

ORDINANCE NO. 1741

AN ORDINANCE OF THE CITY COUNCIL OF SAN CLEMENTE, CALIFORNIA AMENDING SECTION 17.56.100 OF THE SAN CLEMENTE MUNICIPAL CODE TO COMPLY WITH ASSEMBLY BILL 139 REGARDING PARKING REQUIREMENTS FOR EMERGENCY SHELTERS AND FINDING THE ORDINANCE NOT SUBJECT TO THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

WHEREAS, on November 1, 2016, the City Council of the City of San Clemente (“City”) adopted Ordinance No. 1634; and

WHEREAS, Ordinance No. 1634 amended Chapter 17.56 (Overlay Districts and Standards) of the San Clemente Municipal Code (“SCMC”) to establish a new zoning overlay designation known as the “SB 2 Overlay” zone or district (hereafter referred to as the “SB 2 Overlay Zone”); and

WHEREAS, in accordance with California Senate Bill 2, the City allows emergency shelters within the SB 2 Overlay Zone by right so long as each shelter complies with specified operational and development standards (collectively the “Emergency Shelter Standards”); and

WHEREAS, the Emergency Shelter Standards are codified in SCMC Section 17.56.100. Among other things, they require shelters to provide on-site parking at a ratio of not less than one vehicle space per five beds; and

WHEREAS, on September 26, 2019, the Governor approved California Assembly Bill 139, entitled the “Emergency and Transitional Housing Act of 2019” (“AB 139”); and

WHEREAS, following AB 139, cities may require emergency shelters to provide sufficient on-site parking to accommodate all staff working in the emergency shelter, provided that the standards do not require more parking for emergency shelters than other residential or commercial uses in the same zone; and

WHEREAS, the City’s draft Sixth Cycle Housing Element (covering 2021 – 2029) provides that the City will amend the Emergency Shelter Standards to establish on-site parking requirements based on staffing level only. This ordinance (the “Ordinance”) so amends the Emergency Shelter Standards; and

WHEREAS, on November 2, 2022, the Planning Commission conducted a duly noticed public hearing to consider the staff report, recommendations by staff, and public testimony concerning the Ordinance. Following the public hearing, the Planning Commission voted to forward the Ordinance to the City Council with a recommendation in favor of its adoption; and

WHEREAS, on November 23, 2022, the City gave public notice of a City Council public hearing to be held to consider this Ordinance by advertisement in a newspaper of general circulation; and

WHEREAS, on December 6, 2022, the City Council conducted a duly noticed public hearing to consider the Ordinance, including: (1) the public testimony and agenda reports prepared in connection with the Ordinance; (2) the policy considerations discussed therein; and (3) the consideration and recommendation of the Planning Commission; and

WHEREAS, all legal prerequisites to the adoption of the Ordinance have occurred.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, DOES ORDAIN AS FOLLOWS:

SECTION 1. Incorporation of Recitals. The recitals above are true and correct and are hereby adopted as findings as if fully set forth herein.

SECTION 2. CEQA. The City Council finds that this Ordinance is not a “project” subject to the California Environmental Quality Act (CEQA). The Ordinance does not qualify as a project because it has no potential to result in either a direct, or reasonably foreseeable indirect, physical change in the environment. (State CEQA Guidelines, § 15378, subd. (a).) The language merely adjusts the on-site parking requirements for emergency shelters to comply with recent changes in State law. In the alternative, the City Council finds that the Ordinance falls within the “common sense” exemption set forth in State CEQA Guidelines section 15061, subdivision (b)(3), which exempts activity from CEQA where “it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment.” Here, it can be seen with certainty that there is no possibility that the Ordinance may have a significant effect on the environment because the Ordinance simply updates the on-site parking requirements for emergency shelters to comply with State law. The Ordinance will not result in any development or in any new activity with the potential to impact the environment.

SECTION 3. Required Findings. In accordance with subsection (F) of San Clemente Municipal Code section 17.16.040, the City Council hereby makes the following findings:

1. *General Plan.* This Ordinance’s amendments to San Clemente Municipal Code Section 17.56.100 are consistent with the City’s adopted General Plan. Specifically, Land Use Element Policy LU-1.01 provides that the City should accommodate the development of a variety of housing types, styles and densities. This Ordinance is consistent with—and effectuates—Policy LU-1.01 by accommodating the development of emergency shelters through reducing the required on-site parking for this use (previously, the on-site parking requirement was one space for every five beds; it’s now based solely on each shelter’s specific staffing needs).

Furthermore, this Ordinance is consistent with, and in furtherance of, the General Plan as it implements a component of the City's Sixth Cycle Housing Element—which, in relevant part, provides that the City will amend the SB 2 Overlay Zone's parking requirements to comply with AB 139.

2. *Health, Safety, and Welfare.* Adoption of the Ordinance will not adversely affect the public health, safety, and welfare as it simply updates the San Clemente Municipal Code to comply with state law requirements governing on-site parking requirements for emergency shelters. Adoption of this Ordinance is also consistent with—and contemplated by—the City's Sixth Cycle Housing Element, the adoption which the City Council determined will not adversely impact the public health, safety and welfare. For these reasons, adoption of this Ordinance will not adversely affect the public health, safety, and welfare.

SECTION 4. Code Amendment. Subsection (D)(5) of Section 17.56.100 of the San Clemente Municipal Code is hereby amended to read in its entirety as follows (additions shown in underline and deletions shown in ~~strikethrough~~):

“Parking. Subject to Government Code Section 65583(a)(4)(A)(ii), on-site parking shall be supplied at a ratio of not less than one space for every employee in the largest shift. ~~On-site parking shall be supplied at a ratio of not less than one vehicle space per five beds. Parking spaces shall be designed to meet City standards. Enclosed, secure bicycle parking shall be provided on-site at the ratio of not less than one bicycle parking space per ten beds.~~”

SECTION 5. Publication. The City Clerk shall certify to the adoption of this Ordinance and cause it, or a summary of it, to be published once within 15 days of adoption in a newspaper of general circulation printed and published within the City of San Clemente, and shall post a certified copy of this Ordinance, including the vote for and against the same, in the Office of the City Clerk in accordance with California Government Code, section 36933.

SECTION 6. Records. The documents and materials associated with this Ordinance that constitute the record of proceedings on which the City Council's findings and determinations are based are located at City Hall, 910 Calle Negocio, San Clemente, CA 92673.

SECTION 7. Severability. If any provision of this ordinance or its application to any person or circumstance is held invalid, such invalidity has no effect on the other provisions or applications of the ordinance that can be given effect without the invalid provision or application, and to this extent, the provisions of this ordinance are severable. The City Council declares that it would have adopted this ordinance irrespective of the invalidity of any portion thereof.

SECTION 8. Effective Date. This Ordinance shall become effective 30 days after its adoption.

APPROVED AND ADOPTED this 20 day of December, 2022.

ATTEST:



Laura Campagnolo, City Clerk



Chris Duncan, Mayor

APPROVED AS TO LEGAL FORM:



Scott C. Smith, City Attorney

STATE OF CALIFORNIA)
COUNTY OF ORANGE) ss.
CITY OF SAN CLEMENTE)


I, **Laura Campagnolo**, City Clerk of the City of San Clemente, California, hereby certify that Ordinance No. 1741 having been regularly introduced at the meeting of December 6, 2022, was again introduced, the reading in full thereof unanimously waived, and duly passed and adopted at a regular meeting of the City Council held on the 20 day of December, 2022, and said ordinance was adopted by the following vote:

AYES: CABRAL, ENMEIER, KNOBLOCK, MAYOR DUNCAN

NOES: NONE

ABSENT: JAMES

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the City of San Clemente, California, this 20 day of December, 2022.



Laura Campagnolo, City Clerk