

Attachment 2

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LAKE FOREST, CALIFORNIA, ADDING CHAPTER 5.44 TO THE LAKE FOREST MUNICIPAL CODE REGARDING RESIDENTIAL CARE FACILITIES AND FINDING THE ACTION TO BE EXEMPT FROM CEQA UNDER STATE CEQA GUIDELINES SECTIONS 15060(c)(1) AND 15061(b)(3)

WHEREAS, the 2021–2029 (6th cycle) Lake Forest Housing Element (“Housing Element”) was approved by the City Council on January 6, 2023, and certified by the California Housing and Community Development Department (“HCD”) on February 24, 2023; and

WHEREAS, the Housing Element includes Housing Program 7: Zoning Code Amendments - Housing Constraints, which requires the City to update the Zoning Code to remove constraints to housing development and ensure that the City’s standards and permitting requirements are consistent with state law; and

WHEREAS, among other things, Housing Program 7 provides that the City will update the Lake Forest Municipal Code to: (i) allow residential care facilities serving seven or more individuals in all residential zones and (ii) adopt objective standards for these uses to promote approval certainty and consistency with state and federal laws; and

WHEREAS, effectuating the above LFMC updates involves amendments to Titles 9 (Zoning) and 5 (Business Regulations). The City is concurrently processing Zoning Code Amendment (“ZCA”) 04-23-5616, which implements the Title 9 portions of Housing Program 7; and

WHEREAS, this ordinance implements the Title 5 portion of Housing Program 7 by establishing operational and licensing standards for residential care facilities, which are codified in the new LFMC Chapter 5.44; and

WHEREAS, on June 6, 2023, the City Council held a duly-noticed public hearing and considered the staff report, recommendations by staff, and public testimony concerning this ordinance; and

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

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LAKE FOREST, CALIFORNIA DOES ORDAIN AS FOLLOWS:

SECTION 1. **Incorporation of Recitals.** The City Council hereby finds and determines that the Recitals above are true and correct and incorporated herein.

SECTION 2. **CEQA.** The City Council finds that this ordinance is not subject to the California Environmental Quality Act (“CEQA”) for several separate and independent reasons. First, approval of the ordinance is not subject to CEQA because it does not constitute a discretionary project subject to CEQA. This code amendment ensures that City’s standards and permitting requirements are consistent with state law and fair housing laws, as required by HCD. The amendment merely codifies these requirements in the LFMC. (See State CEQA Guidelines, § 15060(c)(1) [activity that does not involve exercise of discretionary power by a public agency not subject to CEQA].) Second, approval of the ordinance is exempt from CEQA under State CEQA Guidelines section 15061(b)(3), which exempts projects 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, there is no possibility that the ordinance may have a significant effect on the environment because it merely amends the LFMC to be consistent with state law and fair housing laws, which are already binding on the City.

SECTION 3. **Code Amendment.** Chapter 5.44 is hereby added to the Lake Forest Municipal Code to read in its entirety as follows:

Chapter 5.44 – Residential Care Facilities

Section 5.44.010 - License Required; Streamlined Administrative Approval

- A. Exemptions. When required by state or federal law, a Residential Care Facility (hereafter “RCF”) serving six or fewer persons is:
 - 1. Exempt from this chapter; and
 - 2. Considered a residential use of property and a single family for purposes of Title 9 of this Code.
- B. License Required. Unless exempt under subsection (A) above, an RCF License issued by the City is required to operate.
- C. Operational and Development Standards. An application for an RCF License is subject to administrative review and will be approved if it satisfies each of the following:

1. Separation. No RCF may be established or operated in any location that is less than 300 feet from another RCF.
 2. Maximum Occupancy. No more than two residents reside in each bedroom, not including the room or apartment designated for an onsite house manager.
 3. The operator provides an onsite house manager that resides full-time (year-round) in a room or apartment on the property.
 4. Management Plan. The City has approved a property management plan for the facility that addresses each of the following: onsite management, maximum occupancy, quiet hours and permitted guest visitation hours, loitering, littering, and disturbing the peace, nuisance reduction, trash collection, smoking, resident pick-up and drop-off procedures, and discharge. City approval is required for any modifications to the plan.
 5. Emergency and Security Plan. The City has approved an emergency and security plan that addresses each of the following: security and management contact information, authority and responsibility of security staff, a map of the property, and overview of the property's security features, security feature testing schedule, overnight parking policies and vehicle violation abatement procedures, emergency medical response protocols, emergency law enforcement response protocols, and daytime and nighttime security monitoring procedures. City approval is required for any modifications to the plan.
- D. Streamlined Administrative Application Review. The Director of Community Development or the Director's designee will review and process RCF License applications ministerially, without discretionary review or a hearing. The Director will notify an applicant whether the application is complete within 30 days. The Director will render a decision on the application within 60 days of when the application was determined to be complete.
- E. Modifications or Revocation.
1. An RCF License may be revoked when the application contained

incorrect, false or misleading information, or the operator violates the management plan or the emergency and security plan, of if three or more nuisance citations are issued at the property within a 30-day period.

2. Before revoking an RCF license, a good faith effort to meet and confer with the operator will be made to resolve any of the issues identified in subsection (E)(1) above.
 3. The operator will be notified of any revocation by first-class mail with return receipt requested. The operator may appeal the revocation to a hearing officer in accordance with Chapter 1.12 of this Code.
- F. Conflict. If this chapter conflicts with any other provision of this Code, this chapter prevails.

SECTION 4. **Effective Date.** This ordinance takes effect 30 days following its adoption.

SECTION 5. **Severability.** If any provision of this ordinance or its application to any person or circumstance is held to be 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 6. **Certification.** The City Clerk is directed to 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 available within the City of Lake Forest, and to 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 that constitute the record of proceedings on which this ordinance and the above findings are located at the City Clerk's office at 100 Civic Center Drive, Lake Forest, CA 92630.

PASSED, APPROVED AND ADOPTED this _____ day of _____
2023.

DOUG CIRBO, MAYOR

ATTEST:

LISA BERGLUND, MPA
CITY CLERK

APPROVED AS TO FORM:

MATTHEW E. RICHARDSON
CITY ATTORNEY

STATE OF CALIFORNIA)
COUNTY OF ORANGE) SS
CITY OF LAKE FOREST)

I, Lisa Berglund, City Clerk of the City of Lake Forest, do hereby certify that the foregoing Ordinance No. _____ was duly introduced and placed upon its first reading at a regular meeting of the City Council on the ____ day of _____, 2023, and thereafter, said ordinance was duly adopted and passed at a regular meeting of the City Council on the ____ day of _____ 2023, by the following vote, to wit:

AYES: COUNCIL MEMBERS

NOES: COUNCIL MEMBERS

ABSENT: COUNCIL MEMBERS

ABSTAIN: COUNCIL MEMBERS

LISA BERGLUND, CITY CLERK