

## ORDINANCE NO. 7-09

### AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ORANGE AMENDING TITLE 17 OF THE ORANGE MUNICIPAL CODE RELATING TO SOBER LIVING FACILITIES.

**WHEREAS**, in enacting this Ordinance the City Council seeks to preserve the residential characteristics of residential neighborhoods, to provide housing opportunities for recovering addicts who are considered disabled under state and federal law and to ensure that these housing opportunities provide an environment which is conducive to addiction recovery. In doing so the City Council makes the following findings in support of this Ordinance.

**A. The current housing environment.**

1. Over the past decade the City, County and State have seen a significant increase in the number of residences being utilized as unlicensed alcohol and drug recovery facilities for large numbers of individuals (hereafter, Sober Living Facility), as well as state-licensed group homes that are treating six or fewer recovering drug and alcohol addicts (hereafter, Group Addiction Homes).

2. The increase appears to be driven in part by a trend toward placing persons who have been convicted of non-violent drug or alcohol offenses into community based treatment programs as a condition of probation or in lieu of incarceration. This trend appears to have occurred in part due to the passage of Proposition 36, the Substance Abuse and Crime Prevention Act (Penal Code Section 1210 et seq.). In the four years after Proposition 36 was passed (2000-2004), the number of substance abuse treatment facilities in California rose from 104,657 to 140,401, a 34.1% increase.

3. The City of Newport Beach in particular has witnessed a dramatic increase in Sober Living Facilities, specifically on Balboa Peninsula, upon which an estimated 89 Sober Living Facilities and Group Addiction Homes are located. This has generated community outcry and negative impacts including, but not limited to: overcrowding; inordinate amounts of second-hand smoke and noise; lawsuits against the City of Newport Beach by the community, Group Addiction Homes and Sober Living Facilities; the clustering of Sober Living Facilities and Group Addiction Homes in close proximity to each other; and a fundamental alteration to residential zoning. Other communities such as Walnut Creek, West Covina, Pasadena, Costa Mesa and Murrieta have experienced problems as well.

4. There are at least 22 know Sober Living Facilities in the City of Orange (the number is likely higher since many locate without notifying the City) and 17 Group Addiction Homes, for a total of at least 39 homes for recovering addicts located in the City's residential neighborhoods.

5. The increase in both the number and size of Sober Living Facilities and Group Addiction Homes has become an increasing concern statewide resulting in: local officials are being bombarded with complaints from residents about their proliferation; conferences drawing local officials from around the state being held; impacts being discussed at several League of California Cities meetings; and numerous city-sponsored attempts at legislative fixes that have died in state legislative committees. The California Legislative Counsel issued an opinion in June 18, 1997, which understated state and local government's ability to regulate Sober Living Facilities and Group Recovery Homes, was inconsistent with federal court cases, and was incomplete in that it did not note scenarios in which regulation would be permissible, which opinion is likely responsible in part for stopping state legislative fixes.

6. In 2008 legislation (SB 992) that would have required Sober Living Facilities to obtain a state license was vetoed by Governor Arnold Schwarzenegger because the Governor stated it did not go far enough in providing quality programs for recovering addicts and respecting the communities in which these facilities are located.

7. In several cases, operators of Sober Living Facilities have attempted to house inordinately large numbers of tenants in a single dwelling in the City, in one case an operator placed 18 beds in a single-family home, nine in one bedroom; in another case a Sober Living Facility operator proposed to add five bedrooms to a single-family home for the sole purpose of housing large numbers of tenants; and in another case 17 beds were found in a single family home.

**B. The current regulatory environment.**

1. Pursuant to state and federal laws, specified recovering drug and alcohol addicts are considered disabled.

2. The Federal Fair Housing Act (FHA) and the California Fair Employment Housing Act (FEHA) prohibit enforcement of zoning ordinances which intentionally discriminate or have the effect of discriminating against the disabled in the provision of housing opportunities.

3. Core purposes of the FHA, FEHA and California's Lanterman Act are to provide a broader range of housing opportunities to the disabled; to free the disabled, to the extent possible, from institutional style living; and to ensure that disabled persons have the opportunity to use and enjoy a dwelling in a manner similar to opportunities enjoyed by the non-disabled.

4. To fulfill this purpose the FHA and FEHA require that the City make an accommodation to its zoning ordinances if such accommodation is reasonably necessary to afford a disabled person an equal opportunity to use and enjoy a dwelling.

5. The FHA and accompanying case law have held that a requested accommodation is not reasonable if it would create a fundamental alteration in a city's zoning scheme.

6. The Lanterman Act fulfills this purpose in part by requiring cities to treat state-licensed care facilities serving six or fewer disabled persons (Group Homes), as a single family use for all zoning purposes. Group Homes also have a house manager. Cities in the state are precluded from applying any rules or regulations to Group Homes that are not applied generally to all residential development in the zone, although the Group Homes themselves are subject to state licensure requirements and a limit of six disabled clients.

7. Pursuant to Orange Municipal Code Section 17.14.050, Sober Living Facilities serving six or fewer have been granted this same accommodation. However, there is currently no state or local regulations for Sober Living Facilities other than the state requirement that they cannot be providing any treatment.

8. Without this City zoning accommodation Sober Living Facilities would be considered boarding houses under Orange Municipal Code §17.04.021 (defined as a dwelling in which three or more tenants are under separate rental agreements), and not a permitted use in R-1 and R-2 neighborhoods. Thus, the Orange Municipal Code grants preferential treatment to the disabled in the provision of housing opportunities in that it permits three times as many disabled tenants as non-disabled tenants to be on separate rental agreements in a dwelling unit.

**C. The City's interest in preserving the single-family character of neighborhoods.**

1. Under the California Constitution, Article XI, Section 7, the City has broad police powers to preserve the residential characteristics of its residential neighborhoods, which constitutional powers have been recognized by both the California Supreme Court and United States Supreme Court, the latter of which stated in *Berman v. Parker*: "It is within the power of the legislature to determine that the community should be beautiful as well as healthy, spacious as well as clean, well-balanced as well as carefully patrolled."

2. Both Supreme Courts have held that the government has the right to regulate both the number of people who may reside in a dwelling unit and the manner in which the dwelling unit is used as long as such regulations do not unfairly discriminate or impair an individual's rights of privacy and association.

4. Persons often purchase homes in residential neighborhoods for the relative tranquility and safety that accompanies such neighborhoods, the family characteristics, the pride associated with such ownership and the accompanying financial and moral investment not only in the home, but in the neighborhood and community in general. As was stated by the California Supreme Court in *Miller v. Board of Public Works*, "The establishment of [residential] districts is for the general welfare because it tends to promote and perpetuate the American home...The home and its intrinsic influences are the very foundation of good citizenship, and any factor contributing to the establishment of homes and the fostering of home life doubtless tends to the enhancement not only of community life but of the life of the nation as a whole."

5. With these expectations, persons commit to making what will be for most of them, the single largest financial investment of their lives, many in order to have a home conducive to the raising of children. The core purpose of making this financial investment can be negatively impacted by a concentration of boarding house type uses. The City has had significant experience with overcrowding having heard complaints from neighborhoods throughout the City about boarding house uses in single-family neighborhoods whether they be homes housing large numbers of college students, persons who appear to be day laborers or recovering addicts.

6. In adopting the boarding house ordinance in 2006 (Ordinance 1-06) the City Council was addressing situations in which large numbers of non-disabled tenants were being placed in single-family homes in and around Chapman University and in East Orange. In all situations in which large numbers of unrelated adults live in a single unit, be they sober living facilities or not, there are complaints which appear to be generally universal--large numbers of cars, excessive noise, building code violations, unpermitted remodeling, transiency, and a disruption of the residential characteristic of the neighborhood.

**D. A typical Sober Living Facility is not a single-family use.**

Sober Living Facilities do not function as a single-family unit and do not fit the City's zoning definition of a single-family for the following reasons:

1. Sober Living Facilities house transient populations. Many Sober Living Facilities charge rents on a weekly basis, which under Chapter 5.16 of the Orange Municipal Code fits the definition of "transient" and would otherwise be subject to the City's Uniform Transient Tax<sup>1</sup>. Sober Living Facilities typically advertise a 90-day recovering program, such as the 12-Step Program. A 2005 UCLA study found that 65-70% of recovering addicts do not finish their recovery programs in general. A study of the Oxford House, a nationwide system of Sober Living Facilities found that participants spent an average of only 256 days in an Oxford House. One of the chief complaints from neighbors of some of Sober Living Facilities is that the tenants changed so often they don't know who lives next door.

2. The tenants generally do not share expenses. Tenants are responsible solely for their own rent. Tenants are generally responsible for their own food. The City found one Sober Living Facility with up to four refrigerators in the house and in it a sign which stated, "If it's not yours don't eat or drink it." Coin operated phones and washing and drying machines have been found in a Sober Living Facility. In some cases tenants pay the landlord for additional benefits, such as a gym membership.

3. The tenants are not responsible for any significant maintenance or improvements to the property and have no vested long-term interest in its upkeep. While

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<sup>1</sup> Chapter 5.16 governs the payment of the Uniform Transient Occupancy Tax that must be paid by transients of hotels, lodging houses, motels, etc. "Transient" is defined by §5.16.020 as "any person who exercises occupancy or is entitled to occupancy by reason of concession, permit, right of access, license or other agreement for a period of thirty (30) consecutive calendar days or less...Any such person shall be deemed a transient until the period of thirty (30) days has expired..."

tenants may be expected to do chores around the property, any significant maintenance or improvements to the property is typically paid for and decided upon by the owner of the home, who typically does not reside in the home. Tenants often don't even have a leasehold interest in the property, as they may be immediately evicted for violating house rules without the benefit of state eviction laws.

4. The house rules and who lives on the property are generally determined by a managing entity and not the tenants themselves. The tenants have little to no say in who resides on the property or who even is their roommate. Tenants may wind up on the property by self-check-in, by referral from the Orange County Sheriff or Probation Departments, as a condition of probation and/or as an alternative to incarceration. Decisions about who may reside on the property, who is required to leave the property and the amount of rent paid by each tenant are not made by the tenants themselves.

5. The size and makeup of the household in a Sober Living Facility is dissimilar and larger than the normal household. As to size, the 2009 California Dept. of Finance figures show that the average number of persons per family household in Orange is 3.1. The most recent federal census data shows that only 10% of housing units have 1.51 or more occupants per room; that households containing seven or more are in the top 5% in size of total households in Orange County; that for nonfamily households such as a Sober Living Facility, only two tenths of one percent have seven or more; and the current national trend is that the average number of persons per family household is going down. Many of the Sober Living Facilities house individuals who are Parolees or Probationers who are under the supervision of and subject to unannounced visits and searches by probation officers; a typical Sober Living Facility is much more likely to house persons with criminal records and not just for drug and alcohol violations; all seven individuals residing in a Sober Living Facility are generally over the age of 18, while the average household has just 2.25 individuals over the age of 18 according to the most recent federal census data. Due to the above and the City's boarding house ordinance there are likely very few instances in which seven adults are residing in a single dwelling unit.

**E. Possible impacts to residential neighborhoods.**

1. The experience in the cities of Newport Beach and Orange is that over concentrations of Sober Living Facilities and/or the placement of inordinately large numbers of unrelated adults, whether or not they are recovering addicts, in a single dwelling can undermine the benefits and value of home ownership in single-family and multi-family neighborhoods, and can conflict with purposes of residential zoning such as a sense of permanency, stability and linkage to the community. Boarding house uses, whether such uses are by the disabled or non-disabled, have unequivocally caused negative impacts in the City, including in some reported cases causing residents to move.

2. Because of their relatively transient populations, higher potential for housing convicted criminals and above normal numbers of individuals and adults residing in a single dwelling unit and the lack of governmental regulation or oversight, Sober Living Facilities

present problems not typically associated with normal residential uses or Group Homes, including: the housing of large numbers of unrelated adult recovering addicts who may or may not be supervised; disproportionate numbers of cars associated with a single-family home<sup>2</sup> which causes disproportionate traffic and utilization of on-street parking; excessive noise, including loud profanity; extraordinary amounts of second-hand smoke that interfere with the use and enjoyment of neighbors' use of their property; neighbors unable to discern who lives in the neighborhood, an important aspect in Neighborhood Watch programs; tenants who have little to no interaction with the neighborhood and little to no sense of community; facilities which open in complete disregard of the Orange Municipal Code's limit on tenants; a tendency of Sober Living Facilities to undertake modifications to the residences without permits and have other building code violations; extraordinary use of police resources; and due to exponentially larger than normal households, potentially disproportional impacts to nearly all City services including sewer, water, parks, libraries, transportation infrastructure, and fire.

**F. The City's effort to balance the need to provide housing for the disabled while preserving the characteristics of residential neighborhoods.**

1. As noted above, this Ordinance and the balance of the City's zoning scheme have built in an accommodation for Sober Living Facilities to locate in the R-1 and R-2 neighborhoods as long as they are serving six or fewer disabled tenants and on its face the City's zoning scheme grants preferential treatment in the provision of housing to the disabled.

2. The Orange Municipal Code provides a mechanism for Sober Living Facilities to seek additional accommodation above the six disabled residents upon making a showing, as required by state and federal law, that such additional accommodation is reasonably necessary to afford the disabled the right to use and enjoy a dwelling in a manner similar to that enjoyed by the non-disabled.

3. Permitting six or fewer disabled residents in Sober Living Facilities is reasonable and non-discriminatory on its face and in its effect. The limit of six helps preserve the single-family characteristic of single family neighborhoods while affording the disabled with housing opportunities not available to the non-disabled. This Ordinance furthers the purposes of the Lanterman Act, the FHA and FEHA for reasons which include, but are not limited to: (a) in establishing Group Homes as a residential use, the State legislature found that six residents was a sufficient number to provide the supportive living environment that experts agree is beneficial to an addict's recovery; (b) Group Addiction Homes, which also serve recovering addicts, have existed and flourished in the State for decades with a six-person limit; (c) the City has received expert testimony stating that even less than six is a reasonable number for a Sober Living Facility and is sufficient to provide the supportive living environment that is beneficial to recovery and that larger numbers of recovering addicts in a single dwelling can actually reduce the chances of recovery; (d) a 2005 UCLA

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<sup>2</sup> Given the potential for more people of driving age residing in a Sober Living Facility (7), there is potential for more cars. According to the Census Bureau, only 20% of Orange County households have three or more cars available.

study found that 65-70% of recovering addicts do not finish the recovery programs into which they are placed and a comfortable living environment, which this Ordinance furthers, is a factor in whether recovering addicts will finish their programs; (e) drug and alcohol addiction is known to affect all income levels and one study found that 75% of persons who use illicit drugs are gainfully employed and thus, many of Sober Living Facility tenants likely have the wherewithal to pay market rate rents; and (f) receiving rent from up to six individuals will provide sufficient income for operators of Sober Living Facilities and result in revenue which is well above market rate rents.

4. A 300-foot distance requirement provides a reasonable market for the purchase and operation of a Sober Living Facility, is consistent with distance requirements for many Group Homes under State law and still results in preferential treatment for Sober Living Facilities in that non-disabled individuals in a similar living situation could not reside in the R-1 or R-2 zone at all. In addition, the Orange Municipal Code allows larger Sober Living Facilities to locate in multi-family residential zones with a conditional use permit.

5. The City Council recognizes that while not in character with a typical residential use, that when operated responsibly, a Sober Living Facility provides a societal benefit by providing housing and recovery opportunities for individuals attempting to overcome their drug and alcohol addictions and that some reasonable accommodation is necessary and beneficial. In addition, studies have indicated that Proposition 36 is achieving its core purposes, i.e., it has reduced the costs associated with incarcerating specified first and second-time drug offenders and increased their chances of rehabilitation.

**H. The regulations do not impose an undue burden and are consistent with proper management of a Sober Living Facility.**

1. Some of the individuals residing in Sober Living Facilities in the City are referred there by the County of Orange which has enacted regulations and a certification program that Sober Living Facilities must abide by in order to get referrals from the Orange County Court system, regulations which are intended to ensure that the Sober Living Facilities are professionally run.

2. The Sober Living Network, a coalition of Sober Living Facilities, also has established basic guidelines for the operation of Sober Living Facilities.

3. To a substantial degree this Ordinance's permit requirements mirror the County of Orange's regulations and the Sober Living Network's guidelines.

4. These regulations were sent to all known Sober Living Facility operators as well as the Sober Living Network. Only one operator, Cornerstone, responded and in a meeting with the City Attorney was generally supportive of the regulations.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF ORANGE DOES ORDAIN AS FOLLOWS:**

**SECTION I:**

The definitions of PAROLEE and PROBATIONER are added to Section 17.04.035 of the Orange Municipal Code to provide as follows:

“PAROLEE – An individual who has been convicted of a federal or state crime, sentenced to a federal or state prison or to a term in the California Youth Authority and has received conditional and revocable release in the community and is under the supervision of a federal, state or Youth Authority probation/parole officer.”

“PROBATIONER – A person who has been convicted of a crime and who has received a suspension in the imposition or execution of their sentence and has received conditional and revocable release in the community under the supervision of a probation officer, as provided under California Penal Code Section 1203 or its successor.”

The definition of SOBER LIVING FACILITY is added to Section 17.04.038 of the Orange Municipal Code to provide as follows:

“SOBER LIVING FACILITY – A Dwelling Unit with more than two tenants which is not licensed by the State and is being used as a drug and alcohol recovery facility for persons who are recovering from drug and/or alcohol addiction and in which all tenants, except for a house manager, are considered disabled under state or federal law and are actively enrolled and participating in a legitimate alcohol and/or drug recovery program.”

**SECTION II:**

Section 17.14.050N shall be added to the Orange Municipal Code to read as follows:

“N. Sober Living Facility.

1. A Sober Living Facility which would otherwise be considered an unpermitted use as a boarding or lodging house in a R1 or R2 zone, may locate in any residential zone with a Sober Living Permit and a Business License provided:

a. An application for a Sober Living Facility is submitted to the Community Development Director by the owner/operator of the Sober Living Facility. The application shall provide the following: (1) the name, address, phone number and driver’s license number of the

owner/operator; (2) the name, address, phone number and driver's license number of the house manager; (3) a copy of the Sober Living Facility rules and regulations; (4) written intake procedures; (5) the relapse policy; (6) an affirmation by the owner/operator that the Sober Living Facility will serve only tenants who are disabled as defined by state and federal law and documentation of the evaluation process which determines that tenants of the Sober Living Facility are disabled; and (7) a fee for the cost of processing of the application as set by Resolution of the City Council.

b. There are no more than six tenants, not counting a house manager, but in no event more than seven tenants residing in the Sober Living Facility.

c. There shall be no more than three tenants per bedroom.

d. Tenant rental agreements shall be no less than 30 days, otherwise the operator shall be responsible for collecting and remitting a Transient Occupancy Tax in accordance with Chapter 5.16 of this Code.

e. It is not located in an Accessory Secondary Housing Unit unless the primary Dwelling Unit is used for the same purpose and if so, the residents in both the primary and secondary units shall be combined in determining whether the maximum number of six allowed by this section has been exceeded.

f. It has a house manager who resides at the Sober Living Facility or any multiple of persons acting as a house manager who are present and who are responsible for the day-to-day operation.

g. It is not, at the time the Sober Living Permit is issued, located within 300 feet, as measured from the closest property lines, of any other Dwelling Unit housing a Group Home or Sober Living Facility.

h. All tenants, other than the house manager, must be actively participating in legitimate recovery programs, including, but not limited to, Alcoholics Anonymous, Narcotics Anonymous, or 12-Step Recovery. Current records of meeting attendance must be maintained. Refusal to actively participate in such a program shall be cause for eviction.

i. Its rules and regulations must prohibit the use, sale or distribution of any alcohol or any non-prescription controlled substances by any tenant either on or off site. These rules and regulations shall be posted in a common area inside the Dwelling Unit. Any violation of this rule must be cause for eviction and the violator cannot be re-admitted for at least 90 days. Any second violation of this rule shall result in permanent eviction. Tenants that have a second violation shall not be permitted to reside in a Sober Living Facility in the City for a period of 12 months.

j. No combination of tenants who are parolees, probationers or subject to the Uniform Controlled Substances registration requirements of Health and Safety Code Section 11590 shall exceed two. Notwithstanding the preceding, in no event shall any tenant violate any terms or conditions of probation or parole which prohibit the tenant residing with another parolee or probationer.

k. No persons who are required to register as sex registrants under Penal Code Section 290 shall reside in the Sober Living Facility.

l. It shall have a written visitation policy precluding visitors who are under the influence of any drug or alcohol, are probationers, or parolees. No visitors shall be permitted to spend the night or stay past 10 p.m. and a house manager must be present during visitations.

m. It shall have regular drug testing or some equivalent alternative, to ensure that tenants are not currently using drugs or alcohol.

n. It shall have a good neighbor policy that directs tenants to be considerate of neighbors, including refraining from engaging in excessively loud or obnoxious behavior that would interfere with the neighbors' enjoyment of their properties. The good neighbor policy shall establish a written protocol for the house manager to follow when a neighbor complaint is received.

o. All garage and driveway spaces shall, at all times, be available and used for the parking of vehicles. There must be at least one off-street parking spot for every three tenants. Tenants may each only store or park a single vehicle at the Dwelling Unit or on any residential street within 1,000 feet of the Dwelling Unit.

p. It shall not provide any treatment that would require a State license.

q. The operator shall be responsible for updating any information required by this subsection as soon as practical.

r. It shall comply with all other laws, rules and regulations which may apply to its operation, including any building and fire codes and shall be subject to inspection by a building inspector and fire inspector prior to the issuance of any Sober Living Permit.

2. The Sober Living Permit shall be issued by the Community Development Director as a ministerial matter if the applicant is in compliance and has agreed to comply with the requirements of this section. If the application is for an R3 or R4 zone, a conditional use permit shall also be required in the same manner as for other boarding or lodging house uses. It shall be denied by the Community Development Director and if already issued shall be revoked upon a hearing by the Community Development Director under any of the following circumstances:

a. Any owner/operator or house manager has provided any material false or misleading information on the application or omitted any pertinent information on the application;

b. Any owner/operator or house manager has an employment history in which he or she was terminated during the past two years because of physical assault, sexual harassment, embezzlement or theft; falsifying a drug test; or selling or furnishing illegal drugs or alcohol.

- c. Any owner/operator or house manager has been or is convicted of or plead no lo contender to any of the following offenses:
    - (i) Sex offense for which the person is required to register as a sex offender under California Penal Code Section 290 (last seven years);
    - (ii) Arson offenses – violations of Penal Code Sections 451-455 (last seven years);
    - (iii) Violent felonies, as defined in Penal Code Section 667.5, which involve doing bodily harm to another person (last 10 years);
    - or
    - (iv) The sale or furnishing of any controlled substances (last five years).
  - d. Any owner/operator or house manager is on parole or formal probation supervision within one year of the date of the submittal of the application or at anytime thereafter.
  - e. Any owner/operator or house manager is a recovering drug or alcohol addict and upon the date of application or employment has had less than one full year of sobriety.
  - f. The owner/operator or house manager fails to immediately evict any tenant that uses alcohol or abuses any drugs, prescription of non-prescription, or is not actively participating in a legitimate addiction recovery program.
  - g. The owner/operator accepts tenants, other than a house manager, who are not disabled/handicapped as defined by the FHA and FEHA.
  - h. The Sober Living Facility, as measured by the closest property lines, is located within 300 feet of any Group Home or Sober Living Facility. If a Group Home moves within 300 feet of an existing Sober Living Facility this shall not cause the revocation of Sober Living Facility's permit or be grounds for denying a transfer of such permit. Sober Living Facilities in existence as of the effective date of this section and in compliance with this Code as it existed prior to the effective date shall not be subject to the 300-foot distance requirement.
  - i. The Sober Living Facility fails to promptly update information required by this section which has become obsolete or inaccurate.
  - j. The Sober Living Facility unlawfully discriminates against tenants.
  - k. For any other significant and/or repeated violations of this Section and/or any other applicable laws and/or regulations.
3. A Sober Living Permit issued in accordance with this subsection shall be required for any Sober Living Facility seeking a conditional use permit.
4. An applicant may seek relief from the strict application of this subsection pursuant to Chapter 17.10.045 of this Code if necessary to afford a person with a disability a reasonable opportunity to enjoy a dwelling.”

**SECTION V:**

Sober Living Facilities that are in existence upon the effective date of this Ordinance and are in compliance with this Code as it existed prior to the effective date (i.e., housing six or fewer disabled tenants), shall have 180 days from such effective date to comply with its provisions and/or to seek and have approved, a request for reasonable accommodation.

**SECTION VI:**

Should any section, subsection, clause, or provision of this Ordinance for any reason be held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the validity or constitutionality of the remaining portions of this Ordinance; it being hereby expressly declared that this Ordinance, and each section, subsection, sentence, clause and phrase hereof would have been prepared, proposed, approved and ratified irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid or unconstitutional. This Ordinance shall be prospective in application from its effective date.

**SECTION VII:**

A summary of this Ordinance shall be published and a certified copy of the full text of this Ordinance shall be posted in the Office of the City Clerk at least five (5) days prior to the City Council meeting at which this Ordinance is to be adopted. A summary of this Ordinance shall also be published once within fifteen (15) days after this Ordinance's passage in a newspaper of general circulation, published, and circulated in the City of Orange. The City Clerk shall post in the Office of the City Clerk a certified copy of the full text of such adopted Ordinance along with the names of those City Council members voting for and against the Ordinance in accordance with Government Code Section 36933. This Ordinance shall take effect thirty (30) days from and after the date of its final passage.

Adopted 27<sup>th</sup> day of October, 2009

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Carolyn V. Cavecche, Mayor

ATTEST:

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Mary E. Murphy, City Clerk, City of Orange

STATE OF CALIFORNIA )  
COUNTY OF ORANGE )  
CITY OF ORANGE )

I, MARY E. MURPHY, City Clerk of the City of Orange, California, do hereby certify that the foregoing Ordinance was introduced at the regular meeting of the City Council held on the 13<sup>th</sup> day of October, 2009, and thereafter at the regular meeting of said City Council duly held on the 27<sup>th</sup> day of October, 2009, was duly passed and adopted by the following vote, to wit:

AYES: COUNCILMEMBERS: Smith, Murphy, Cavecche, Dumitru, Bilodeau  
NOES: COUNCILMEMBERS: None  
ABSENT: COUNCILMEMBERS: None  
ABSTAIN: COUNCILMEMBERS: None

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Mary E. Murphy, City Clerk, City of Orange