

## ORDINANCE NO. 1744

### AN ORDINANCE OF THE CITY COUNCIL OF SAN CLEMENTE, CALIFORNIA AMENDING VARIOUS PROVISIONS OF THE SAN CLEMENTE MUNICIPAL CODE TO ENSURE CONSISTENCY WITH STATE LAW REGARDING SUPPORTIVE AND TRANSITIONAL HOUSING 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 recent years, the State of California has preempted local regulation of certain residential uses, including supportive housing and transitional housing; and

**WHEREAS**, state law defines "supportive housing" as housing with no limit on length of stay, that is occupied by homeless individuals or families, and that is linked to onsite or offsite services that assist the resident(s) in retaining the housing, improving their health status, and maximizing their ability to live and, when possible, work in the community; and

**WHEREAS**, state law defines "transitional housing" as buildings configured as rental housing developments that are operated under program requirements requiring the termination of assistance and recirculating of the assisted unit to another eligible program recipient at a predetermined future point in time that is no less than six months from the beginning of the assistance; and

**WHEREAS**, state law requires cities to permit supportive housing as a use by right in zones where multifamily and mixed-uses are permitted if the proposed housing development meets specified statutory requirements (e.g., development size, affordability restrictions, specified percentage of floor area devoted to onsite supportive services); and

**WHEREAS**, state law also requires cities to treat transitional housing and supportive housing as residential uses subject to the restrictions that apply to other residential dwellings of the same type in the same zone; and

**WHEREAS**, the ordinance ("Ordinance") amends Title 17 of the San Clemente Municipal Code ("SCMC") to update the City's regulations governing supportive and transitional housing to comply with the above state law requirements; 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 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 supportive housing and transitional housing 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 comply with recent changes in State housing laws.
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 the instances where the City must permit supportive and transitional housing. 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.** The definition for "supportive housing" provided in Section 17.88.030 (Definitions) of the San Clemente Municipal Code is hereby amended to read as follows (additions shown in underline and deletions shown in ~~strikethrough~~):

"Supportive housing" has the same meaning as in California Government Code Section 65650(a), as that section is amended from time to time.~~as defined by Government Code Sections 65582(g). Supportive housing may take various forms. See, e.g., "Single housekeeping unit," and "Short-term lodging unit," "Boarding house."~~

**SECTION 5. Code Amendment.** The definition for "transitional housing" provided in Section 17.88.030 (Definitions) of the San Clemente Municipal Code is hereby amended to read as follows (additions shown in underline and deletions shown in ~~strikethrough~~):

"Transitional housing" ~~as defined by~~ has the same meaning as in California Government Code Sections 65582(j)(i). ~~Transitional housing may take various forms. See, e.g., "Single housekeeping unit" and "Boarding house."~~

**SECTION 6. Code Amendment.** Section 17.28.340 is hereby added to Chapter 17.28 of the San Clemente Municipal Code and shall read in its entirety as follows:

**"Section 17.28.340 - Supportive and Transitional Housing**

- A. Supportive housing is a use by right in all zones where multifamily and mixed uses are permitted in accordance with Government Code Title 7, Division 1, Chapter 3, Article 11 (commencing with Section 65650). No minimum parking requirement is imposed on supportive housing under this paragraph that is within one-half mile of a public transit stop.
- B. Transitional housing and supportive housing are each considered a residential use of property and are subject to those restrictions that apply to other residential dwellings of the same type in the same zone, in accordance with Government Code Section 65583, subdivision (c)(3)."

**SECTION 7. 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 8. 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 9. 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 10. 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. 1744 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.

  
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Laura Campagnolo, City Clerk

