

INITIATIVE MEASURE TO BE SUBMITTED DIRECTLY TO THE VOTERS

The City Attorney has prepared the following title and summary of the chief purpose and points of the proposed measure:

Ballot Title:

Initiative to Provide Affordable Housing for 2,900 Extremely Low-, Very Low-, Low- and Moderate-Income Households

Ballot Summary:

This measure mandates that 2,160 of the 2,900 dwelling units set forth in General Plan Land Use Element (Policy LU 4.4) be reserved for extremely low-, very low-, and low-income households.

The key areas affected by this initiative include:

Airport Area: Of the 929 total dwelling units provided for in this area, 692 dwelling units would be required to be affordable for extremely low-, very low-, and low-income households.

West Newport Mesa Area: Of the 406 total dwelling units provided for in this area, 302 dwelling units would be required to be affordable for extremely low-, very low-, and low-income households.

Newport Center Area: Of the 870 total dwelling units provided for in this area, 648 dwelling units would be required to be affordable for extremely low-, very low-, and low-income households.

Dover/Westcliff Area: Of the 174 total dwelling units provided for in this area, 130 dwelling units would be required to be affordable for extremely low-, very low-, and low-income households.

Coyote Canyon Area: Of the 521 total dwelling units provided for in this area, 388 dwelling units would be required to be affordable for extremely low-, very low-, and low-income households.

The remaining units that are not reserved for extremely low-, very low-, and low-income households would only be available to moderate-income households.

In sum, this initiative would restrict new housing development provided for in Policy LU 4.4 to only allow for the construction of dwelling units for lower-income households, which would be capped to a specific number of units in each area, until such time as voters approve additional units. The initiative contemplates a density range of 20 to 50 units per gross acre (plus any additional density allowed by state law).

To the City Council of the City of Newport Beach:
We, the undersigned, registered and qualified voters of the State of California, residents of the City of Newport Beach, California, pursuant to Article II, Sections 1 and 11 of the California Constitution, and sections 9200, et seq. of the California Elections Code, hereby present to the City Council of the City of Newport Beach this petition and request that the following proposed amendments to the Newport Beach General Plan be adopted by the City Council or otherwise submitted to the registered and qualified voters of the City of Newport Beach for their adoption or rejection at the next regularly scheduled municipal election or at any special election held prior to that election or as otherwise provided by law. The proposed amendments are set forth below and on the subsequent pages.

The People of the City of Newport Beach do hereby ordain as follows:

Section 1. Title

This initiative measure shall be known as the “Responsible Housing Initiative” (the “Initiative”).

Section 2. Purpose and Findings.

A. Purpose. This Initiative seeks to balance responsible urban development with protecting the environment, public health and safety, and the quality of life for the residents and businesses of the City of Newport Beach (the “City”). This Initiative amends the City’s General Plan to allow for more residential housing in a manner that fully satisfies, but does not unduly exceed, the requirements of California housing laws, including the State Housing Element Law and Housing Accountability Act.

B. Findings. The residents of the City find that this Initiative promotes the public interest in light of its Purpose and the following facts and circumstances:

1. In November 2000, City residents voted to approve the Greenlight Initiative, which added Section 423 to the Newport Beach City Charter. Section 423 prevents the Newport Beach City Council from amending the City’s General Plan to significantly increase allowed development without first securing approval from City residents. Section 423 specifically requires, among other things, that any amendment to the City’s General Plan allowing for the development of more than 100 dwelling units must be approved by a majority vote in a City election.
2. When the City was preparing its 2021 - 2029 6th Cycle Housing Element (the “Housing Element”) in response to State law, the City repeatedly assured the community it would allow new development only to extent required by State law. Under State law, the City was asked to update its Housing Element to allow for 4,845 new dwelling units at varying levels of affordability (e.g., low income, moderate income). This is commonly referred to as the City’s Regional Housing Needs Allocation or “RHNA.”
3. In September 2022, the City adopted the Housing Element. That Housing Element specified that implementation of the 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.” In October 2022, the California Department of Housing and Community Development (“HCD”) reviewed the City’s Housing Element and informed the City that it must implement all programs identified in the Housing Element, including “Initiating a Ballot Measure for a Charter Section 423 Vote.”
4. Between October 2022 and April 2024, City officials and staff worked to implement the Housing Element. The City stated that such implementation would require several major land use approvals, including significant amendments to the Land Use Element of the City’s General Plan, the City’s Zoning Ordinance, and the City’s Local Coastal Program. These approvals were referred to collectively as the “Housing Element Implementation Program Amendments.”
5. Throughout the process to implement the Housing Element, the City consistently told residents they would have an opportunity to vote on proposed amendments to the Land Use Element, as required by Section

423. Prior to July 2024, the City never suggested to voters that the Newport Beach City Council (“City Council”) would not send this issue to a vote under Charter Section 423.
6. In April 2024, the Housing Element Implementation Program Amendments were presented to the Newport Beach Planning Commission for review and recommendation. The Planning Commission recommended approval of the Housing Element Implementation Program Amendments. The Resolution adopted by the Planning Commission stated that final adoption would “require a majority vote of the electorate” under Section 423. (Resolution No. PC2024- 006.)
7. The Housing Element Implementation Program Amendments presented to the Planning Commission proposed allowing for development of at least 8,174 new dwelling units. That proposal reflected a 68% increase above the RHNA requirement, or 3,329 excess dwelling units.
8. On July 23, 2024, the City Council held a meeting purporting to approve the proposed Housing Element Implementation Program Amendments and purporting to authorize a dramatic increase in the scale, height and density of residential development in Newport Beach. The City Council also purported to adopt proposed amendments to the Land Use Element. Those purported amendments include the addition of Policy LU 4.4, which is intended to exceed the City’s RHNA through the adoption of Housing Opportunity (HO) Overlay Zoning Districts and other land use policies. Local voters did not approve of any of those purported amendments.
9. During that same July 23 meeting, the City Council asserted without legal support that a Charter Section 423 vote on the proposed Land Use Element amendments was purportedly “precluded” by State law.
10. On September 24, 2024, the City Council adopted— again, without voter approval—Ordinance No. 2024-16, which purports to amend the City’s Zoning Code and associated maps to add HO Overlay Zoning Districts. These HO Overlay Zoning Districts alone purport to allow for more than eight thousand additional dwelling units to be developed throughout six large areas of Newport Beach.
11. The decision to adopt any major amendment authorizing thousands of additional dwelling units belongs to the voters, not the City Council.
12. Unlike Newport Beach, the City of Yorba Linda chose to honor its local voter approval requirements when adopting its Housing Element implementation strategy. In November 2024, Yorba Linda voters overwhelmingly approved Measure JJ, a measure the Yorba Linda City Council placed on the ballot in June 2024 to comply with Yorba Linda’s “Right-to-Vote Amendment” (Measure B). Under Measure JJ, Yorba Linda will satisfy its RHNA of 2,415 units by relying on pipeline projects (181 units) and underutilized sites (569 units), and then rezoning specific properties to accommodate additional units (1,747 units). In total, Yorba Linda plans to accommodate 2,497 units through its Housing Element and associated implementation program. This will result in no more than 82 units beyond what State law requires, or an approximately three percent (3%) increase above Yorba Linda’s RHNA of 2,415 units.
13. Like the approach taken by the City of Yorba Linda, this Initiative would allow the City to achieve housing objectives while ensuring the local community has a voice in major land use decisions.

14. The table below shows how this Initiative would meet the requirements of State law.

	Extremely Low / Very Low Income	Low Income	Moderate Income	Above Moderate Income	Total
Total RHNA	1,456	930	1,050	1,409	4,845
Total RHNA	2,386		1,050	1,409	4,845
Pipeline Units ¹	348		0	2,597	2,945
Accessory Dwelling Units (ADUs)	163		72	5	240
5th Cycle Sites	0		287	40	327
Subtotal	511		359	2,642	3,512
Remaining RHNA (Net RHNA)	1,875		691	0	2,566
Airport Environs Overlay ²	692		237	0	929
West Newport Mesa Overlay ²	302		104	0	406
Dover-Westcliff Overlay ²	130		44	0	174
Newport Center Overlay ²	648		222	0	870
Coyote Canyon Overlay ²	388		133	0	521
Total Rezone	2,160		740	0	2,900
Total Development Capacity	2,671		1,099	2,642	6412
Surplus (units)	285		49	1,233	1,567
Surplus (%) (RHNA buffer)	12%		5%	88%	32%
Notes: ¹ Total units in projects that received entitlements from the City before December 2024. ² Figures in the Total column represent the “Development Limit” for each overlay zone.					

Section 3. Amendment to the City of Newport Beach General Plan.

The voters hereby amend and readopt Policy LU 4.4 of the Land Use Element (Chapter 3) of the City of Newport Beach General Plan as follows (new language to be inserted into the General Plan is shown as underlined text; language shown in regular or bold (not underlined) type reflects the existing General Plan text and is provided for informational/reference purposes only):

LU 4.4 Rezoning to Accommodate Housing Opportunities

Accommodate housing opportunities through the adoption of housing opportunity overlay zoning districts or other land use regulatory policy.

The following areas are intended to be consistent with the Housing Element's focus areas. Properties within each overlay district should include, but are not limited to, sites identified in the Housing Element; however, not all sites must be included, and other sites or adjustments may be identified in the future through rezoning unless precluded by state law. The goal is to ensure an adequate number of sites Citywide to accommodate the City's overall allocation of the Regional Housing Needs Assessment:

- Airport Environs:** the intent is to support a density between 20 and 50 dwelling units per gross acre to accommodate up to 2,577,929 total dwelling units within the area. All dwelling units must be affordable to “moderate income” households, and at least 692 units must be affordable to “low income” households, as those terms are defined in Government Code 65582.
- West Newport Mesa:** the intent is to support a density between 20 and 50 dwelling units per gross acre to accommodate up to 1,107,406 total dwelling units within the area. All dwelling units must be affordable to “moderate income” households, and at least 302 units must be affordable to “low income” households, as those terms are defined in Government Code 65582.
- Newport Center:** the intent is to support a density between 20 and 50 dwelling units per gross acre to accommodate up to 2,439,870 total dwelling units within the area. All dwelling units must be affordable to “moderate income” households, and at least 648 units must be affordable to “low income” households, as those terms are defined in Government Code 65582.
- Dover / Westcliff:** the intent is to support a density between 20 and 50 dwelling units per gross acre to accommodate up to 521,174 total dwelling units within the area. All dwelling units must be affordable to “moderate income” households, and at least 130 units must be affordable to “low income” households, as those terms are defined in Government Code 65582.
- Coyote Canyon:** the intent is to allow a density between 20 and 60 dwelling units per gross acre of viable land to accommodate up to 1,530,521 total dwelling units within the area. All dwelling units must be affordable to “moderate income” households, and at least 388 units must be affordable to “low income” households, as those terms are defined in Government Code 65582.

The maximum number of dwelling units for each focus area set forth above shall serve as the Development Limit for each overlay district. The Development Limits shall not include density bonus units. Once the maximum number of units have been approved under the applicable focus area's Development Limit, no housing opportunity overlay zoning district or other land use regulatory policies or

programs developed pursuant to this Policy (LU 4.4) shall be available for future development in that focus area unless City voters approve a further major amendment to the General Plan.

Section 4. Implementation of this Initiative.

A. This Initiative is considered adopted and effective upon the earliest date legally possible after the elections official certifies the vote on the Initiative by the voters of the City (the “Effective Date”). Upon the Effective Date of this Initiative, the City is directed to promptly take all appropriate actions needed to implement this Initiative, including but not limited to taking any administrative steps necessary to update any and all City ordinances, codes, maps, figures, and any other documents maintained by the City so they conform to the legislative policies set forth in this Initiative. Such administrative steps shall include, but not be limited to, amending Section 20.28.050 of the City of Newport Beach Zoning Code to be consistent with this Initiative.

B. Upon the Effective Date of this Initiative, the General Plan provisions of Section 3 of this Initiative are hereby inserted into the General Plan; except that if the four amendments of any mandatory element of the General Plan permitted by State law for any calendar year have already been utilized in the year in which this Initiative becomes effective, the General Plan amendments set forth in this Initiative shall be the first amendments inserted into the General Plan on January 1 of the next year. The City may reorganize, renumber, and/or reformat the General Plan provisions set forth in Section 3 of this Initiative, provided that the full text is inserted into the General Plan Land Use Element without alteration.

C. The General Plan in effect on the date of filing of the Notice of Intention to Circulate Petition (“Filing Date”), and the General Plan as amended by this Initiative, comprise an integrated, internally consistent and compatible statement of policies for the City. To ensure that the City’s General Plan remains an integrated, internally consistent, and compatible statement of policies for the City, any provision of the General Plan that is adopted between the Filing Date and the Effective Date of the General Plan amendment adopted by this Initiative shall, to the extent that such interim-enacted provision is inconsistent with or would diminish, render invalid, defeat, or impair the General Plan amendment adopted by this Initiative, be amended as soon as possible and in the manner and time required by State law to ensure consistency with this Initiative.

Section 5. Effect of Other Measures on the Same Ballot.

If this Initiative and another measure on the same subject matter appear on the same ballot, and a majority of the voters vote in favor of both measures but this Initiative receives more votes than the other measure, this Initiative alone shall become valid, binding and adopted in its entirety, and the other measure shall be null and void in its entirety. If a majority of the voters vote in favor of both measures but this Initiative receives less votes than the other measure, only those provisions of the other measure that are in direct and irreconcilable conflict with the provisions of this Initiative shall control, and all other provisions of this Initiative shall become valid, binding and adopted. The voters expressly declare this to be their intent, regardless of any contrary language in any other ballot measure.

Section 6. Interpretation, Severability, and Legal Defense.

A. This Initiative must be interpreted so as to be consistent with all federal and State laws, rules, and regulations. If any section, sub-section, sentence, clause, phrase, part, or portion of this Initiative is held to be invalid or unconstitutional by a final judgment of a court of competent jurisdiction, such decision does not affect the validity of the remaining portions of this Initiative. The voters declare that this

Initiative, and each section, sub-section, sentence, clause, phrase, part, or portion thereof, would have been adopted or passed irrespective of the fact that any one or more sections, sub-sections, sentences, clauses, phrases, parts, or portions are found to be invalid. If any provision of this Initiative is held invalid as applied to any person or circumstance, such invalidity does not affect any application of this Initiative that can be given effect without the invalid application.

B. If any portion of this Initiative is held by a court of competent jurisdiction to be invalid, we the People of the City of Newport Beach indicate our strong desire that: (i) the Newport Beach City Council use its best efforts to sustain and re-enact that portion, and (ii) the Newport Beach City Council implement this Initiative by taking all steps possible to cure any inadequacies or deficiencies identified by the court in a manner consistent with the express and implied intent of this Initiative, including adopting or reenacting any such portion in a manner consistent with this Initiative.

C. This Initiative must be broadly construed in order to achieve the purposes stated above. It is the intent of the voters that the provisions of this Initiative be interpreted or implemented by the City and others in a manner that facilitates the purpose set forth in this Initiative.

D. The People of the City of Newport Beach desire that this amendment to the General Plan, if approved by the voters and thereafter challenged in court, be defended by the City. The People, by approving this General Plan amendment, hereby declare that the proponent(s) of this General Plan amendment have a direct and personal stake in defending it from constitutional or statutory challenges to its validity or implementation. In the event the City fails to defend this General Plan amendment, or the City fails to appeal an adverse judgment against its constitutionality, statutory permissibility or implementation, in whole or in part, in any court of law, the proponents shall be entitled to assert their direct personal stake by defending its validity and implementation in any court of law and shall be empowered by the People through this measure to act as agents of the People.

Section 7. Amendment or Repeal.

General Plan Policy LU 4.4 as amended by this Initiative can be amended or repealed only by a majority of the voters of the City voting in an election held in accordance with applicable State and City law. For the avoidance of doubt, this Section only limits the power to amend General Plan Policy LU 4.4 and does not limit the power of the City to amend or repeal other portions of the City of Newport Beach General Plan in a manner that is consistent with this Initiative.

Section 8. Judicial Enforcement.

Any aggrieved person shall have the right to bring an action to enjoin any violation of this Initiative or to enforce the duties imposed on the City by this Initiative. The proponents of this Initiative may defend the provisions of this Initiative in any litigation brought to challenge the Initiative.

NOTICE OF INTENT TO CIRCULATE PETITION

Pursuant to California Elections Code section 9202, notice is hereby given by the person whose name appear hereon of their intention to circulate the petition within the City of Newport Beach for the purpose of amending the City’s General Plan to allow for residential housing in a manner that fully satisfies, but does not exceed unnecessarily, the requirements of California housing laws, while complying with Section 423 of the Newport Beach City Charter.

A brief statement of the reasons of the proposed action as contemplated in the petition is as follows:

Our elected officials are failing to protect our community from development with massive height and density increase that our community has not approved.

The Newport Beach City Charter is clear: under Section 423 (the Greenlight Initiative) major residential land use amendments to the Newport Beach General Plan must be submitted to City residents for a vote. City officials assured the community that the updates to the City’s General Plan (governing development within the City in the 6th Housing Cycle) would comply with Section 423 of the City Charter. The City’s purported updates to the General Plan would allow for 8,145 new dwelling units (plus many thousands of additional dwelling units when accounting for density bonus units authorized under State law), all without a vote of people of Newport Beach as required by Section 423.

This Initiative ensures the City complies with Section 423 and safeguards the local democratic process from further attempts to subvert the right of Newport Beach residents to vote on major housing projects and changes to General Plan.

This Initiative thoughtfully balances responsible development in certain areas with protecting the environment, health and safety, and the quality of life for Newport Beach businesses and residents.

_____/s/_____
Marshall “Duffy” Duffield
Proponent