



CITY OF NEWPORT BEACH PLANNING COMMISSION STAFF REPORT

March 17, 2022
Agenda Item No. 4

SUBJECT: Residential Care Facilities Ordinance Update (PA2021-292)
▪ Zoning Code Amendment No. CA2021-006
▪ Local Coastal Program Amendment No. LC2021-005

SITE LOCATION: Citywide

APPLICANT: City of Newport Beach

PLANNER: Matt Schneider, Principal Planner
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PROJECT SUMMARY

The proposed code amendments to Titles 20 (Planning and Zoning) and 21 (Local Coastal Program Implementation Plan) of the Newport Beach Municipal Code ("NBMC") would update standards related to residential care facilities. Specifically, Zoning Code Amendment No. CA2021-006 and Local Coastal Program (LCP) Amendment No. LC2021-005 would revise and update definitions, update management and operation requirements, and clarify/streamline separation requirements.

RECOMMENDATION

- 1) Conduct a public hearing;
- 2) Find this project categorically exempt from the California Environmental Quality Act ("CEQA") pursuant to Section 15061(b)(3), the general rule that CEQA applies only to projects, which have the potential for causing a significant effect on the environment and pursuant to Section 15265(a)(1), which exempts local governments from the requirements of CEQA in connection with the adoption of a Local Coastal Program;
- 3) Adopt Resolution No. PC2022-06 (Attachment No. PC 1) recommending the City Council approve Zoning Code Amendment No. CA2021-006 updating standards related to residential care facilities; and
- 4) Adopt Resolution No. PC2022-07(Attachment No. PC 2) recommending the City Council authorize staff to submit Local Coastal Program Amendment No. LC2021-005 to the California Coastal Commission.

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DISCUSSION

Background

On October 26, 2021, the City Council created a Residential Care Facilities Ad Hoc Committee in response to a recent incident that resulted in the tragic death of a client/resident of a residential care facility located in the City. The aim of the Ad Hoc Committee is to provide a recommendation to the entire City Council regarding matters pertinent to updating the City's residential care facilities standards including but not limited to: ensuring local standards are consistent with State and Federal law, recommending legislative policies and or positions regarding State and Federal laws related to the regulation of Residential Care Facilities, and reviewing, and if warranted, recommending changes to the City's code enforcement protocols related to residential care facilities.

As a result of some of the Residential Care Facilities Ad Hoc Committee's early efforts, the City Council adopted Resolution No. 2022-3 on January 11, 2022, to initiate a code amendment related to Residential Care Facilities. The amendments are intended to ensure the City's residential care facilities standards are in line with current State and Federal law as well as permitting practices of other jurisdictions that have evolved since the last comprehensive update to the City's residential care facilities standards over ten years ago.

To develop the proposed amendment, the Residential Care Facilities Ad Hoc Committee engaged with a number of stakeholders over the last several months. The engagements included meetings with State, County and local representatives as well as several meetings with concerned local residents. While there was a general consensus of the Ad Hoc Committee and stakeholders that stronger State agency oversight and State legislation changes are necessary to help protect residential care facility residents/clients, there was also general agreement that the City's residential care facility regulations warranted an update to incorporate evolving best management practices.

Proposed Amendment

It is important to note that State law prevents local jurisdictions from regulating state licensed residential care facilities serving six or fewer residents/clients. Under State law these facilities are to be viewed the same as or equivalent to a traditional single-family residence. Therefore, the proposed code amendment pertains to the following uses that would continue to be allowed in the RM (Multiple Residential) and RMD (Medium Density Residential) Zoning Districts, subject to approval of a conditional use permit: Residential Care Facilities, Limited (6 or fewer) Unlicensed; Residential Care Facilities, General (7 or more) Licensed; Residential Care Facilities, General (7 or more) Unlicensed, and Integral Facilities/Integral Uses. A detailed strikeout/underline draft of the proposed amendments are provided as "Exhibit A" of the two attached resolutions (Attachments PC1 & PC2) and summarized further below:

- Separation requirements – Recently, the courts have considered separation requirements, which prevents institutions from forming in residential neighborhoods and protect those residing at these facilities. Based thereon, City staff is proposing to move away from the more general “block” concept to a more standardized separation requirement of 650 feet. This will help prevent an overconcentration of facilities, which defeats the intent of providing care in a residential setting versus a service delivery model more akin to an institutionalized campus.
- Management and Operational Standards – Various provisions have been incorporated to ensure the residents/clients of residential care facilities live in a safe environment and are protected even in the case of involuntary termination from the facility. As part of the CUP application, operators must provide to the City a copy of the facility’s nuisance response plan, written visitation policy, relapse policy (if applicable), and resident discharge plan.
- Discharge of Clients/Residents – In addition to having a resident discharge plan, operators will be required to take steps to provide resources to any resident who is evicted from a residential care facility. In such a situation, the operator shall obtain information regarding available services from the County and City and provide the resident with such information before their departure from the facility. The operator also shall provide the resident with transportation upon their departure. To ensure that operators comply with these requirements, the operator shall obtain the resident’s signature on an acknowledgement form and provide a copy of the form to the City.
- Fair Business Practices – To ensure that operators do not mislead potential clients and future residents, no advertisement for an unlicensed facility shall represent that the facility provides services requiring a state license, even if those services are provided off-site.
- Definitions – Various definitions have been updated to provide clarifications and remain consistent with State and Federal law. The changes confirm that the existing definitions of Limited Licensed and General Licensed facilities include all covered licensed residential facilities under the California Community Care Facilities Act, including social rehabilitation facilities.

General Plan Consistency

The proposed code amendment does not introduce any new Zoning Districts or General Plan Land Use Plan Categories in which residential care facilities would be permitted. The Multiple Residential - RM and Multiple Residential Detached – RM-D are the two General Plan Land Use Categories under which residential care facilities would continue to be allowed. These two designations primarily allow for residential uses and the proposed Zoning Code Amendment is consistent with these land use categories.

Local Coastal Plan

Similar to Title 20 (Planning and Zoning), Title 21 (Local Coastal Program Implementation Plan) currently regulates residential care facilities. The proposed LCP Amendment does not necessitate an amendment of the Coastal Land Use Plan or introduce any new Coastal Zoning Districts and is limited to definitional updates to remain consistent with Title 20 definition updates. The proposed LCP Amendment will continue to allow residential care facilities. Therefore, subsequent to City Council adoption of LCP Amendment, staff will submit corresponding amendments (Attachment No. PC2) to the LCP for review and approval of the California Coastal Commission.


Environmental Review

The proposed action is exempt pursuant to CEQA Guidelines Section 15061(b)(3), the general rule that CEQA applies only to projects, which have the potential for causing a significant effect on the environment. While this amendment would allow residential care facilities as a conditionally permitted use within the City, it does not authorize new development that would directly result in physical changes to the environment. There is no evidence that amending the regulations for residential care facilities would result in any new effects on the environment. Additionally, pursuant to CEQA Guidelines Section 15265(a)(1), local governments are exempt from the requirements of CEQA in connection with the adoption of a Local Coastal Program.

Public Notice

Notice of this amendment was published in the Daily Pilot as an eighth page advertisement, consistent with the provisions of the Municipal Code. The item also appeared on the agenda for this meeting, which was posted at City Hall and on the City website.

Prepared by:


Matt Schneider
Principal Planner

Submitted by:


Jim Campbell
Deputy Community Development Director

ATTACHMENTS

- PC 1 Resolution No. PC2022-006 recommending City Council approve Zoning Code Amendment No. CA2021-006
- PC 2 Resolution No. PC2022-007 recommending approval of submission of Local Coastal Program Amendment No. LC2021-005

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Attachment A

Resolution No. 2022-006(ZA)

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RESOLUTION NO. PC2022-06

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF NEWPORT BEACH RECOMMENDING THE CITY COUNCIL ADOPT ZONING CODE AMENDMENT NO. CA2021-006 UPDATING REGULATIONS RELATED TO RESIDENTIAL CARE FACILITIES AND OTHER RELATED PROVISIONS(PA2021-292)

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

SECTION 1. STATEMENT OF FACTS.

1. Title 20 (Planning and Zoning) of the Newport Beach Municipal Code (“NBMC”) authorizes Residential Care Facilities, Limited (6 or fewer) Unlicensed, General (7 or more) Licensed, General (7 or more) Unlicensed, and Integral Facilities/Integral Uses in the RM (Multiple Residential) and RMD (Medium Density Residential) Zoning Districts office, subject to approval of a conditional use permit.
2. On October 26, 2021, the City Council created a Residential Care Facilities Ad Hoc Committee, to provide a recommendation to the entire City Council regarding matters pertinent to updating the City’s residential care facilities standards.
3. On January 11, 2022, the City Council adopted Resolution No. 2022-3 to initiate a code amendment related to Residential Care Facilities.
4. A public hearing was held by the Planning Commission on March 17, 2022, in the Council Chambers located at 100 Civic Center Drive, Newport Beach, California. A notice of time, place and purpose of the public hearing was given in accordance with the California Government Code Section 54950 *et seq.* (“Ralph M. Brown Act”) and Chapter 20.62 (Public Hearings) of the 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.

This action is exempt from environmental review under the California Environmental Quality Act (“CEQA”) Section 15061(b)(3) of the California Code of Regulations, Title 14, Chapter 3 (“CEQA Guidelines”), the general rule that CEQA applies only to projects, which have the potential for causing a significant effect on the environment. While this amendment would allow residential care facilities as a conditionally permitted use within the City, it does not authorize new development that would directly result in physical changes to the environment. There is no evidence that amending the regulations for residential care facilities would result in any new effects on the environment. Additionally, pursuant to CEQA Guidelines Section 15265(a)(1), local governments are exempt from the requirements of CEQA in connection with the adoption of a Local Coastal Program.

SECTION 3. FINDINGS.

1. The City, through Titles 20 (Planning and Zoning) and 21 (Local Coastal Program Implementation Plan) promotes the orderly development and the public health, safety, peace, comfort, and general welfare of the City. Zoning Code Amendment No. CA2021-006 updates regulations related to residential care facilities.
2. The proposed amendment is consistent with General Plan Goal LU 6.2 which states in part that residential neighborhoods should contain a diversity of housing types and supporting uses to meet the needs of Newport Beach's residents, in that residential care facilities provide supportive services to individuals with a disability in a residential setting.

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

1. The Planning Commission of the City of Newport Beach hereby finds Zoning Code Amendment No. CA2021-006 is exempt from the CEQA pursuant to CEQA Guidelines Section 15061(b)(3), the general rule that CEQA applies only to projects, which have the potential for causing a significant effect on the environment. While the code amendment would allow residential care facilities as a conditionally permitted use within the City, it does not authorize new development that would directly result in physical changes to the environment. Additionally, pursuant to CEQA Guidelines Section 15265(a)(1), local governments are exempt from the requirements of CEQA in connection with the adoption of a Local Coastal Program.
2. The Planning Commission of the City of Newport Beach hereby recommends approval of Code Amendment No. CA2021-006 as set forth in Exhibit "A," which is attached hereto and incorporated herein by reference.

PASSED, APPROVED, AND ADOPTED THIS 17th DAY OF MARCH, 2022.

AYES:

NOES:

ABSTAIN:

ABSENT:

BY: _____
Lee Lowrey, Chairman

BY: _____
Curtis Ellmore, Secretary

Attachment: Exhibit A – Zoning Code Amendment No. CA2021-006

EXHIBIT “A”
Zoning Code Amendment No. CA2021-006

20.48.170 Residential Care Facilities.

This section provides standards for residential care facilities granted a conditional use permit in compliance with Section [20.52.030](#) (Conditional Use Permits in Residential Zoning Districts). This section shall not apply to Limited Licensed Residential Care Facilities.

A. Smoking in Outdoor Areas. Staff, clients, guests, or any other users of a residential care facility shall not smoke in an area from which the secondhand smoke may be detected on any parcel other than the parcel upon which the facility is located.

B. Management and Operation.

1. The property shall be operated in compliance with applicable State, Federal, and local law and in conformance with the management and operating plan, policies and rules of conduct submitted as part of the application for a conditional use permit or as identified in the conditions of approval for a conditional use permit.

2. Each management and operation plan shall provide a phone number by which the operator may be contacted at all times.

3. If applicable, the permittee shall comply with the business license provisions of Title [5](#) (Business Licenses and Regulations).

4. The residential care facility shall have a nuisance response plan, which sets forth the owner’s plan for handling disruptive residents who may interfere with the other residents’ and neighbors’ use and enjoyment of their dwelling units.

5. The residential care facility shall have a written visitation policy that precludes any visitors who are under the influence of any drug or alcohol.

6. For a residential care facility that serves persons recovering from addiction, the residential care facility shall have a relapse policy that is consistent with the standard policy required for State licensed residential care facilities.

7. The residential care facility shall have a resident discharge plan to ensure that residents who are discharged from the residential care facility obtain information regarding community resources available to them and are provided with a safe transition to their next residence. The discharge plan shall include a requirement that, prior to the resident’s departure, the residential care facility shall provide the resident with transportation, as required by this Code, and the contact information for the City’s designated Homeless Coordinator.

8. The residential care facility shall provide the City with the name and 24-hour phone number of a local contact person (who resides within 25 miles of the property). The local contact shall respond to all concerns related to compliance with the permit and/or this chapter within thirty (30) minutes. within. The owner or agent shall provide a new local contact person and contact

person's phone number to the City's designated Homeless Coordinator and Community Development Director within five (5) business days if there is a change in the local contact person(s).

9. No advertisement for an unlicensed residential care facility shall represent that it provides services requiring a state license, even if those services are provided off-site.

C. Standards for Residential Care Facilities (Small Unlicensed, General Licensed, General Unlicensed). ~~In order to~~ To ensure that residential care facilities are operating in a manner that is consistent with State and Federal law and established industry standards and to ensure that operators do not have a pattern or practice of operating similar facilities in violation of State, Federal, or local law, the standards listed below shall apply:

1. If the residential care facility is not licensed by the State of California, owners, managers, operators, and residents shall not:

a. Provide any services on site if the provision of the service requires licensure of the residential care facility under California law; or

b. Provide any services to persons not residing on site.

2. If the residential care facility is required to be licensed by the State of California, owners, managers, operators, and residents shall not:

a. Provide any services other than those that the residential care facility is authorized and licensed to provide by the State of California; or

b. Provide any services to persons not residing on site.

~~3. The names of all persons and entities with an ownership or leasehold interest in the residential care facility, or who will participate in operation of the facility, shall be disclosed in writing to the City, and the persons and entities shall not have a demonstrated pattern or practice of operating similar facilities in or out of the City in violation of State or local law.~~

~~4. The operator of the residential care facility shall provide a list of the addresses of all similar facilities in the State owned or operated by the operator within the past five years and shall certify under penalty of perjury that none of the facilities has been found by State or local authorities to be operating in violation of State or local law. All information submitted shall be subject to verification by the Director~~

If a State license is required, the operation of the residential care facility shall not commence until the appropriate license is approved and active. The operator shall maintain an active license as required by State law.

4. At least forty-eight (48) hours prior to an occupant's eviction from, or involuntary termination of residency in a residential care facility, the operator thereof shall:

- a. Contact the Orange County Health Care Agency OC Links Referral Line and/or another entity designated by the City to identify services available to the occupant, including, but not limited to, alcohol and drug inpatient and outpatient treatment services;
 - b. Confer with the City's designated Homeless Coordinator to identify services available to the occupant; and
 - c. Provide the information obtained from paragraphs (a) and (b) of this subsection to the occupant prior to his or her departure on a form prescribed by the Community Development Director and obtain the occupant's signed acknowledgement on a copy of such form that is retained by the operator. A copy of the occupant's acknowledgment shall be provided to the City's Community Development Director within 5 business days after the occupant's departure from the residential care facility.
5. Prior to an occupant's eviction from, or involuntary termination of residency in a residential care facility, the operator thereof shall:
 - a. Make available to the occupant transportation to one of the following, which destination shall be chosen by the occupant:
 - i. The address listed on the occupant's driver's license or state-issued identification card;
 - ii. The permanent address identified in the occupant's application or referral to the residential care facility;
 - iii. Another group home or residential care facility that has agreed to accept the occupant; or
 - iv. An emergency shelter with capacity to provide immediate shelter for the occupant.
 - b. The operator may not satisfy the obligations set forth in paragraph (a) by providing remuneration to the occupant for the cost of transportation. The acknowledgment form described in subsection (4) shall contain a statement confirming that the occupant was offered transportation services under this subsection (5).
6. At the time of initial issuance of a City permit, a residential care facility shall not be located within 650 feet, as measured from the closest property lines, from any other residential care facility regulated by this section and from any existing limited licensed residential care facility.
7. Off-street parking shall be provided in compliance with Chapter [20.40](#).
8. Owners, operators, and staff shall comply with all of the following:
 - a. No owner, operator, or staff person shall have an employment history in which he or she was terminated during the past two (2) years because of physical assault, sexual harassment, embezzlement or theft; falsifying a drug test; and selling or furnishing illegal drugs or alcohol.

b. No owner, operator, or staff person shall have been convicted of, or pleaded nolo contendere to, any of the following offenses during the timeframe identified for each offense (measured from the date of judgment by the court):

i. Any sex offense for which the person is required to register as a sex offender under California Penal Code Section 290, as may be amended, within the past ten (10) years;

ii. Any arson offense under Penal Code Sections 451-455, as may be amended, within the past seven (7) years;

iii. Violent felonies, as defined in Penal Code Section 667.5, as may be amended, which involve doing bodily harm to another person within the past ten (10) years; or

iv. The unlawful sale or furnishing of any controlled substances within the past seven (7) years.

c. No owner, operator, or staff person shall be on parole or formal probation supervision on the date of the submittal of the application or at any time thereafter.

20.52.030 Conditional Use Permits in Residential Zoning Districts.

A. Purpose. The purpose of this section is as follows:

1. 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.
2. 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 so as to institutionalize that area.

B. Applicability. A conditional use permit is required to authorize uses identified by Part 2 of this title (Zoning Districts, Allowable Land Uses, and Zoning District Standards) as being 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 subject to the approval of a conditional use permit.

~~C. Conditional Use Permits to Continue a Nonconforming Use.~~

~~1. Any person whose use of property in a residential zoning district has been rendered nonconforming may seek the issuance of a conditional use permit, in compliance with this section, to continue the use so long as the application for that permit is completed and filed within ninety (90) days following May 21, 2008.~~

~~2. If any person fails to file an application for a conditional use permit within the ninety (90) day period, the permit to continue the use may not be sought or issued.~~

D. Application Contents. In addition to the application requirements contained in Chapter 20.50 (Permit Application Filing and Processing), an application for a conditional use permit for a site located in a residential zone, or in an area where residential uses are provided for in Planned Community Districts, or specific plan districts, shall contain all of the following information as applicable:

1. **Applicant Information.** The name and address of the applicant, including the name and address of the lessee, if the property is to be leased and is someone other than the applicant; all persons and entities who will participate in the operation of the use; and the name and address of the owner of the property for which a conditional use permit is requested. If the applicant and/or lessee or owner is an association, corporation, firm, or partnership, then the applicant/lessee shall provide the additional names and addresses as follows and the persons shall also sign the application:

a. Every general partner of the partnership;

b. Every owner with a controlling interest in the corporation; or

c. The person designated by the officers of a corporation as identified in a resolution of the corporation that is to be designated as the permit holder for the conditional use permit.

2. **Characteristics of Proposed Use.** Type of use, hours of operation, types of services provided on site, types of activities held on site, and typical attendance at activities held on site.

3. **Anticipated Users.** Number and types of users anticipated for the proposed use (including clients, staff, guests, visitors, etc., as appropriate).

4. **List of Similar Uses Operated by Applicant in the State of California.** A list of addresses of all operations within the State of California similar to that for which a conditional use permit or minor use permit is requested that have been owned or operated by the applicant(s) within the past five years including a statement from the applicant as to whether any of the uses have been found to be operated in violation of Federal, State, or local law by Federal, State or local authorities.

5. **List of Similar Uses within City.** A list of other uses of the same type located in the City and the authorized capacity of the use. The applicant shall provide evidence of the need for the proposed use by the residents of the City. The City may complete an independent review of this data, at the applicant's expense, to determine whether need for the use is supported by the evidence.

6. **License and Permit History.** The license and permit history of the applicant(s), if any, including whether the applicant(s), in previously operating a similar use in this or another City, county, or state under license and/or permit has had the license and/or permit revoked or suspended, and the reason(s) for the revocation or suspension.

7. **Location Map.** A location map showing all conditional uses located within three blocks of the subject site, including property addresses and a site plan showing uses and structures on adjacent parcels. For residential care facilities subject to section 20.48.170 of this Code, the map shall

demonstrate that the application meets the requirements of paragraph (6) of subdivision (C) of that section.

8. Operations and Management Plan. An operations and management plan to ensure compliance with State and local law. If the conditional use permit is for a residential facility or a commercial use that accommodates overnight stays, the operations and management plan shall also indicate the number of persons in each bedroom, maximum number of occupants, typical length of stay, any guest or client rules of conduct, and procedures for the disposal, if any, of medical waste. The applicant also shall submit a copy of all applicable plans and policies required by this Code.

9. Transportation and Parking. Number and location of on-site parking spaces; expected parking demand and vehicular use; availability of public transportation or other means to transport clients, staff, guests, and/or visitors to and from the use; and routes utilized to transport clients, staff, guests, and/or visitors to and from the use.

~~ED.~~ Project Review and Notice and Hearing Requirements. Each application shall be reviewed by the Director to ensure that the proposal complies with all applicable requirements of this Zoning Code.

1. Public Hearing Required. A public hearing shall be conducted prior to any decision on an application for a conditional use permit.

2. Notice and Hearing Requirements. Notice of the public hearing shall be provided, and the hearing shall be conducted, in compliance with Chapter 20.62 (Public Hearings).

~~FE.~~ Approval, Modification, or Revocation of Conditional Use Permit.

1. The review authority identified in Table 5-1 (Section 20.50.020) is designated to approve, conditionally approve, or deny applications for conditional use permits in residential zoning districts and the modification or revocation thereof, in compliance with the procedures provided in this section.

2. Decisions of the review authority may be appealed or called for review in compliance with Chapter 20.64.

~~GF. Development and Operational Standards. The following standards are applicable to uses granted a conditional use permit in compliance with this section.~~

~~1. Management and Operation Plan. The use shall be operated in compliance with applicable State and local law and in compliance with the management and operating plan and rules of conduct submitted as part of the application for a conditional use permit or as identified in the conditions of approval for a conditional use permit. Each plan shall provide a phone number by which the operator may be contacted at all times. If applicable, the permittee shall comply with the Business License provisions of Municipal Code Title 5.~~

~~2. Operational Standards. These standards are in addition to any other standards provided for specific uses in this Zoning Code. In order to ensure that conditional uses in residential zoning districts are operating in a manner that is consistent with Federal, State, and local law and established industry~~

~~standards and to ensure that operators do not have a pattern or practice of operating similar uses in violation of Federal, State, or local law, all of the standards listed below shall apply:~~

~~a. If the facility is not licensed by the State, managers, operators, owners, clients, visitors, and residents shall not provide any services on site that would require licensure of the facility in compliance with State law.~~

~~b. For uses that allow overnight stays, there shall be no more than two residents, guests, or clients in each bedroom plus one additional resident, guest, or client. The review authority, at his/her discretion, may approve additional occupancy upon request by the applicant and based upon evidence that additional occupancy is warranted and appropriate. In determining whether to allow a different occupancy limit, the review authority shall consider the characteristics of the structure, whether there will be an impact on traffic and parking, and whether the public comfort, health, peace, safety, or welfare of persons residing in the facility or adjacent to the facility will be impacted.~~

~~c. The names of all persons and entities with an ownership or leasehold interest in the use, or who will participate in operation of the use, shall be disclosed in writing to the City, and these persons and entities shall not have a demonstrated pattern or practice of operating similar facilities in or out of the City of Newport Beach in violation of Federal, State, or local law.~~

~~d. The operator of the proposed use shall provide a list of the names and addresses of all similar uses located in the State of California owned or operated by the operator within the past five years and shall certify under penalty of perjury that none of these uses has been found by State or local authorities to be operating in violation of Federal, State, or local law. The Director shall verify this information.~~

~~3. Smoking. Clients, guests, visitors, staff, or any other users of the use shall not smoke in an area from which the secondhand smoke may be detected on any parcel other than the parcel upon which the use is located.~~

H. Findings and Decision. In addition to the findings required by Section 20.52.020(F) (Findings and Decision), prior to approving or conditionally approving an application for a conditional use permit in a residential zone or in an area where residential uses are provided for in Planned Community Districts or specific plan districts the review authority shall find:

1. The use conforms to all applicable provisions of ~~subsection (G) of this section (Development and Operational Standards)~~ this code;
2. The project complies with the requirements for off-street parking as provided in Chapter 20.40 (Off-Street Parking) and traffic and transportation impacts have been mitigated to a level of insignificance;
3. The property and existing structures are physically suited to accommodate the use;
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.~~

5. The operation of buses, vans, and other vehicles used to transport residents, clients, visitors, guests, and/or staff to and from off-site activities or parking areas does not generate vehicular traffic substantially greater than that normally generated by residential activities in the surrounding area;

6. Arrangements for delivery of goods are made within the hours that are compatible with and will not adversely affect the peace and quiet of neighboring properties; and

7. Arrangements for commercial trash collection in excess of usual residential collection are made within hours that are compatible with and will not adversely affect the peace and quiet of neighboring properties.

IG. Post-Decision Procedures. The procedures and requirements in Chapter 20.54 (Permit Implementation, Time Limits, and Extensions), and those related to appeals and revocation in Part 6 of this title (Zoning Code Administration) shall apply following the decision on a conditional use permit application.

20.70.020 Definitions of Specialized Terms and Phrases.

I. “I” Definitions.

“Integral facilities (land use)” means any combination of two or more general unlicensed and/or small unlicensed residential care ~~(small licensed, small unlicensed, or general)~~ facilities that may or may not be located on the same or contiguous lots, that are under the control and management of the same owner, operator, management company or licensee or any affiliate of any of them, and are integrated components of one operation that shall be considered one facility for purposes of applying Federal, State, and local laws to its operation. Examples of integral facilities include, but are not limited to, the provision of housing in one facility and recovery programming, treatment, meals, or any other service or services to program participants in another facility or facilities or by assigning staff or a consultant or consultants to provide services to the same program participants ~~in on~~ more than one ~~licensed or unlicensed facility~~ lot.

“Integral uses (land use)” means any two or more ~~licensed or~~ unlicensed residential care ~~programs~~ facilities commonly administered by the same owner, operator, management company or licensee, or any affiliate of any of them, in a manner in which participants in two or more care programs participate simultaneously in any care or recovery activity or activities so commonly administered. Any such integral use shall be considered one use for purposes of applying Federal, State, and local laws to its operation.

compound mixtures or devices; that may result in hazardous waste byproducts, conditions commonly recognized as offensive; that may involve testing on animals; or that may require special handling protocols or security measures.

R. “R” Definitions.

Residential Care Facilities (Land Use).

1. General Licensed (Seven or More Persons). A place, site or building, or groups of places, sites or buildings, licensed by the State, in which seven or more individuals with a disability reside who are not living together as a single housekeeping unit (see “Single housekeeping unit”) and in which every person residing in the facility (excluding the licensee, members of the licensee’s family, or persons employed as facility staff) is an individual with a disability. Includes, but is not limited to, residential facilities licensed under the California Community Care Facilities Act. Does not include “Group residential.”

2. General Unlicensed (Seven or More Persons). A place, site or building, or groups of places, sites or buildings, which is not licensed by the State, and is not required by law to be licensed by the State, in

which seven or more individuals with a disability reside who are not living together as a single housekeeping unit (see “Single housekeeping unit”) and in which every person residing in the facility (excluding persons employed as facility staff) is an individual with a disability. Does not include “Group residential.”

3. Limited Licensed (Six or Fewer Persons). State-licensed facilities that provide care, services, or treatment in a community residential setting for six or fewer adults, children, or adults and children and which are required by State law to be treated as a single housekeeping unit for zoning purposes. Small licensed residential care facilities shall be subject to all land use and property development regulations applicable to single housekeeping units (see “Single housekeeping unit”). Does not include “Group residential.”

4. Small Unlicensed (Six or Fewer Persons). A place, site or building, or groups of places, sites or buildings, which is not licensed by the State of California and is not required by law to be licensed by the State, in which six or fewer individuals with a disability reside who are not living together as a single housekeeping unit and in which every person residing in the facility (excluding persons employed as facility staff) is an individual with a disability. Does not include “Group residential.”

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Attachment B

Resolution No. 2022-007 (LCP)

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RESOLUTION NO. PC2022-07

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF NEWPORT BEACH RECOMMENDING THE CITY COUNCIL AUTHORIZE SUBMITTAL OF A LOCAL COASTAL PROGRAM AMENDMENT NO. LC2021-005 TO THE CALIFORNIA COASTAL COMMISSION TO UPDATE REGULATIONS RELATED TO RESIDENTIAL CARE FACILITIES (PA2021-292)

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

SECTION 1. STATEMENT OF FACTS.

1. Title 20 (Planning and Zoning) and Title 21 (Local Coastal Implementation Plan) of the Newport Beach Municipal Code ("NBMC") authorizes Residential Care Facilities, Limited (6 or fewer) Unlicensed, General (7 or more) Licensed, General (7 or more) Unlicensed, and Integral Facilities/Integral Uses in the RM (Multiple Residential) and RMD (Medium Density Residential) Zoning Districts office subject to approval of a conditional use permit.
2. On October 26, 2021, the City Council created a Residential Care Facilities Ad Hoc Committee, to provide a recommendation to the entire City Council regarding matters pertinent to updating the City's residential care facilities standards.
3. On January 11, 2022, the City Council adopted Resolution No. 2022-3 to initiate a code amendment related to Residential Care Facilities.
4. A public hearing was held by the Planning Commission on March 17, 2022, in the Council Chambers located at 100 Civic Center Drive, Newport Beach, California. A notice of time, place and purpose of the public hearing was given in accordance with the California Government Code Section 54950 *et seq.* ("Ralph M. Brown Act") and Chapter 20.62 (Public Hearings) of the 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.

This action is exempt from environmental review under the California Environmental Quality Act ("CEQA") Section 15061(b)(3) of the California Code of Regulations, Title 14, Chapter 3 ("CEQA Guidelines"), the general rule that CEQA applies only to projects, which have the potential for causing a significant effect on the environment. While this amendment would allow residential care facilities as a conditionally permitted use within the City, it does not authorize new development that would directly result in physical changes to the environment. There is no evidence that amending the regulations for residential care facilities would result in any new effects on the environment. Additionally, pursuant to CEQA Guidelines Section 15265(a)(1), local governments are exempt from the requirements of CEQA in connection with the adoption of a Local Coastal Program.

SECTION 3. FINDINGS.

1. The City, through Titles 20 (Planning and Zoning) and 21 (Local Coastal Program Implementation Plan), promotes the orderly development and public health, safety, peace, comfort, and general welfare of the City. Local Coastal Program Amendment No. LC2021-005 updates definitions related to residential care facilities.
2. Local Coastal Program Amendment No. LC2021-005 shall not become effective until approval by the California Coastal Commission and adoption, including any modifications suggested by the California Coastal Commission, by resolution and/or ordinance of the City Council of the City of Newport Beach.
3. The LCP, including Local Coastal Program Amendment No. LC2021-005, will be carried out fully in conformity with the California Coastal Act.

SECTION 4. DECISION.**NOW, THEREFORE, BE IT RESOLVED:**

1. The Planning Commission of the City of Newport Beach hereby finds Local Coastal Program Amendment No. LC2021-005 is exempt from the CEQA pursuant to CEQA Guidelines Section 15061(b)(3), the general rule that CEQA applies only to projects, which have the potential for causing a significant effect on the environment. While the code amendment would allow residential care facilities as a conditionally permitted use within the City, it does not authorize new development that would directly result in physical changes to the environment. Additionally, pursuant to CEQA Guidelines Section 15265(a)(1), local governments are exempt from the requirements of CEQA in connection with the adoption of a Local Coastal Program.
2. The Planning Commission of the City of Newport Beach hereby recommends submittal of Local Coastal Program Amendment No. LC2021-005, as set forth in Exhibit "A," which is attached hereto and incorporated herein by reference, to the California Coastal Commission.

PASSED, APPROVED, AND ADOPTED THIS 17th DAY OF MARCH, 2022.

AYES:

NOES:

ABSTAIN:

ABSENT:

BY: _____
Lee Lowrey, Chairman

BY: _____
Curtis Ellmore, Secretary

Attachment: Exhibit A - Local Coastal Program Amendment No. LC2021-005

EXHIBIT “A”
Local Coastal Program Amendment No. LC2021-005

21.70.020 Definitions of Specialized Terms and Phrases.

I. “I” Definitions.

“Integral facilities (land use)” means any combination of two or more general unlicensed and/or small unlicensed residential care ~~(small licensed, small unlicensed, or general)~~ facilities that may or may not be located on the same or contiguous lots, that are under the control and management of the same owner, operator, management company or licensee or any affiliate of any of them, and are integrated components of one operation that shall be considered one facility for purposes of applying Federal, State, and local laws to its operation. Examples of integral facilities include, but are not limited to, the provision of housing in one facility and recovery programming, treatment, meals, or any other service or services to program participants in another facility or facilities or by assigning staff or a consultant or consultants to provide services to the same program participants ~~in-on~~ more than one licensed or unlicensed ~~facility~~lot.

“Integral uses (land use)” means any two or more ~~licensed or~~ unlicensed residential care ~~programs~~ facilities commonly administered by the same owner, operator, management company or licensee, or any affiliate of any of them, in a manner in which participants in two or more care programs participate simultaneously in any care or recovery activity or activities so commonly administered. Any such integral use shall be considered one use for purposes of applying Federal, State, and local laws to its operation.

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Residential Care Facilities (Land Use).

1. General Licensed (Seven or More Persons). A place, site or building, or groups of places, sites or buildings, licensed by the State, in which seven or more individuals with a disability reside who are not living together as a single housekeeping unit (see “Single housekeeping unit”) and in which every person residing in the facility (excluding the licensee, members of the licensee’s family, or persons employed as facility staff) is an individual with a disability. Includes, but is not limited to, residential facilities licensed under the California Community Care Facilities Act. Does not include “Group residential.”
2. General Unlicensed (Seven or More Persons). A place, site or building, or groups of places, sites or buildings, which is not licensed by the State, and is not required by law to be licensed by the State, in which seven or more individuals with a disability reside who are not living together as a single housekeeping unit (see “Single housekeeping unit”) and in which every person residing in the facility (excluding persons employed as facility staff) is an individual with a disability. Does not include “Group residential.”
3. Limited Licensed (Six or Fewer Persons). State-licensed facilities that provide care, services, or treatment in a community residential setting for six or fewer adults, children, or adults and children and which are required by State law to be treated as a single housekeeping unit for zoning purposes. Small

licensed residential care facilities shall be subject to all land use and property development regulations applicable to single housekeeping units (see “Single housekeeping unit”). Does not include “Group residential.”

4. Small Unlicensed (Six or Fewer Persons). A place, site or building, or groups of places, sites or buildings, which is not licensed by the State of California and is not required by law to be licensed by the State, in which six or fewer individuals with a disability reside who are not living together as a single housekeeping unit and in which every person residing in the facility (excluding persons employed as facility staff) is an individual with a disability. Does not include “Group residential.”

Rodriguez, Clarivel

Subject: FW: Planning Commission: Residential Care Facilities Ordinance Update
Attachments: Planning Commission Rehab Letter March 2022.pdf

From: Laura Curran <lauracurran@me.com>
Sent: March 15, 2022 4:39 PM
To: Lowrey, Lee <llowrey@newportbeachca.gov>; Lowrey, Lee <llowrey@newportbeachca.gov>; Ellmore, Curtis <CEllmore@newportbeachca.gov>; Klaustermeier, Sarah <sklaustermeier@newportbeachca.gov>; Koetting, Peter <pkoetting@newportbeachca.gov>; Rosene, Mark <mrosene@newportbeachca.gov>; weigand@newportbeachca.gov
Cc: Jurjis, Seimone <sjurjis@newportbeachca.gov>; Finnigan, Tara <TFinnigan@newportbeachca.gov>; Dept - City Council <CityCouncil@newportbeachca.gov>
Subject: Planning Commission: Residential Care Facilities Ordinance Update

[EXTERNAL EMAIL] DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

Planning Commissioners: I am writing to share questions and concerns regarding the proposed Ordinance update for Residential Care Facilities for Drug and Alcohol Rehab. Residents have met with City Staff and Council about these issues and educated them about the issues. I am happy to meet with you further to discuss any of the items discussed here.

As you read the proposed ordinances, and requirements for distance, please keep the following in mind. As the Costa Mesa ordinance has demonstrated, the **9th Circuit Court of Appeals** upheld City of Costa Mesa's ordinance allowing distancing requirements between Rehab Facilities. The Court stated that **distancing regulations are important to maintain the residential nature of treatment**. This means that the court has taken a favorable view towards distancing requirements which the City can build upon.

<https://www.cityofcostamesanews.com/ninth-circuit-affirms-costa-mesas-sober-living-home-ordinances-2/>

1. Existing 2008 Group Home Ordinance and Changes. Group Home Ordinance 2008-05 The City should provide a 'side-by-side- showing proposed changes from the existing ordinance to the new ordinance. The City and residents invested in development of Group Home Ordinance 2008-05 so it would be informative to show the baseline, proposed changes, and reasons for them.

2. Enforcement: The City needs to have an assertive enforcement plan in place

. The residents placed trust in the City's 2008 ordinances, which the City then failed to enforce. For example, a facility in an R-2 Zone was relicensed as an Integral Facility, and the City then failed to enforce its own ordinance banning Integral Facilities in R2 zones. As a result, the operator, who had operated an Integral Facility in violation of his licenses was able to appeal DHCS licensing and continue to operate as 6-under licensed facilities.

The City has not maintained an up-to-date list of Rehab operators. For example, since June 2020, the City has not been able to provide the name of the licensed Operator of Miramar Recovery, at 437 Dahlia, Corona del Mar. The City lacks resources to manage relationships with DHCS, DSS, and to enforce its codes.

City of Newport Beach needs to join with other Orange County cities to pass legislation which allows cities to enforce DHCS /DSS compliance locally, and to place DHCS / DSS Enforcement staff in Orange County. DHCS has enforcement staff only in Sacramento and responds slowly to complaints. DHCS has refused to place any resources in Orange County to oversee compliance with DHCS regulations and the quality of care.

Code Enforcement: All Code Enforcement actions should be served directly to the owner of the licensed and unlicensed facilities. When the City issues a Code Enforcement citation and serves it to a facility manager or client, without accountability to the facility owner and/or the property owner, it allows the licensed operator to evade action. There is precedent for issuing Code Enforcement fines directly to the property owner.

- When a landscaper uses a gas leaf blower at a residential property, the owner can be cited and fined.
- When a builder fails to post an information sign at a building site, the owner can be cited and fined.
- When a group uses a house for a party and is cited under the Loud and Unruly ordinance, the group, and the homeowner can be cited and fined.

3. Re licensed Facilities: The relevance and impact on licensed facilities to this discussion needs to be made clearer.

20.48.170 Residential Care Facilities.

This section provides standards for residential care facilities granted a conditional use permit in compliance with Section 20.52.030 (Conditional Use Permits in Residential Zoning Districts). This section shall not apply to Limited Licensed Residential Care Facilities.

3. Limited Licensed (Six or Fewer Persons). State-licensed facilities that provide care, services, or treatment in a community residential setting for six or fewer adults, children, or adults and children and which are required by State law to be treated as a single housekeeping unit for zoning purposes. Small licensed residential care facilities shall be subject to all land use and property development regulations applicable to single housekeeping units (see "Single housekeeping unit"). Does not include "Group residential."

Most people (myself included) would not be able to tell how this ordinance would apply to licensed facilities, or which ones, and combinations of licensed and unlicensed facilities.

There are several state agencies which license residential facilities including **Department of Social Services (DSS)** and **Department of Health Care Services (DHCS)**. Would these types facilities be included in this ordinance, and how?

Furthermore, Mental Health Facilities, such as the proposed facility at 601 Dahlia Avenue, are licensed by the **Dept. of Social Services. DSS regulates many types of Group Homes (seniors, youth, people with disabilities) and allows cities to regulate them, including Distancing.**

The expansion of DSS Mental Health facilities is relatively new, and the City should take assertive action to apply distancing to these DSS Mental Health Facilities, and restricting locations near any DHCS unlicensed or unlicensed facilities. If there is a DSS regulation which limits the City's ability to enforce distancing, can you please provide that State Code Section placed in the Department of Social Services Regulations, Department of Health Care Services, and any other relevant agencies?

Staff has said that , "all covered licensed residential facilities under the California Community Care Facilities Act, including social rehabilitation facilities are included". This is incomplete.

How do the CCFA and DSS, DHCS and other agencies relate? Please include the relevant regulation for each agency in the ordinance, and the web site links, or the Staff Report.

5.Integral Facilities

The proposed ordinance provides a definition of integral facilities (below) which is incomplete.

DHCS licenses facilities which are 2 locations sharing treatment operations, staff, and/or locations as Integral Facilities, generally serving 7 or more people. Newport Beach does not permit Integral Facilities in R-2 Zones. This prohibition has been allowed to stand following the City's settlement of a related court case (contact Aaron Harp for the citation.)

A. These Integral Facilities need to be included in the facilities which apply for distancing. In other words, a rehab facility should not be located within 650 feet of a unlicensed or licensed group home, including a 6-under, 7-over, or Integral Facility.

B. DHCS - In several cases, 6-under DHCS Licensed facilities operate with the character of Integral Facilities. The City has an obligation to report these to Facilities operating integrally to DHCS and pursue a revocation of license for operating in violation of their 6-under licenses.

a. Justification – Facilities licensed as 6-under which operate as Integral are advertising services they do not provide, and potentially committing fraud.

- b. They have been shown to consolidate staff and not provide the level of supervision committed required by their licenses
- i. failure to conduct bed checks and supervision
- ii. having 1 counselor provide supervision for 2 locations
- iii. consolidating therapy sessions across locations

21.70.020 Definitions of Specialized Terms and Phrases. I. "I" Definitions. "Integral facilities (land use)" means any combination of two or more general unlicensed and/or small unlicensed residential care (small licensed, small unlicensed, or general) facilities that may or may not be located on the same or contiguous lots, that are under the control and management of the same owner, operator, management company or licensee or any affiliate of any of them, and are integrated components of one operation that shall be considered one facility for purposes of applying Federal, State, and local laws to its operation. Examples of integral facilities include, but are not limited to, the provision of housing in one facility and recovery programming, treatment, meals, or any other service or services to program participants in another facility or facilities or by assigning staff or a consultant or consultants to provide services to the same program participants in on more than one licensed or unlicensed facility lot.

City Enforcement and Advocacy Commitment -The Ordinances reflect the City's interest to address location and operation of treatment facilities, to ensure quality treatment and enable residents to enjoy the peace and tranquility of their homes and neighborhoods. **When will the supporting resources to enforce these Ordinances and to advocate at State and local levels be reviewed?**

This approach needs to be accompanied by an **assertive plan to enforce the regulations, and to advocate with County of Orange, State legislators and agencies to ensure that licensed and unlicensed operators are providing quality care.**
Thank you

Laura Curran
Newport Beach, CA
714 351 7379

From: ablyon@sbcglobal.net
To: [Planning Commissioners](#)
Cc: [Dixon, Diane](#); [Brenner, Joy](#); [Duffield, Duffy](#); [Finnigan, Tara](#); [Schneider, Matthew](#); [Erica Keane](#); [Denys Oberman](#); [Laura Curran](#); [Tom Andrews](#); [Steven Fusswinkel](#); [Lynette Luis](#); [Bill Finster](#)
Subject: Draft Ordinance Comments
Date: March 16, 2022 1:25:55 PM
Attachments: [COSTA MESA NB Side-by-side Comare 03.15.22.docx](#)

[EXTERNAL EMAIL] DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

Good Afternoon Planning Commissioners,

I am submitting a comment regarding Newport Beach's draft Residential Care Facilities Ordinance's definition of Integral Facilities. As background, the Newport Beach City Council created an Ad Hoc Committee during the Fall of 2021, with the goal to model Newport's Ordinance to Costa Mesa's Ordinance. Costa Mesa's Ordinance was upheld on September 8, 2021 by the Ninth Circuit Court, and therefore thought to be an appropriate model for Newport's Ordinance.

As an Ad Hoc Committee member, I appreciate the work that went into the rough draft, which is apparent from the many underscored and lined out added and deleted text. However, the many pages of markups make it difficult to discern what sections of Costa Mesa's Ordinance was added to the draft, and which were not. and also need guidance as to why significant parts of the original were deleted, and sections of Costa Mesa's Ordinance not adopted. I have spoken to all of the Ad Hoc Committee members and we all have that same observation regarding, and all agree on the need for more guidance to understand the changes, and more time to answer these many open questions we have regarding the draft Ordinance. We hope that you are in agreement with our request.

With that thought, I submit a comment that will focus on what many of us regard as one of the draft's biggest open questions, Section 20.70.020 Definitions of Specialized Terms and Phrases, the definition of Integral Facilities.

I. "I" Definitions. Integral Facilities

Comment/Request: Include in the definition of Integral Facilities both "State Licensed and Unlicensed" residential care or treatment facilities. Multiple facilities, whether state licensed or unlicensed, operating as one by virtue of shared services and/or supervision, are considered as one by the State, and will be considered to be an Integral Facility for City regulatory purposes.

Acknowledging the fact that the State has no DHCS enforcement or case officers in Orange County, and that oversight from the State has been lax (See Assemblywoman Petrie-Norris' December 2021 hearing with the DHCS for documented examples), we feel it is even more critically important that the City must maintain firm oversight and enforcement of these facilities for the protection of both the residents of Residential Care Facilities, and residents of the communities in which

group homes are allowed to locate. These are typically corporate owned, multiple for-profit facilities, and are simply businesses being operated in the City's residential neighborhoods.

Newport's current definition of Integral Facilities is in agreement with Costa Mesa's ordinance's Integral Facilities definition. It has served our City well since the Ordinance's inception, and we feel is the primary reason that our community has not become over-institutionalized with for-profit, corporate owned group recovery homes. We request that it be kept in Newport's Ordinance.

Also attached as a reference, is a side-by-side comparison that highlight's the differences in the two Ordinance's Integral Facilities definitions.

We hope you find these comments and observations helpful, and thank you for your time and consideration of these requests.

Sincerely,

Bill Lyon

COSTA MESA'S ORDINANCE DEFINITION:

Integral facilities - Any combination of two (2) or more group homes which may or may not be located on the same or contiguous parcels of land, that are under the control and management of the same owner, operator, management company or licensee or any affiliate of any of them, and are integrated components of one (1) operation shall be referred to as integral facilities and shall be considered one (1) facility for purposes of applying federal, state and local laws to its operation. Examples of such integral facilities include, but are not limited to, the provision of housing in one (1) facility and recovery programming, treatment, meals, or any other service or services to program participants in another facility or facilities or by assigning staff or a consultant or consultants to provide services to the same program participants **in more than one (1) licensed or unlicensed facility.**

Integral uses - Any two (2) or more residential care programs commonly administered by the same owner, operator, management company **or licensee**, or any affiliate of any of them, in a manner in which participants in two (2) or more care programs participate simultaneously in any care or recovery activity or activities so commonly administered. Any such integral use shall be considered one (1) use for purposes of applying federal, state and local laws to its operation.

Group Home - A facility that is being used as a supportive living environment for persons who are considered handicapped under state or federal law.

NOTE: Costa Mesa's Ordinance includes State **licensed facilities** in its definition. The ordinance was upheld by the 9th Circuit Court 9/8/21.

NEWPORT'S DRAFT ORDINANCE DEFINITION:

"Integral facilities (land use)" means any combination of two or more general unlicensed and/or small unlicensed residential care (~~small licensed, small unlicensed, or general~~) facilities that may or may not be located on the same or contiguous lots, that are under the control and management of the same owner, operator, management company or licensee or any affiliate of any of them, and are integrated components of one operation that shall be considered one facility for purposes of applying Federal, State, and local laws to its operation. Examples of integral facilities include, but are not limited to, the provision of housing in one facility and recovery programming, treatment, meals, or any other service or services to program participants in another facility or facilities or by assigning staff or a consultant or consultants to provide services to the same program participants ~~in on~~ more than one licensed or unlicensed facility lot.

"Integral uses (land use)" means any two or more ~~licensed or unlicensed residential care programs~~ facilities commonly administered by the same owner, operator, management company or licensee, or any affiliate of any of them, in a manner in which participants in two or more care programs participate simultaneously in any care or recovery activity or activities so commonly administered. Any such integral use shall be considered one use for purposes of applying Federal, State, and local laws to its operation.

NOTE: The current Newport Beach Ordinance includes state licensed facilities in its definition of Integral Facilities. This inclusion has been the primary reason Newport has maintained a healthy balance between group homes and a nice residential setting for all residents. Please reject the proposed changes to the Integral definition.

Date: March 17, 2021

To: Planning Commissioners, Newport Beach

From: Louise Winders, Resident/Corona Del Mar

Subject: 601 Dahlia, Corona Del Mar

My name is Louise Winders. I live at 521 Dahlia Av, next door to.... what is referred to as ...601 Dahlia. I've lived at 521 for 24 years. To clarify.....the subject property being referred to as 601 Dahlia actually has two addresses, i.e., 601 and 603 Dahlia, just as I have two addresses, i.e., 521 and 523 Dahlia. These properties, along with two others on Carnation (520 and 522 and 600 and 602) are directly in back of each other, and are part of a 36 home project, built approximately 35 years ago and known as Summer Wind. There are 18 homes on Dahlia and 18 on Carnation with CC&Rs.

At the time the project was built, 4 of the 36 properties were constructed with units to satisfy the then mandate for lower income housing. The original owners of 601/603 occupied the main home and, for the 24 years I've lived next door, the rear home was occupied by a tenant as were the other 3 rear homes; 2 on Carnation and mine on Dahlia. The main home has a garage for the owner and a separate garage for the tenant. The 601/603 property was sold in March 2021. Since that time, it has not been occupied by the owner; it's been vacant.

The lot size for all 4 properties is 55' wide and, therefore, has a good size yard and 601/603's yard is complete with spa, built in fireplace and built in BBQ with plenty of seating space for dining, relaxing.

601 and 603 have 5 bedrooms and 5 bathrooms. It's clearly a home that can accommodate 10 persons, maybe more, for sleeping purposes as the rooms are not small. I have been inside the home several times.

When I had the opportunity to read the Proposed Amendments to Residential Care Facilities, I questioned C6, page 3, which states that a Res. Care facility shall not be located within 650 ft. of an existing care facility.

I was told that the applicant applied for a 'six or fewer persons' state license and the 650 ft. separation does not apply in the case of Dahlia as the City only has authority to permit 'seven or more occupants.' I was informed that the applicants know they can come in with six or less occupants and get permitted by the State. It's easy to see where 601/603 will end up going after if it's permitted with it having **5 bedrooms and 5 baths available for use.**

The distance between 601/603 and 435 Dahlia, currently in operation, is 500 ft. as measured by the City. Having not met the requirement of 650 ft. would preclude the operation of a Residential Health Care facility at 601/603.

I suggest the City make a premise visit to 601/603 to verify my research and comments. I'm confident my statement will prove out. I subsequently request that, after the City visits the property and is satisfied that the facts are the facts, they bring it to the attention of the Department of Social Services.

I am a long time resident, and I want the City to stand up, protect and challenge issues that are unfair to me and other residents after the facts are made known.

Thank You.