

Attachment O

Resolution No. 2024-58 Initiating an Amendment to the 6th Cycle Housing Element

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 6TH 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 6th Cycle Housing Element in compliance with state law;

WHEREAS, preparation of the 6th 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 6th Cycle Housing Element on September 13, 2022;

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

WHEREAS, Section 4 (Housing Plan) of the 6th 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 6th 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 6th Cycle Housing Element no later than February 2025 (“6th 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 6th 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 6th 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 6th 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 6th 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 6th Cycle Housing Element;

WHEREAS, the 6th 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 6th 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 6th 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 6th 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 6th 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.

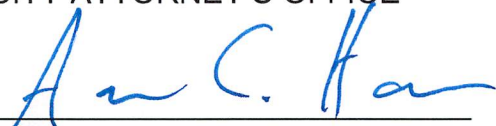
ADOPTED this 23rd day of July, 2024.

Will O'Neill
Mayor

ATTEST:

Leilani I. Brown
City Clerk

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



Aaron C. Harp
City Attorney