage these annual funds from various agencies to further the City’s housing goals. These may include, but are not limited to, the following State, Regional and private resources:

**State Resources**

- State Low-Income Housing Tax Credit Program
- Building Equity and Growth in Neighborhoods Program (BEGIN)
- CalHome Program
- Multifamily Housing Program (MHP)
- Housing Related Parks Grant
- CalHFA Single and Multi-Family Program
- Mental Health Service Act (MHSA) Funding

**Regional Resources**

- Orange County Housing & Finance Agency (OCHFA) Funding
- Southern California Home Financing Authority (SCHFA) Funding
- Orange County Continuum of Care Program
- Orange County Housing Authority (OCHA) Programs

**Private Resources**

- Federal Home Loan Bank Affordable Housing Program (AHP)



- Community Reinvestment Act Programs
- United Way Funding
- Private Contributions
- Public-Private Partnerships

In addition, the City of Newport Beach will continue to maintain a list of “Public and Private Resources Available for Housing and Community Development Activities” and maintain a list of resources on City website and update as necessary in the 6<sup>th</sup> Cycle.

**Timeframe:** Ongoing  
**Responsible Agency:** City of Newport Beach Community Development  
**Funding Sources:** General Fund

***Policy Action 6D: Child Daycare Facilities***

The City will continue to encourage the development of daycare centers as a component of new affordable housing developments and grant additional incentives in conjunction with the review and approval of density bonus projects pursuant to NBMC Chapter 20.32 (Density Bonus).

**Timeframe:** Modify  
**Responsible Agency:** City of Newport Beach Community Development  
**Funding Sources:** General Fund

***Policy Action 6E: Housing Assistance for Seniors***

The City of Newport Beach was successful in assisting the funding of senior housing services through the 5<sup>th</sup> Cycle. The City shall continue to encourage senior citizen independence through the promotion of housing and services related to in-home care, meal programs, and counseling, and maintain a senior center that affords seniors opportunities to live healthy, active, and productive lives in the City.

The City will encourage and approve senior housing developments if there is a market demand provided the projects include appropriate support services including transportation. Projects that provide housing and services for low- and moderate-income seniors shall take precedence over market-rate senior housing.

The City will continue to provide social services, support groups, health screenings, fitness classes, and educational services at the City’s OASIS Senior Center or other facilities and offer affordable ride-share transportation and meal services to seniors who are unable to drive and/or prepare their own meals or dine out and have little assistance in obtaining adequate meals during the 6<sup>th</sup> Cycle.

**Timeframe:** Ongoing  
**Responsible Agency:** City of Newport Beach Community Development  
**Funding Sources:** General Fund

***Policy Action 6F: Emergency Shelters, Transitional and Supportive Housing***

To comply with State law, the City of Newport Beach will amend certain sections of its Municipal Code to address the following requirements:



- Supportive Housing Streamlined Approvals (AB 2162) - To comply with AB 2162 (Chapter 753, Statutes 2018), the City of Newport Beach will amend its Municipal Code to permit supportive housing as a use permitted by right in all zones where multiple family and mixed-use development is permitted.
- Emergency and Transitional Housing Act of 2019 (AB 139) – The City will update its Municipal Code to comply with the requirements of Gov Code 65583 to address permit requirements, objective standards, analysis of annual and season needs, and parking and other applicable standards and provisions.
- Amend the City of Newport Beach Municipal Code to comply with the definitions for “Supportive Housing,” Supportive Services,” “Target Population” consistent with applicable sections of the California Government Code.
- Amend the Newport Beach Municipal Code to ensure Emergency Shelters, Transitional and Supportive Housing are permitted in appropriate zones, consistent with State law.

**Timeframe:** Adopt Code Amendments within the first year of the planning period.  
**Responsible Agency:** City of Newport Beach Community Development  
**Funding Sources:** General Fund

***Policy Action 6G: Senior Housing Priority Program***

The City has an aging population that will require affordable housing options for its existing and future retirement age population. The City seeks to develop explore the feasibility and appropriateness of proactive policies and programs to address and prioritize the needs of its senior population.

The City will strategically collaborate with the local senior community and organizations providing senior services to evaluate existing programs, policies, procedures and funding priorities. Upon completion of this initial assessment and determination if there are feasible and practical approaches, the City will develop a comprehensive prioritization program for Senior Housing. The prioritization program will establish the specific methodologies for priority ranking, criteria, scoring and related new policies, programs, regulations and incentives as appropriate.

**Timeframe:** Study and evaluate existing policies within 24 months of Housing Element adoption. Establish formal policies, programs and regulations within 36 months of Housing Element adoption If deemed practical and feasible during initial study.  
**Responsible Agency:** City of Newport Beach Community Development  
**Funding Source:** General Fund

**Housing Goal #7**  
**Equal housing opportunities in the City for all people.**

**Housing Policy 7.1:** Support fair and equal housing opportunities, and environmental justice considerations for all housing opportunities in the City.



### *Implementation Actions*

#### ***Policy Action 7A: Supportive Housing / Low Barrier Navigation Centers***

State law has been updated to require approval 'by right' of supportive housing with up to 50 units and low barrier navigation centers that meet the requirements of State law. Low barrier navigation centers are generally defined as service-enriched shelters focused on the transition of persons into permanent housing.

Low barrier navigation centers provide temporary living facilities will persons experiencing homelessness to income, public benefits, health services, shelter, and housing. To comply with State law, the City of Newport Beach will adopt policies, procedures, and regulations for processing this type of use to establish a non-discretionary local permit approval process that must be provided to accommodate supportive housing and lower barrier navigation centers per State law. In the interim, any submitted application for this use type will be processed in accordance with State law.

The City will provide for annual monitoring of the effectiveness and appropriateness of existing adopted policies. Should any amendments be warranted to existing policies pursuant to State law, the City will modify its existing policies, as appropriate.

**Timeframe:** Adopt Code Amendments within first year of the planning period.

**Responsible Agency:** City of Newport Beach Community Development

**Funding Sources:** General Fund

#### ***Policy Action 7B: Transitional and Supportive Housing***

In compliance with Senate Bill 2 (Chapter 364, Statutes 2017) and SB 745 Chapter 185, Statutes 2013 ) the City will ensure the Zoning Code is amended to encourage and facilitates emergency shelters and limits the denial of emergency shelters and transitional and supportive housing under the Housing Accountability Act. This Program would permit transitional and supportive housing by-right in all zones allowing residential uses, subject only to those regulations that apply to other residential uses of the same type in the same zone. In addition, the Zoning Code will be amended to define “supportive housing,” “target population” and “transitional housing” pursuant to state law. The City will continue to monitor the inventory of sites appropriate to accommodate transitional and supportive housing and will work with the appropriate organizations to ensure the needs of homeless and extremely low-income residents are met. The City is committed to prioritizing funding and other available incentives for projects that provide housing for homeless and extremely low-income residents whenever possible.

**Timeframe:** Adopt Code Amendments within 12 months of Housing Element adoption within the first year of the planning period.

**Responsible Agency:** City of Newport Beach Community Development

**Funding Sources:** General Fund

#### ***Policy Action 7C: Housing for Persons with Developmental Disabilities***

The housing needs of persons with developmental disabilities are typically not fully addressed by local zoning regulations. Persons with disabilities may require, in addition to basic affordability, slight modifications to existing units, and in some instances, a varying range of supportive housing facilities. To





accommodate residents with developmental disabilities, the City will review and prioritize housing construction and rehabilitation including supportive services targeted for persons with developmental disabilities.

Newport Beach will also explore the granting of regulatory incentives, such as expedited permit processing, and fee waivers and deferrals, to projects targeted for persons with developmental disabilities. To further facilitate the development of units to accommodate persons with developmental disabilities, the City will encourage development of projects targeted for special needs groups. As housing is developed or identified, Newport Beach will collaborate with the Regional Center of Orange County (RCOC) to implement an outreach program informing families within the City of housing and services available for persons with developmental disabilities. The City will provide information at City Hall and on the City’s website.

<p><b>Timeframe:</b> Adopt Code Amendments within 24 months of Housing Element adoption <b>Responsible Agency:</b> City of Newport Beach Community Development <b>Funding Sources:</b> General Fund</p>
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***Policy Action 7D: Fair Housing Services***

The City was successful in reaching out to the community about fair housing services during the 5<sup>th</sup> Cycle. The City of Newport Beach will continue to contract with an appropriate fair housing service agency for the provision of fair housing services for Newport Beach residents. The City will also work with the fair housing service agency to assist with the periodic update of the Analysis of Impediments to Fair Housing document required by HUD. The City will continue to provide a minimum of two public outreach and educational workshops a year, and distribute pamphlets containing information related to fair housing in the 6<sup>th</sup> Cycle.

<p><b>Timeframe:</b> Ongoing <b>Responsible Agency:</b> City of Newport Beach Community Development <b>Funding Sources:</b> General Fund</p>
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<p><b>Housing Goal #8</b></p>
<p><b>Effective and responsive housing programs and policies.</b></p>

**Housing Policy 8.1:** Review the Housing Element on a regular basis to determine appropriateness of goals, policies, programs, and progress of Housing Element implementation.

***Implementation Actions***

***Policy Action 8A: Annual Reporting Program***

The City of Newport Beach shall report on the status of all housing programs as part of its annual General Plan Review and Annual Progress Report (APR). The Annual Progress Report discusses Housing Programs and is submitted to the California Department of Housing and Community Development in accordance with California state law. The City will continue to annually report its efforts within the annual General Plan Status Report including Housing Element Report provided to OPR and HCD by April 1st each year.



**Timeframe:** Ongoing, Annual  
**Responsible Agency:** City of Newport Beach Community Development  
**Funding Sources:** General Fund

***Policy Action 8B: Water and Sewer Service Providers***

Pursuant to SB 1087, Chapter 727, Statutes of 2005, the City of Newport Beach is required to deliver its adopted housing element and any amendments thereto to local water and sewer service providers. This legislation allows for coordination between the City and water and sewer providers when considering approval of new residential projects, to ensure that the providers have an opportunity to provide input on the Element. Additionally, review of the Housing Element ensures that priority for water and sewer services is granted to projects that include units affordable to lower-income households. The City will submit the adopted 6<sup>th</sup> Cycle Housing Element to local water and sewer providers for their review and input.

**Timeframe:** Transmit document immediately upon adoption of future amendment  
**Responsible Agency:** City of Newport Beach Community Development  
**Funding Sources:** General Fund

***Summary of Quantified Objectives***

The 2021-2029 Regional Housing Needs Assessment (RHNA) determined the City of Newport Beach had a construction need for 4,845 residential units between October 15, 2021 and October 15, 2029. The forecasted need by income group includes:

- Very Low-Income (0-50% County MFI);
- Low-Income (51-80% County MFI);
- Moderate-Income (81-120% County MFI); and,
- Above Moderate-Income (>120% County MFI)

Additionally, the City has goals to rehabilitate and preserve its existing inventory of housing units. As required by State housing law, quantified objectives by income group for the 2021-2029 planning period are summarized in this section. The quantified objectives represent the target number of housing units that the City anticipates will be constructed, rehabilitated, or preserved over the 2021-2029 planning period.



**Table 4-1: Quantified Objective Summary**

Quantified Objective	Extremely Low	Very Low	Low	Moderate	Above Moderate
<b>Housing Production</b>					
<i>Accessory Dwelling Units</i>	163			72	5
<i>RHNA Sites</i>	1,456		930	1,050	1,409
<b>Rehabilitation</b>	5	5	10	284	00
<b>Preservation</b>	95	77	86	10	00
<i>Source: City of Newport Beach</i>					


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# **Attachment No. PC 6**

Correspondence

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**From:** Jim Mosher <jimmosher@yahoo.com>  
**Sent:** August 02, 2024 11:56 AM  
**To:** Zdeba, Benjamin  
**Subject:** Comment on Narrowly Focused 6th Cycle Housing Element Amendment

[  **EXTERNAL EMAIL** ] **DO NOT CLICK** links or attachments unless you recognize the sender and know the content is safe. Report phish using the Phish Alert Button above.

Dear Mr. Zdeba,

Thank you for the [notice](#) of the opportunity to comment on the City of Newport Beach's "Narrowly Focused 6th Cycle Housing Element Amendment."

As you know, I am a member of the City's [General Plan Advisory Committee](#), but the following comments are my personal opinions alone.

The notice does not identify the requirement for public review, but that would appear to be California [Government Code Subsection 65585\(b\)\(1\)](#). Since this proposal is identified as an **amendment** to the recently certified 6th Cycle revision, and since the timelines are specified only for "**revisions**," it is not clear to me if this initial draft of the amendment is subject to a 7-day or 30-day review. Nonetheless, I am attempting to comply with the stated deadline, and will refer to the posted 6-page [Summary of 6th Cycle Housing Element Amendment Revisions](#), which I will further assume accurately depicts the revisions requested in the lengthier posted [Section 3: Housing Constraints, Resources, and Affirmatively Furthering Fair Housing](#) and [Section 4: Housing Plan](#) documents.

My first and most obvious comment is that in request Revision 2, on unnumbered page 5 of 6, in the middle of the last long paragraph, the word "**unsuitable**" is proposed to be deleted and then replaced with the same word. That makes little sense to me. Is this a typo? Or was some other word intended to replace "unsuitable"? If so, not knowing the intended word makes it difficult to comment on.

My larger comment is that the cited City Council [Resolution No. 2024-58](#) directs staff to remove from the [certified Housing Element](#) "*the reference to a vote of the electorate pursuant to Charter Section 423 as a constraint or as an implementing action.*"

I do not understand the significance of that exercise.

Charter cities are required to follow their charters, and in the case of Newport Beach, [Charter Section 423](#) requires a vote on amendments adding significant amounts of housing to the general plan unless "*state or federal law precludes a vote of the voters on the amendment.*"

**While it is possible the state could require the City to proceed despite a negative outcome of the vote, I am unaware of any power the state has to prevent the vote from occurring or any purpose it would have in doing so.**

**In particular, since it is not a lawmaking body, I am unaware of any authority HCD has, especially through mere certification of City-provided language in a Housing Element, to absolve a charter city of its obligations under its charter.**

Nonetheless, and despite it not having anything like the status of a "*state or federal law*," in the final proposed new paragraph on unnumbered page 3 of 6, the City appears to be asking HCD to certify a statement that in implementing the Housing Element the Charter Section 423 vote is precluded.

Even if HCD had the power to enact a law saying that, the proposed language leading up to the proposed statement of preclusion does not support the conclusion. First, the outcome of the vote could be approval, as it has been in other cities such as [Chino](#). Second, and more importantly, there is no single way in which a RHNA obligation can be met, so it is certainly logical that when there is a voter-approval requirement for general plan amendments, voters should be given a chance to weigh in on alternative implementations, as to number and location of housing units and their affordability requirements, as is happening in [Yorba Linda](#).

Again, when such a voter approval requirement exists, the residents do not abdicate their responsibility to their city councils or HCD. Instead, they expect a proposal sufficiently well thought out and sufficiently explained to garner a positive vote.

In Newport Beach, the City Council's problem is that the housing deficiency the RHNA process has identified is entirely in the moderate and below income categories. Yet it wants to proceed with an [implementation program](#) that would require no affordable construction, despite Policy Action 1K (Inclusionary Housing Policy), which it has so far chosen to ignore, in Section 4.

The Charter Section 423 process is not so much a constraint as an incentive for the Council to come up with a better plan that can be realistically expected to produce the needed affordable units without an excessive amount of new luxury housing and traffic which voters are unlikely to want to approve.

The City does not currently have such a plan, and removing the Charter Section 423 language as requested will not produce one. Even if the proposed language could prevent the vote, these revisions would only allow the Council to proceed without a viable plan to produce affordable units.

In summary, the Newport Beach City Charter requires a public vote on significant general plan amendments, unless a law prohibits it, as state law does for housing added by density bonus and ADU law. While it is possible the state could require the City to proceed *despite* a negative Charter Section 423 vote, I am unaware of anything that *prohibits* the vote from taking place. Adding or removing language about Section 423 from the Housing Element does nothing to change the City's charter responsibilities. Indeed, pretending the Section 423 requirement does not exist, and



adding a claim that the vote is precluded, creates a less honest Housing Element and removes a key incentive for the Council to create a better plan.

Yours sincerely,

Jim Mosher  
Newport Beach resident

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