



**MEASURE R: AMENDING DEVELOPMENT REGULATIONS FOR BEACHFRONT  
PROPERTY**  
*August 2018*

**SDCTA Position:**

**OPPOSE**

**Rationale for Position:**

While the initiative would streamline development regulations, the process would also create legal exposure for the City of Del Mar if any of the 28 property owners for whom this policy creates a potential “taking” decide to request the courts to clarify. These very specific decisions are technical issues that ought to be made by policymakers, not at the ballot box. From a governance standpoint, this is an issue that the City Council can clarify through normal legislative activity.

**Title:** Measure R: Amending Development Regulations for Beachfront Property

**Jurisdiction:** City of Del Mar

**Type:** Municipal Code Amendment

**Vote:** Simple Majority

**Status:** On the November 6, 2018 General Election Ballot

**Issue:** Changing boundaries to calculate maximum home size

**Description:** The measure would exclude a strip of beach along the coast earmarked for public beach access from the calculation of lot size.

**Fiscal Impact:** The development potential of the lots in question would be reduced by approximately 20 to 50 percent, depending on the location and size of the lot.

**Background**

After a Del Mar citizen submitted plans to build a house on family waterfront property in the City of Del Mar, next-door Rick Thompson organized an initiative petition that seeks to change the calculation used to determine the size of oceanfront homes. The petition claims to protect the beach’s shoreline for the public by requiring the city, when calculating the allowable square footage of oceanfront homes, to exclude the shoreline protection area, which runs along the shoreline. The City called for a report from the City Attorney on whether it would significantly affect Del Mar residents in July.

This analysis is not a comprehensive overview of the proposed policy change, as the Association is limited in time, but a brief summary of its implications.

## Proposal

On August 6, 2018, after the Del Mar City Clerk confirmed that Thompson's initiative petition gathered signatures from ten percent of Del Mar's population (a minimum of 309 signatures for a little over 4,000 residents), the City Council adopted Ordinance 2018-30 submitting the Municipal Code amendment for the consideration of voters on the November 6, 2018 General Election ballot. The question to be put before voters reads as the following:

*Shall the measure amending the City Charter of the City of Del Mar (Sections 201 and 202), to establish greater local control regarding land use and zoning where consistent with the City's General Plan (Community Plan) and where provided by State law, be adopted?*

If passed, the ordinance would amend four terms in provisions of the Del Mar Municipal Code, including the Building Construction and Zoning codes related to the calculation of floor area ratios. The proposed ordinance would exclude the Shoreline Protection Area (SPA), a strip of beach along the coast earmarked for public beach access, from the calculation of lot size.

Approval of this measure would change the way home size is calculated for 28 of the 92 beachfront properties in the City of Del Mar.<sup>1</sup> These units would no longer be allowed to include the SPA in their calculations, which would effectively reduce the size of the building and cause them to not comply with city law. Additionally, if an accidental event such as a fire or an earthquake were to occur, these homes could not be rebuilt under the previous regulations.

## Fiscal and Governance Impact

The fiscal impact of this policy is likely negative because of a reduction in tax revenue. According to an impartial analysis by the City Attorney, the development potential of the lots in question would be reduced by approximately 20 to 50 percent, depending on the location and size of the lot.<sup>2</sup> Waterfront units in the area are priced between \$5 and \$24 Million, representing an estimated possible property loss range between \$1 Million at a minimum and \$12 Million at a maximum. Estimates are dependent on the type of calculation that the properties assessed follow.

Mayor Dwight Worden also fears that the measure could have unintended consequences regarding development in other parts of the city.<sup>3</sup> The City Attorney expands on this, as "the initiative could have unintended city-wide impacts of allowing lots currently encumbered with public rights of way, road easements and private street, to include those portions of private properties in the floor area ratio calculations, resulting in greater development intensity."<sup>4</sup> Finally, this initiative could add an additional fiscal burden to the city if it goes into litigation. All four of Del Mar's

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<sup>1</sup> [City of Del Mar. \(2018\). City Attorney Impartial Analysis: Amending Development Regulations for Beachfront Properties Initiative.](#)

<sup>2</sup> [Ibid.](#)

<sup>3</sup> [Tash, Joe. \(2018\). "Two measures heading for Del Mar ballot in November." Del Mar Times.](#)

<sup>4</sup> [City of Del Mar. \(2018\). City Attorney Impartial Analysis: Amending Development Regulations for Beachfront Properties Initiative.](#)



Councilmembers have agreed not to spend any city money defending any legal challenge to the initiative.<sup>5</sup>

Moreover, Thompson’s motives have been repeatedly questioned by residents who claim that he has “wildly misrepresented some facts to collect the signatures needed to place his initiative on the ballot,” including having “paid solicitors allegedly claimed the initiative was supported by the city attorney and mayor,” even though they are required by law to remain impartial.<sup>6</sup>

### **Proponents**

The Thompson Family argues that the measure would help avoid “mansionization,” ensuring “...Fair and consistent development of beachfront lots, and preserving the character of [the] residential community.”<sup>7</sup>

### **Opponents**

Opponents have questioned Thompson and his motives, as his home is one of the largest mansions on the coast. Opponents also point at the ballot measure’s procedural and substantive problems, noting that it is targeted at a specific project that would not survive a constitutional challenge.

Mayor Dwight Worden  
Councilmember Dave Druker  
Councilmember Sherryl Parks  
Councilmember Terry Sinnott  
Naftzger Family  
Resident Kim Fletcher  
Attorney Lee Andelin, representing several beachfront property owners

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<sup>5</sup> [Tash, Joe. \(2018\). “Two measures heading for Del Mar ballot in November.” Del Mar Times.](#)

<sup>6</sup> [Diehl, Phiel. \(2018\). “Mansion owner taking sand squabble to ballot box.” The San Diego Union Tribune.](#)

<sup>7</sup> [Tash, Joe. \(2018\). “Two measures heading for Del Mar ballot in November.” Del Mar Times.](#)