



## **CITY COUNCIL AGENDA REPORT**

**MEETING DATE:** 6/6/2023

**DEPARTMENT:** Community Development

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### **SUBJECT:**

CITY-INITIATED ORDINANCES TO AMEND TITLES 5 AND 9 OF THE LAKE FOREST MUNICIPAL CODE TO ADDRESS LOW BARRIER NAVIGATION CENTERS, TRANSITIONAL AND SUPPORTIVE HOUSING, STREAMLINED REVIEW OF ELIGIBLE PROJECTS, EMPLOYEE HOUSING, EMERGENCY SHELTER PARKING, AND RESIDENTIAL CARE FACILITIES AND FINDING THE ACTIONS TO BE EXEMPT FROM CEQA UNDER STATE CEQA GUIDELINES SECTIONS 15060(C)(1) AND 15061(B)(3)

### **RECOMMENDED ACTION(S):**

- 1) Introduce Ordinance No. \_\_\_\_\_ entitled: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LAKE FOREST, CALIFORNIA, AMENDING TITLE 9 OF THE LAKE FOREST MUNICIPAL CODE TO ADDRESS LOW BARRIER NAVIGATION CENTERS, TRANSITIONAL AND SUPPORTIVE HOUSING, STREAMLINED REVIEW OF ELIGIBLE PROJECTS, EMPLOYEE HOUSING, EMERGENCY SHELTER PARKING, AND RESIDENTIAL CARE FACILITIES AND FINDING THE ACTION TO BE EXEMPT FROM CEQA UNDER STATE CEQA GUIDELINES SECTIONS 15060(c)(1) AND 15061(b)(3)
  
  - 2) Introduce Ordinance No. \_\_\_\_\_ entitled: 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)
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### **EXECUTIVE SUMMARY:**

This item consists of two ordinances (Attachments 1 and 2) that amend Lake Forest Municipal Code (“LFMC” or “Code”) Titles 5 and 9 to address low barrier navigation centers, transitional and supportive housing, streamlined review for eligible projects, employee housing, emergency shelter parking, and residential care facilities. These Code amendments are contemplated by the City’s Sixth Cycle Housing Element (2021-2029), specifically Housing Element Program 7 (Zoning Code Amendments- Housing Constraints). Collectively, they respond to the California Department of Housing and Community Development’s (HCD)

request that the City remove certain constraints on housing development and ensure that the City’s standards and permitting requirements are consistent with state law. On May 4, 2023, the Planning Commission reviewed and recommended approval of the Zoning Code (Title 9) amendments (ZC 04-23-5616) (Attachment 3). Attachment 4 contains strike-through and underline text to identify the specific changes that would be made if both ordinances are approved. These changes are proposed to ensure the City remains in conformance with Program 7 of the City’s Housing Element (Attachment 5).

**BACKGROUND:**

The Housing Element is a section of the City’s General Plan that addresses housing needs and conditions within Lake Forest. It identifies goals, policies, and programs that the City uses to guide actions related to housing. The City submitted a draft 2021–2029 (6th Cycle) Housing Element to HCD in September 2021, prior to the statutory October 15, 2021, deadline. HCD provided comments in late November. The City Council took HCD’s comments into account and adopted a revised Housing Element on August 16, 2022. HCD had more comments, so the Housing Element was updated again and re-adopted by the City Council on January 3, 2023. HCD sent the City a letter certifying the 2021-2029 Housing Element on February 24, 2023 (Attachment 6).

The adopted and certified Housing Element includes Housing Program 7 (Attachment 5) 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. All the Code amendments in this housing program were required by state law or HCD (as a condition for certification). Table 1 includes the comprehensive list of Housing Program 7’s Code amendments. Some amendments have been completed already and the rest are included in these ordinances.

*Table 1: Housing Element Program 7 Zoning Code Amendments*

<b>Zoning Code Amendment</b>	<b>Brief Description</b>	<b>Status</b>
A. Mixed-use Standards	Amend Code to add mixed-use zones and corresponding development standards consistent with mixed-use designations in the General Plan.	Adopted
B. Low Barrier Navigation Centers	Amend Code to define and permit low barrier navigation centers per Government Code sections 65660–65668.	Pending CC Approval

<b>Zoning Code Amendment</b>	<b>Brief Description</b>	<b>Status</b>
C. Transitional and Supportive Housing	Amend Code to ensure that transitional and supportive housing are allowed in residential and mixed-uses zones per Government Code section 65583(c)(3), and that supportive housing is permitted in multifamily zones, including mixed-use zones, in accordance with Government Code sections 65650–65656.	Pending CC Approval
D. Employee Housing and Agricultural Worker Housing	Amend Code to ensure that employee housing regulations comply with Health and Safety Code sections 17021.5–17021.8, including but not limited to, changing the term “agricultural working housing” to “employee housing.”	Pending CC Approval
E. Streamlined and Ministerial review for Eligible Affordable Housing Projects	Amend Code to ensure that eligible multi-family projects with an affordable component are provided streamlined review and are subject only to objective design standards, consistent with SB 35 and SB 330.	Pending CC Approval
F. Emergency Shelter Parking	Amend Code to regulate parking standard for emergency shelters in compliance with AB 139.	Pending CC Approval
G. Residential Care Facilities	Amend Code to update permit procedures to allow residential care facilities of seven or more persons in all residential zones with objective standards to promote approval certainty and consistency with state and federal laws.	Pending CC Approval
H. Reasonable Accommodation	Amend Code to ensure that reasonable accommodation procedures and findings are consistent with state and federal laws.	Adopted

Housing Program 7 commits the City to adopt the above code amendments by June of 2023.

## **DISCUSSION:**

In accordance with Housing Program 7 and State law, staff has prepared two ordinances that address the following:

1. Low Barrier Navigation Centers
2. Transitional and Supportive Housing
3. Employee Housing and Agricultural Worker Housing
4. Streamlined and Ministerial review for Eligible Affordable Housing Projects
5. Emergency Shelter Parking
6. Residential Care Facilities

The first proposed ordinance is a Zoning Code amendment (“ZC 04-23-5616”) (Attachment 1) and the second ordinance proposes a new Chapter 5.44 in Title 5 (“Chapter 5.44 Ordinance”) (Attachment 2). The following is a discussion of these proposed ordinances and related State laws. In addition, staff has provided Attachment 4, which shows the proposed Code amendments (with strike-through deletions and underlined additions) for each use.

### **1. Low Barrier Navigation Centers**

In 2019, the Governor signed into law Assembly Bill 101. Among other things, AB 101 requires cities to permit specified “Low Barrier Navigation Centers” (“LBNCs”) by right in areas zoned for mixed use and non-residential zones where multifamily uses are allowed. State law defines an LBNC as the following:

A Housing First, low-barrier, service-enriched shelter focused on moving people into permanent housing that provides temporary living facilities while case managers connect individuals experiencing homelessness to income, public benefits, health services, shelter, and housing. “Low Barrier” means best practices to reduce barriers to entry, and may include, but is not limited to, the following:

- (1) The presence of partners if it is not a population-specific site, such as for survivors of domestic violence or sexual assault, women, or youth.
- (2) Pets.
- (3) The storage of possessions.
- (4) Privacy, such as partitions around beds in a dormitory setting or in larger rooms containing more than two beds, or private rooms.” (Government Code section 65660(a)).

ZC 04-23-5616 includes a new definition (consistent with state law), a new line in the “Mixed-Use Land Use Matrix,” and a new LBNC Zoning Code section (9.146.170). The new Zoning Code section requires approval of a new streamlined administrative permit for construction or operation of an LBNC. The new section also includes objective operational and development standards, such as: proximity to another LBNC, operational services, on-site personnel, maximum number of beds, parking, intake areas, lighting, and security. The LBNC ordinance will sunset (i.e., expire) when the state statute does, which at this time is scheduled for January 1, 2027.

## **2. Transitional and Supportive Housing**

In 2013, the City adopted Ordinance No. 252, which addressed transitional and supportive housing in compliance with then-current state law. Housing Element Program 7 requires the City to revise the Zoning Code to ensure that transitional and supportive housing are allowed in accordance with current law. Accordingly, ZC 04-23-5616 updates the Zoning Code’s definitions of transitional and supportive housing to read as follows:

“Supportive Housing: As defined by California Government Code section 65650(a), “housing with no limit on length of stay, that is occupied by the target population, and that is linked to onsite or offsite services that assist the supportive housing resident in retaining the housing, improving their health status, and maximizing their ability to live and, when possible, work in the community.” Should this Code’s *Supportive Housing* definition conflict with the California Government Code definition of this term, the Government Code definition prevails.

Transitional Housing: As defined by California Government Code section 65582(j), “buildings configured as rental housing developments, but operated under program requirements that require the termination of assistance and recirculating of the assisted unit to another eligible program recipient at a predetermined future point in time that shall be no less than six months from the beginning of the assistance.” Should this Code’s *Transitional Housing* definition conflict with the California Government Code definition of this term, the Government Code definition prevails.”

ZC 04-23-5616 also creates a new Zoning Code section (9.170.180), which includes the following:

- In accordance with Government Code section 65583(c)(3), transitional and supportive housing are considered residential uses and subject to those restrictions that apply to other residential dwellings of the same type and in the same zone.

- Supportive housing that complies with the requirements of Government Code section 65650 et seq. is considered a use by right in all zones where multifamily uses are permitted, including mixed-use zones. In accordance with Government Code section 65651(b)(1), a supportive-housing development in these areas must comply with all objective development standards and policies that apply to other multifamily developments within the same zone.

### **3. Employee Housing and Agricultural Worker Housing**

Based on previous state laws, the Code currently has “Agricultural Employee Quarters Housing” and “Quarters for Employee Temporary Use” in the definitions section and in the non-residential and mixed-use land use matrices. Based on comments from HCD (that were incorporated into Housing Program 7), ZC 04-23-5616 replaces these terms with “Employee Housing” and creates a new definition that simply refers to the definition in State law. Generally, employee housing is privately-owned housing that houses five or more employees and meets specified criteria in state law (e.g., the living quarters are provided in connection with employment).

California Health and Safety Codes sections 17021.5 to 17021.8 preempt local regulation of employee housing that meets specific criteria. In accordance with these state laws, ZC 04-23-5616 creates a new Zoning Code section (9.146.190) that includes the following provisions:

- All employee housing with a permit from the statutory enforcement agency (defined below) and that serves six or fewer employees is considered a single-family residence;
- No use permit, site development permit, variance, or other zoning clearance is required for employee housing that serves six or fewer employees unless the same is required for a dwelling of the same type in the same zone.
- The “statutory enforcement agency” refers to the Department of Housing and Community Development (HCD) unless and until the City or the County of Orange assume responsibility for enforcing the Employee Housing Act.

ZC 04-23-5616 also amends section 9.72.090’s non-residential land use matrix to clarify that in zones where employee housing is permitted (A1 and OS), such housing must comply with the applicable Health and Safety Code standards (see new Footnote 24).

#### **4. Streamlined and Ministerial Review for Eligible Affordable Housing Projects**

On March 1, 2022, the City approved Ordinance No. 351 to establish objective design standards for new multifamily projects in the City. These standards are used to review multifamily projects that fall under a ministerial review subject to the requirements of state law, including Senate Bill 35 (“SB 35”). On August 16, 2022, the City Council approved Ordinance No. 356, which created mixed-use zoning districts that included their own specific objective design and development standards. ZC 04-23-5616 includes a new Zoning Code provision in section 9.73.101 (Mixed-use districts) that clarifies that projects qualifying for streamlined and ministerial processing under SB 35 are subject to the objective design and development standards in the mixed-use zoning regulations.

#### **5. Emergency Shelter Parking**

In 2013, the City adopted Ordinance No. 252, which addressed emergency shelters in compliance with then-current state laws. Among other things, that ordinance established a parking requirement of “One (1) space per three (3) beds.” In 2019, Assembly Bill 139 established that cities may only 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. In accordance with AB 139, ZC 04-23-5616 updates the emergency-shelter parking requirement to a minimum of one space per employee in the largest shift.

#### **6. Residential Care Facilities**

A residential care facility provides accommodation and services to individuals in a residential setting. Examples include (among others) care for elderly or disabled individuals. In recent years, the State of California has imposed certain limits on local regulation of residential care facilities. Specifically, the City’s Zoning Code must treat residential care facilities with six or fewer residents as a single-family residential use. In accordance with State law and Housing Program 7, this Zoning Code amendment updates the City’s Zoning Code related to residential care facilities, including facilities serving 7 or more persons. The City currently does not have any regulations or licensing requirements for residential care facilities with more than seven persons. ZC 04-23-5616 and the Chapter 5.44 Ordinance include the following:

- Defines “residential care facility” to encompass the various types of residential care facilities (to eliminate redundancies) and deletes the

definitions for “community care facility” and “alcoholism or drug abuse recovery or treatment (“AOD”) facility.”

- Allows residential care facilities under the new streamlined licensing and objective operational standards in a new Chapter 5.44 of the LPMC. Among other things, the operational standards include: a facility separation requirement, a limit of no more than two residents per bedroom, a requirement that an onsite manager reside full-time on the property, a City-approved management plan, and a City-approved emergency and security plan.

### **Planning Commission Review**

The Planning Commission reviewed ZC 04-23-5616 at a public hearing on May 4, 2023. The Commission adopted a resolution recommending approval of ZC 04-23-5616 by the City Council (Attachment 3). Because amendments to Title 5 are outside the Planning Commission’s jurisdiction, it did not review the Chapter 5.44 Ordinance.

### **Conclusion**

These City-initiated code amendments would amend Titles 5 and 9 of the LPMC to address low barrier navigation centers, transitional and supportive housing, streamlined review for eligible projects, employee housing, emergency shelter parking, and residential care facilities. These code amendments are contemplated by the City’s Housing Element Program 7 (Zoning Code Amendments- Housing Constraints). Collectively, the code amendments are aimed at removing constraints to housing development and ensuring the City’s standards and permitting requirements are consistent with State law.

### **ENVIRONMENTAL REVIEW:**

This proposed action is not subject to the provisions of the California Environmental Quality Act (“CEQA”) pursuant to Section 15060(c)(1) of the State CEQA Guidelines, which provides that activity that does not involve the exercise of discretionary power by a public agency is not subject to CEQA. Here, the code amendments do not constitute a discretionary project subject to CEQA because they ensure that the City’s standards and permitting requirements are consistent with state law and fair housing laws, as required by HCD. The code amendments merely codify these requirements in the LPMC. Additionally, the code amendments are exempt from CEQA under Section 15061(b)(3) of the State CEQA Guidelines, which provides that a project is exempt 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 code amendments may have a significant effect on the environment because

they merely amend the LFMC to be consistent with state law and fair housing laws, which are already binding on the City.

**PUBLIC NOTICING:**

The City Council hearing to consider these ordinances was duly noticed in a newspaper of general circulation on May 25, 2023. On May 25, 2023, the public notice was also posted at City Hall. In addition, in accordance with LFMC section 9.196.020, on May 30, 2023, the City Clerk made the draft ordinances available for public inspection in the City Clerk's office.

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**FISCAL IMPACT:**

There is no fiscal impact related to the recommended actions.

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**ATTACHMENTS:**

1. Draft ZC 04-23-5616 Ordinance
2. Draft Chapter 5.44 Ordinance
3. ZC 04-23-5616 PC Resolution (excluding Exhibit A)
4. Code Amendment Additions and Deletions by Subject
5. Housing Program 7 from Adopted Housing Element
6. HCD Certification Letter

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