

ORDINANCE NO. 1743

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA AMENDING VARIOUS PROVISIONS OF THE SAN CLEMENTE MUNICIPAL CODE TO ENSURE CONSISTENCY WITH STATE LAW REGARDING LOW BARRIER NAVIGATION CENTERS AND FINDING THE ACTION TO BE EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

WHEREAS, the City of San Clemente (“City”) is a municipal corporation, duly organized under the constitution and laws of the State of California; and

WHEREAS, in 2019, the Legislature enacted, and the Governor signed into law, Assembly Bill 101 (“AB 101”); and

WHEREAS, AB 101 added Article 12 to Chapter 3 of the California Government Code (commencing with section 65660). Among other things, AB 101 requires cities to permit specified Low Barrier Navigation Centers (“LBNCs”) by right in areas zoned for mixed use and nonresidential zones where multifamily uses are allowed; and

WHEREAS, the ordinance amends Title 17 of the San Clemente Municipal Code (“SCMC”) to update the City’s regulations to comply with AB 101; and

WHEREAS, on November 2, 2022, the Planning Commission of the City of San Clemente held a duly noticed public hearing on this ordinance, at which time it considered all evidence presented, both oral and written. 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 does ordain as follows:

Section 1. Incorporation of Recitals. The recitals above are each incorporated by reference and adopted as findings by the City Council.

Section 2. CEQA. The City Council finds that adoption of this ordinance is not subject to the California Environmental Quality Act (CEQA) pursuant to sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in section 15378) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly. Alternatively, the adoption of this ordinance is exempt from CEQA because it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment. (State CEQA Guidelines, § 15061(b)(3).)

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 Title 17 of the San Clemente Municipal Code 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 clarifying that LBNCs are permitted by right in specified areas of the City in accordance with state law. 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 Municipal Code to update its LBNC regulations to comply with AB 101.
2. *Health, Safety, and Welfare.* Adoption of this 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 the instances where the City must allow LBNCs. The operational requirements provided in subsection (C) of Section 17.28.345 will protect the health, safety, and welfare of LBNC residents and surrounding uses by ensuring LBNCs satisfy the statutory onsite and operational requirements provided in Government Code section 65660 et seq. as well as specified objective local standards (e.g., ensuring qualified LBNC personnel are onsite, ensuring the number of beds is commensurate with the floor area utilized for sleeping purposes etc.). 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. Section 17.88.030 (Definitions) of the San Clemente Municipal Code is hereby amended to add a definition for "Low Barrier Navigation Center," which shall read in its entirety as follows:

“Low Barrier Navigation Center” has the same meaning as in California Government Code section 65660(a), as that section is amended from time to time.

Section 5. Code Amendment. Section 17.28.345, entitled “Low Barrier Navigation Centers,” is hereby added to Chapter 17.28 (Special Uses) of the San Clemente Municipal Code and shall read in its entirety as follows:

“17.28.345 – Low Barrier Navigation Centers

- A. Purpose.** The purpose of this section is to comply with California Government Code section 65660 et seq. regarding Low Barrier Navigation Centers (hereafter referred to as “LBNCs,” and each singularly an “LBNC”)
- B. Allowed Zones.** LBNCs that comply with the provisions of subsection (C) below are permitted by right in areas zoned for mixed use and nonresidential zones permitting multifamily uses.
- C. Operational and Development Standards.** LBNCs must comply with all of the following:
1. **Separation.** No LBNC may be established or operated at any location that is less than 300 feet from another LBNC.
 2. **Operational Services.** As required by Government Code section 65662, each LBNC must satisfy all of the following:
 - a. It offers services to connect people to permanent housing through a services plan that identifies services staffing.
 - b. It is linked to a coordinated entry system, so that staff in the interim facility or staff who co-locate in the facility may conduct assessments and provide services to connect people to permanent housing. “Coordinated entry system” means a centralized or coordinated assessment system developed pursuant to section 576.400(d) or section 578.7(a)(8), as applicable, of Title 24 of the Code of Federal Regulations, as those sections read on January 1, 2020, and any related requirements, designed to coordinate program participant intake, assessment, and referrals.
 - c. It complies with Chapter 6.5 (commencing with section 8255) of Division 8 of the Welfare and Institutions Code.
 - d. It has a system for entering information regarding client stays, client demographics, client income, and exit

destination through the local Homeless Management Information System as defined by section 578.3 of Title 24 of the Code of Federal Regulations.

3. **On-Site Personnel.** Each LBNC must provide both of the following:
 - a. At least one qualified on-site manager at all times for each 20 occupants; and
 - b. At least one qualified attendant at all times for each 20 occupants.
4. **Floor Area; Beds.** The maximum number of beds per LBNC may not exceed one bed for every 50 square feet of floor area used for sleeping purposes.
5. **Objective Development Standards.** Low Barrier Navigation Centers must comply with all objective site, design, and construction standards included in Title 15 (Buildings and Construction), Title 16 (Subdivisions), and Title 17 (Zoning) of this Code as well as any objective design guidelines included in applicable specific plans or otherwise adopted by the City Council.

D. **Ministerial Review; Application Procedures.** LBNC applications will be reviewed and processed ministerially—without discretionary review or a hearing—in accordance with the timelines set forth in Government Code section 65664, as it may be amended from time to time.

E. **Sunset.**

1. Subject to subsection (E)(2) below, this section shall remain in effect until January 1, 2027, and as of that date is repealed.
2. If the Legislature amends Government Code section 65668 to extend the effective date of Government Code section 65660 et seq., then this section shall remain in effect until the date on which Government Code section 65660 et seq. is repealed.”

Section 6. Certification. 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 7. Record of Proceedings. The documents and materials associated with this ordinance that constitute the record of proceedings on which the City Council's

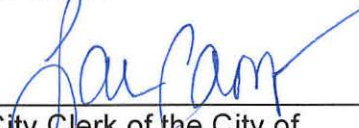
findings and determinations are based are located at City Hall, 910 Calle Negocio, San Clemente, CA 92673.

Section 8. Severability. If any provision of this ordinance or its application to any person or circumstance is held invalid by a court of competent jurisdiction, 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 9. Effective Date. This ordinance shall become effective 30 days after its adoption.

APPROVED AND ADOPTED this 20 day of December, 2022.

ATTEST:

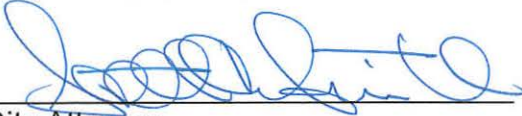


City Clerk of the City of
San Clemente, California



Mayor of the City of San
Clemente, California

APPROVED AS TO LEGAL FORM



City Attorney

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

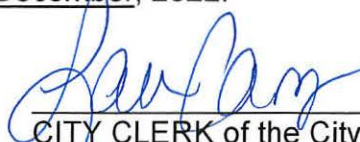
I, **Laura Campagnolo**, City Clerk of the City of San Clemente, California, hereby certify that Ordinance No. 1743 having been regularly introduced at the meeting of December 6, 2022, was again introduced, the reading in full thereof unanimously waived, and duly passed and adopted at a regular meeting 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.



CITY CLERK of the City of
San Clemente, California