



CITY OF

NEWPORT BEACH

City Council Staff Report

September 27, 2022
Agenda Item No. 5

TO: HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL

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TITLE: Resolution No. 2022-64: Supporting Restoring Local Authority in the
Regulation of Group Residential Uses

ABSTRACT:

At its September 13, 2022 meeting, the Newport Beach City Council voted unanimously, via a straw poll, in favor of staff returning with a resolution for its consideration that would, if adopted, express the City of Newport Beach's (City's) support for restoring local authority over the regulation of group residential care facilities and call upon the State of California (State) to increase its oversight and enforcement of such facilities until local control is restored.

RECOMMENDATION:

- a) Determine this action is exempt from the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2) and 15060(c)(3) of the CEQA Guidelines because this action will not result in a physical change to the environment, directly or indirectly; and
- b) Adopt Resolution No. 2022-64: *A Resolution of the City Council of the City of Newport Beach, California, Supporting the Restoration of Local Authority to Regulate Group Residential Care Facilities and Calling Upon the State of California to Increase its Oversight and Enforcement of Residential Care Facilities Until Local Authority is Restored.*

DISCUSSION:

At the request of Council Member Joy Brenner, at the September 13, 2022 City Council meeting, the Council considered placing a resolution on a future agenda that, if adopted, would express the City of Newport Beach's support for restoring local authority in the regulation of group residential care facilities and call upon the State of California to increase its oversight and enforcement of such facilities until local control is restored. The Council voted unanimously, 7-0, in favor of staff bringing forward such a resolution for its consideration.

The early 2000s brought a proliferation of group homes – particularly those used for alcohol and drug recovery – to Newport Beach. The overconcentration and lack of regulations became a significant concern for many neighborhoods. The City and community members worked together and in 2008, Newport Beach was among the first cities in California to adopt an ordinance to better regulate certain types of group homes within Newport Beach. The number of community concerns and complaints related to City-permitted group homes decreased dramatically and today, the City receives very few, if any, complaints related to the operation of these homes.

California law, however, precludes cities from regulating, in any manner, State-licensed residential care facilities with six or fewer residents. These homes, depending on the services provided, are licensed and regulated by the Department of Health Care Services (DHCS) or the Department of Social Services (DSS). The City routinely receives complaints related to the operation of several State-licensed homes. Staff and residents have found it exceptionally difficult to communicate with, or work in concert with, the State agencies to resolve the concerns. Investigations take months and enforcement and corrective actions are seemingly rare, if at all.

The City has proven through the implementation of its 2008 ordinance and the resulting Conditional Use Permit process that local control can and does result in the operation of group residential uses that meet the needs of those in recovery while also protecting the residential character of Newport Beach neighborhoods.

Resolution No. 2022-64 (attached) expresses the City's strong support for the State to restore the ability of cities to regulate all types of residential care facilities and to authorize cities to take appropriate enforcement action when violations of State law occur. Further, the resolution relays the City's request for 1) DHCS and DSS to immediately investigate any complaint that a state-licensed residential care facility has violated the law; 2) ensure that timely enforcement actions are brought against violators; and 3) ensure that the stiffest penalties allowed under the law are imposed on violators to protect those in recovery and adjacent neighbors.

If Council approves the resolution, staff will send copies to the City's elected State representatives.

FISCAL IMPACT:

There is no direct fiscal impact related to the adoption of the resolution. However, staff from the Community Development Department, City Attorney's Office and City Manager's Office spend time and City resources working with the City Council Ad Hoc on Group Residential Uses and citizens to address concerns related to certain State-licensed group residential facilities within Newport Beach.

ENVIRONMENTAL REVIEW:

Staff recommends the City Council find this action is not subject to the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 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, because it has no potential for resulting in physical change to the environment, directly or indirectly.

NOTICING:

The agenda item has been noticed according to the Brown Act (72 hours in advance of the meeting at which the City Council considers the item).

ATTACHMENT:

Attachment A – Resolution No. 2022-64