

**IMPARTIAL ANALYSIS BY CITY ATTORNEY
MEASURE X**

A “yes” vote on this initiative measure would be to adopt an ordinance that would require voter approval of a specific plan (a legislative act that must be approved by the City Council) for any proposed “Major Development” project, or a “Minor Development” project as explained in greater detail below, that requires discretionary approval and increases traffic - by more than 100 peak hour trips, density – by more than 100 residential dwelling units, or intensity – by more than 40,000 square feet of floor area. A discretionary approval is an approval that requires discretion on the part of the City, such as a use permit, variance, subdivision map, modification permit, grading permit, etc.

If adopted, this measure will also require a “Minor Development” project, which by itself does not exceed any of the thresholds, to prepare a specific plan and obtain voter approval if the Minor Development project will exceed a threshold when combined with other Minor Development projects within its “neighborhood” that were approved in the preceding five years. Each parcel or lot that receives a discretionary project approval will have its own 500 foot “neighborhood” and the City’s Planning Department would be required to maintain a database to keep track of all discretionary approvals so that City planners can determine whether a property owner’s proposed project will be subject to voter approval because it will exceed any of the thresholds for the “neighborhood” by even one trip, one square foot, or one dwelling unit. In addition, the measure would change procedures so that the conversion of retail space to a restaurant, even if no floor area is added, could require City Council and voter approval of a specific plan if the restaurant would increase traffic by more than 100 trips, individually or in combination with other projects in its neighborhood.

If this measure is defeated the current procedures for approving discretionary projects would remain in effect. For instance, under current regulations, the Planning Commission uses its discretion to approve or disapprove a use permit to change a retail space to a restaurant, regardless of any change in floor area or trips. If the Planning Commission approves the use permit and the approval is not appealed, the action is final. There is no requirement for voter approval or for the City to track the project in a database.

The measure contains exceptions to its provisions. All property within the Newport Coast that remains subject to Orange County permitting authority is exempt. A single residential building on a lot located within a R-1, R1.5 or R-2 zoning district, if remodeled or constructed by individual property owners, is exempt. However, the measure does not exempt single family residential development within Planned Community or Specific Plan districts. Other exemptions are also made for affordable housing required by state or federal law or public schools and hospitals. Private schools are not exempt.

Robin L. Clauson
City Attorney

The above statement is an impartial analysis of Measure X. If you desire a copy of the measure, please call the City Clerk’s office at 949-644-3005 and a copy will be mailed at no cost to you. The information is also available on the City’s website: <http://www.city.newport-beach.ca.us>.

ARGUMENT IN FAVOR OF MEASURE X

A YES vote empowers you the voter to determine Newport’s traffic and development density. This Measure (Greenlight II) gives you the choice of what legacy you leave to your children, family and community: a high quality residential and beach community or another Santa Monica.

Greenlight II is not “No Growth.” It is for giving you the power to judge whether a development is “Beneficial Growth” (such as Hoag Hospital) or is a traffic-creating high-density development with “No Benefit” to anyone but the developer.

The city is proposing a General Plan Update that, if passed, will virtually eliminate your right to vote on Major Developments. It will do this by lumping them all together and letting the pro-development politicians decide what developments can be built.

This city General Plan Update also proposes to add 100,000 or more auto trips a day on our streets. This is less than the current (outmoded) General Plan allows ON PAPER. However their plan will add more than 100,000 PHYSICAL CAR TRIPS A DAY on top of today’s traffic and congestion.

Volunteer residents, guided by the 63% vote for Greenlight I, have sponsored Greenlight II. The Initiative approach is needed because the city government is non-representative. Pro-development appointees who have not received a single vote from the people are the deciding votes for the General Plan Update on the City Council and will vote to set the 20-year future of the city.

The original Greenlight I Initiative has been a resounding success, keeping thousands of car trips a day off our streets while permitting Beneficial Growth. Greenlight II follows its same rules to protect your quality of life.

Vote YES on Greenlight II and NO on the General Plan Update to limit traffic and retain your right to vote.

s/ Philip Arst

REBUTTAL TO ARGUMENT IN FAVOR OF MEASURE X

Many supporters of Greenlight cannot support Measure X because it is **FLAWED**.

We aren’t questioning the author’s good intentions. What we are asking is that the author address, in advance of the election, the flaws in Measure X he acknowledged in public to the City Council and later to the *Daily Pilot* — like making Measure X’s restrictive provisions apply to 65% of all the single family homes in Newport Beach.

But that’s not the only flaw:

- Measure X exempts the The Irvine Company’s Newport Coast development.
- Measure X exempts 50% of all property in Newport Beach.
- Measure X doesn’t address the source of our real traffic problems – high rise development in Irvine and high density redevelopment in other adjoining cities.

And the big mistake: Section 4 of Measure X requires Newport Beach taxpayers to pay for the legal costs of defending this flawed proposal in court!

None of the arguments for passage of Measure X address these very real shortcomings. Instead he’s attacking the general plan update when he knows perfectly well the two measures are not mutually exclusive. They simply do not contradict one another, and they should be evaluated independently and based on their own merits.

Even if you support the concept of Measure X, understand that its author admits it has “oversights” and exemptions. **There’s a better way to handle an initiative full of mistakes and flaws – go back to the drawing board and start over.**

Please say “NO” to Measure X.

s/ Dennis O’Neil
2006 Newport Beach Citizen of the Year,
Former Newport Beach Mayor

s/ Robert Kahn
Registered Traffic Engineer

s/ Tim Riley
City of Newport Beach Fire Chief

s/ Paul Watkins
West Newport Beach Association President

s/ Jan Debay
Water District Director

ARGUMENT AGAINST MEASURE X

We all want to protect our quality of life in Newport Beach, but **Measure X is FLAWED. And its authors admit it.**

See for yourself: read the Impartial Analysis in your voter pamphlet and the July 17 story in the *Daily Pilot* about the flaws in Measure X.

For starters:

1. Measure X exempts The Irvine Company's Newport Coast development.

2. Measure X's restrictive provisions apply to 65% of all single family homeowners in Newport Beach – possibly hindering their ability to improve their property, like adding a room or remodeling.

When asked why single family residences in planned communities are treated differently than those in areas zoned R1, the author said it was an oversight. He did, however, remember to exempt his own home.

3. Without explanation, Measure X exempts 50% of all property in Newport Beach. Its application throughout the city is UNFAIR.

A single family home in Newport Coast is exempt but one in West Newport isn't ... affordable housing is exempt but churches aren't ... a hospital is exempt but not medical offices.

Worse yet, Measure X requires taxpayers to pay the legal cost of defending this poorly written initiative in court.

Should we pay for their mistakes?

Greenlight I is working – there's no need for Measure X There hasn't been one major development in Newport Beach since it passed. The main source of new traffic clogging our streets is high-rise development along Jamboree in Irvine and redevelopment in adjoining cities.

That's why many Greenlight I supporters now oppose Measure X.

Measure X has too many flaws ... and doesn't address the real source of our traffic problems. There's got to be a better way to protect our quality of life without putting taxpayers and property owners at risk. Vote no on Measure X.

s/ Robert Kahn, Registered Traffic Engineer

s/ Dennis O'Neil, 2006 Newport Beach Citizen of the Year, Former Newport Beach Mayor

s/ Tim Riley, City of Newport Beach Fire Chief

s/ Paul Watkins, West Newport Beach Association President

s/ Jan Debay, Water District Director

REBUTTAL TO ARGUMENT AGAINST MEASURE X

Measure X gives you the voting power to protect your quality of life and property values. It empowers you to vote on major beneficial projects and reject traffic impacting developments.

Measure X opponents claim that a number of minor issues could impact some homeowners. **They failed to tell you that City Staff Council testimony stated that it is "highly unlikely" and "a stretch" the Measure will affect homeowners.**

What will really hurt homeowners would be voter approval of the General Plan Update and rejection of this Measure. **Then, 100% of the homeowners in the city will be impacted by over 100,000 more car trips a day, increased traffic congestion and 20,000 more residents, a 25% population increase over today's existing on the street conditions.** These increases will degrade the unique character of the city reducing property values and quality of life of the residents.

The opponents also didn't level with you and disclose that **the fine print of the General Plan Update makes your Greenlight I right to vote useless.** Instead they deviously suggested that you rely upon it to control the city's destiny.

Measure X was carefully written by the same people and legal counsel who wrote Greenlight I, which has been successful in limiting traffic. Because it was so well written, it has never been challenged in court. 8,000 people signed petitions confirming their confidence and need for another Greenlight Initiative.

Vote YES on Greenlight II Measure X and NO on the General Plan Update Measure V.

s/ Jean Watt, Former Newport Beach City Council Member

s/ Philip Arst, Spokesperson, Greenlight Resident's Group

s/ Larry Porter, Greenlight Residents' Group Steering Committee