ORDINANCE NO. 870

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LANCASTER, CALIFORNIA, ADDING CHAPTER 5.44 OF TITLE 5 TO THE LANCASTER MUNICIPAL CODE PERTAINING TO GROUP HOMES WITHIN THE CITY OF LANCASTER AND ESTABLISHING PROCEDURES FOR REVIEW AND ISSUANCE OF GROUP HOMES BUSINESS LICENSES.

WHEREAS, the City Council of the City of Lancaster, finds that the Lancaster Municipal Code does not provide adequate guidance for the legitimate use of Group Home protections afforded by State and Federal law for handicapped persons.

WHEREAS, group residential homes have been recognized as providing persons with handicaps the opportunity to experience a family type environment in single-family zoned neighborhoods.

WHEREAS, it has been recognized that giving persons with handicaps the opportunity to live in family oriented environments has assisted in their recovery, their integration into residential neighborhoods, has improved their quality of life and, in particular, has given handicapped persons the opportunity to receive and give support and encouragement to each other.

WHEREAS, the City Council of the City of Lancaster recognizes that persons with handicaps should have the right to live in a family environment or the functional equivalent of a single-family environment.

WHEREAS, the City has an obligation to protect the residents of Group Homes and the community in which they are located from abuses of the protections afforded persons with handicaps by persons seeking to exploit these protections or the residents who live in Group Homes.

WHEREAS, it has been recognized that businesses have been established as Group Homes, and have been located in residential neighborhoods and used as “Flop” houses, overcrowded boarding houses, temporary housing for transients and others who do not qualify for the protection provided to handicapped persons.

WHEREAS, the City has a legitimate interest in decreasing congestion, traffic, noise in residential areas and to assure that the residential zones are preserved for their intended uses.
WHEREAS, an ordinance is appropriate to provide guidelines, rules, and regulations in order to protect the legitimate rights of persons with disabilities and to assure that they experience a family setting or functional equivalent thereof in an appropriate, safe and sound setting.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF LANCASTER DOES ORDAIN, ENACT AND PROVIDE AS FOLLOWS:

Section 1. **Group Home Business License.** A new Chapter 5.44 is added to Title 5 of the Lancaster Municipal Code to be entitled “Group Home Business License.”

Section 2. **Severability.** If any section, subsection, sentence, clause, or phrase of Chapter 5.44, or its application, is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions thereof or should any portion of this Ordinance be preempted by state or federal law or regulation, such pre-emption, shall not affect the validity of the remaining portions of this Ordinance or its application to other persons or circumstances. The City Council hereby declares that it would have passed the ordinance as codified in this Chapter, and each and every section, subsection, sentence, clause, or phrase not declared invalid or unconstitutional without regard to whether any portion of this chapter would be subsequently declared invalid or unconstitutional.

Section 3. **Effective Date.** This Ordinance shall take effect and be in force on the thirty-first (31st) day after its adoption. The city clerk shall certify to the passage and adoption of this ordinance and shall cause this ordinance to be published as set forth below. At least five (5) days prior to its final adoption, copies of this ordinance shall be posted in at least as three (3) prominent and public locations in the city; and a notice shall be published once in a newspaper of general circulation in the City of Lancaster, setting forth the title of their ordinance, the date of this introduction and the places where this ordinance is posted. Within fifteen (15) calendar days following final adoption, a summary of the ordinance with the names of the council members and votes shall be published in a newspaper of general circulation. The City Clerk shall certify to the adoption of this Ordinance and shall cause the same to be published as required by law.
I, Geri K. Bryan, CMC, City Clerk of the City of Lancaster, do hereby certify that the foregoing ordinance was regularly introduced and placed upon its first reading on the 9th day of January, 2007, and placed upon its second reading and adoption at a regular meeting of the City Council on the 23rd day of January, 2007 by the following vote:

AYES: Council Members: Jeffra, Smith, Visokey, Vice Mayor Sileo, Mayor Hears

NOES: None

ABSTAIN: None

ABSENT: None

ATTEST:

GERI K. BRYAN, CMC
City Clerk
City of Lancaster

APPROVED:

HENRY W. HEARNS
Mayor
City of Lancaster

STATE OF CALIFORNIA )
COUNTY OF LOS ANGELES ) ss
CITY OF LANCASTER )

CERTIFICATION OF ORDINANCE
CITY COUNCIL

I, __________________________________________.
City of Lancaster, California, do hereby certify that this is a true and correct copy of the original Ordinance No. 870, for which the original is on file in my office.

WITNESS MY HAND AND THE SEAL OF THE CITY OF LANCASTER, on this ________
day of __________________, ________.

(seal)
EXHIBIT “A”

CHAPTER 5.44
GROUP HOME BUSINESS LICENSE

Sections:
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5.44.010 Intent.

This Chapter is intended to reasonably regulate the use of dwellings in residential zones
for use as Group Homes for disabled persons. The City finds that the residents of the Group
Homes and the community need to be assured that the Group Homes are placed and operated in a
manner consistent with the goal of providing a family environment or the fundamental
equivalent thereof while at the same time protecting the health, safety and welfare of the
residents and the community and to assure the limitation of the negative impacts that such uses
may have on traffic, congestion, noise, children and family values.

5.44.020 Definitions.

For purpose of this Chapter the following definitions apply:


“Director” means the Director of Housing and Neighborhood Revitalization for the City
of Lancaster.
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“Disability” means, with respect to a person –

1. a physical or mental impairment which substantially limits one or more of such person’s major life activities,

2. a record of having such an impairment, or

3. being regarded as having such an impairment,

but such term does not include current, illegal use of or addiction to a controlled substance.

“Group Home(s)” means State Licensed Group Homes, Unlicensed Group Home(s), Unlicensed Group Facility(ies).

“Operator” means the person, entity, or organization in direct control of the Group Home and responsible for its operation, management and maintenance.

“State Licensed Group Home(s)” means a licensed residential facility as defined in Section 1502(a)(1), a residential care facility for the elderly as defined in Section 1569.2(k), or a licensed alcoholism or drug abuse recovery or treatment facility as defined in Section 11834.02 of the Health and Safety Code, or any other state licensed group facility, which serve 6 or fewer persons, excluding the licensee, the members of the licensee’s family and persons employed as facility staff and that provides the services and complies with the regulations promulgated under the above-referenced sections.

“Unlicensed Group Home(s)” means a dwelling unit occupied by 6 or fewer persons, each of which has a Disability, as defined herein, who live together as a family or the functional equivalent, thereof. However, Unlicensed Group Home shall not include an adult day care facility, day care center, family day care home, guest house, guest ranch, health retreat, long term health care facility, rooming house or boarding house, motels, hotels or other transient occupancy.

“Unlicensed Group Facility” means a dwelling unit occupied by more than 6 persons, each of which has a disability, as defined herein, and who live together as a family or the functional equivalent thereof. However, Unlicensed Group Facility shall not include an adult day care facility, day care center, family day care home, guest house, guest ranch, health retreat, long term health care facility, rooming house or boarding house, motels, hotels or other transient occupancy.

Except as provided herein, the definitions set forth Section 17.04.240 and as set forth elsewhere in the Municipal Code shall apply to this Chapter.

5.44.030 License Required.

No Group Home shall operate within the City without a valid Group Home Business License in effect as provided in this Chapter. A Group Home Business License is in lieu of a general business license as required by Chapter 5.04 of this code.

5.44.040 Group Home Business License Fee.
Applications for a Group Home Business License by a State Licensed Group Home shall not be subject to the Group Home Business License fee imposed by this Chapter. Applications for an Unlicensed Group Home or Unlicensed Group Facility shall be accompanied by a non-refundable fee in an amount established by resolution of the City Council. The Group Home Business License fee shall be used to defray the costs of the investigation, report, inspection, processing and enforcement, and is made in lieu of any other fees under the Code, including, but not limited to, the fee charged under Chapters 5.04 and 5.40 of the Code.

5.44.050 Application for Group Home Business License.

Applications for a Group Home Business License shall be filed with the Director on a form approved by and provided by the Director. The application must be typewritten or legibly printed by hand. Illegible information will be treated as incomplete, and may therefore serve as grounds for denial of the application. The application shall be completed in its entirety and signed by the operator of the proposed Group Home if a sole proprietorship; all general partners if the operator is a partnership; all officers and directors if the operator is a corporation; and all participants if the operator is a joint venture. The application for a Group Home Business License does not authorize the operation of a Group Home unless and until such Group Home Business License has been issued. The application shall also contain or be accompanied by the following information:

1. The type of ownership of the proposed Group Home, i.e., whether by individual, partnership, corporation, or otherwise.

2. If the applicant is a corporation, the name of the corporation shall be set forth exactly as shown in its articles of incorporation and the names and residence addresses of each of its current officers and directors, and each stockholder holding more than five percent (5%) of the stock of that corporation. If one or more of the officers, directors, or stockholders is a corporation, the provisions of this Section pertaining to a corporate applicant shall apply.

3. If the applicant is a partnership, the application shall set forth the name and residence of each of the partners, including limited partners. If one or more of the partners is a corporation, the provisions of this Section pertaining to a corporate applicant shall apply.

4. If the applicant is a limited liability company, the application shall set forth the name of the company exactly as shown in its articles of organization or operating agreement, together with the names and residence addresses of each of its officers, directors, and each member along with a description of the relative interests of each member. If one or more of the officers, directors, or members is a corporation, the provisions of this Section pertaining to a corporate applicant shall apply.

5. The proposed location of the Group Home including the complete address and all telephone numbers of the premises.

6. The precise name under which the Group Home is to be operated.

7. A statement whether any medical or other support services will be provided to the residents and the type of such support.
8. The name, address and telephone number for the designated responsible person for the premises and any other person designated to be contacted in the event of emergency at the premises. The name and address of the owner and lessor of the real property upon or in which the Group Home is to be conducted.

9. In the event the applicant is not the legal owner of the property, the application must be accompanied by a copy of the lease and a notarized acknowledgement from the owner of the property that a Group Home establishment will be located on his/her property;

10. A description of any other business operated or to be operated at the same premises.

11. A certified copy of the applicable state license.

12. Any other information or documentation reasonably required by the Director.

13. A written statement signed and dated by the applicant that he or she certifies under penalty of perjury of the laws of the State of California that all information contained in the application is true and correct.

5.44.060 Application for Group Home Business License, except State Licensed Group Homes.

In addition to the requirements of Section 5.44.050, applications for Group Home Business License by an Unlicensed Group Home or Unlicensed Group Facility shall also contain or be accompanied by the following information:

1. A description of the facilities, including the number of rooms, the layout of the building, interior walls, location of bedroom, bathrooms, kitchen, eating and sitting areas.

2. A statement that the proposed location for the Unlicensed Group Home or Unlicensed Group Facility is not within 500 or on the same block as another Group Home.

3. Proof of liability insurance;

4. A detailed description of the nature of the disabilities of the residents.

5. Proof of disability in the form of a doctor’s certificate or other proof satisfactory to the Director.

6. Authorization for the City, its employees and agents to seek information and conduct an investigation, including, but not limited to, a records check of prior convictions, to verify the information contained within the application.

7. Authorization and consent for the City, its employees and agents to inspect the Group Home as provided in Section 5.44.140.
8. A description of all policies, practices and procedures to be employed at the premises, including but not limited to manner in which residents are solicited or located, advertising methods, if any, procedures to determine whether residents are disabled, if the disability relates to alcohol, drug, substance abuse methods used to confirm that the residence are not actively engaged in their addiction.

9. Methods used to determine if any prospective residents pose a danger to themselves, the residents or the community.

10. Information related to the any prospective resident that poses a danger to himself, the other residents or the community at large.

11. Methods, practice and procedures used to determine if a person residing in a Group Home is no longer qualified as disabled. This includes, but is not limited to determining if those persons who are recovering from drug, substance or alcohol abuse or addiction are using or have used such substances while residing at the Group Home.

12. Description of the agreements between the operator and/or the residents with regard to the use and occupancy of the Group Home, including the term of occupancy required and including copies of resident agreements, e.g. leases, rental agreements.

13. A complete written list containing the following information regarding employees that will perform service where the Group Home will be located: name of employee, date of hire, driver's license or California Identification Card number, date of birth, job title and description. Each Operator shall submit in writing to the Director any modified information within forty-eight (48) hours of the modification of employment status, job title, and/or job description.

5.44.070 Issuance of Group Home Business License to State Licensed Group Home.

The Director shall issue a permit to a State Licensed Group Home upon submission of a properly completed application for a Group Home Business License by a State Licensed Group Home.

5.44.080 Issuance of Group Home Business License to Unlicensed Group Home.

The Director shall issue a permit to an Unlicensed Group Home upon submission of a properly completed Application for a Group Home Business License and the fee required by Section 5.44.040 of this Chapter and upon making the following findings:

1. The Group Home Residents qualify as having a disability, as defined in this Chapter.

2. The dwelling unit has sufficient kitchen facilities for the residents.

3. The home has sufficient restroom and bathing facilities for the residents.

4. The dwelling unit has sufficient sitting or congregate area.

5. That the Group Home complies with all applicable Building and Safety rules and regulations.
6. That the Group Home will provide the residents with a family environment or reasonable equivalent thereof.

7. That the property is not within 500 feet of another Group Home.

8. That the residents do not pose a danger to themselves, the other residents or the community;

9. That the Operator has not been convicted of a crime, including the illegal possession or sale of controlled substances or drugs.

10. That the residents are not transients, and that there is sufficient information to conclude that the residents intend to occupy the premises for a reasonable period of time, not less than 6 months and that no tenancy is on less than a month to month basis.

11. That no businesses shall be conducted at the premises, except those for which a home occupation permit has been duly issued and is in effect.

12. That the application form has been properly completed and all documentation provided as required by this chapter;

13. That the applicant has not had another Group Home Business License revoked or denied within the past 12 months.

14. That Manager and Emergency contact information has been provided.

15. That there are sufficient safeguard, procedures and rules in place to identify and remove residents who are a danger to themselves or others, or uses illegal substances or drugs and if they are a recovering alcoholic, used alcohol.

5.44.090 Issuance of Group Home Business License to Unlicensed Group Facility.

The Director shall issue Group Home Business License to an Unlicensed Group Facility upon the occurrence of all of the following: submission of a properly completed application for a Group Home Business License and the fee required by Section 5.44.040, upon making the findings required by Section 5.44.080 and upon the issuance of a certification of the Director of Planning that the Unlicensed Group Facility is located in a Medium or High Density Residential Zone as defined in Section 17.18.020.A.3. of the Code.
5.44.100 Approval or Denial of Group Home Business License.

The Director shall determine whether the applicant has submitted a complete application for a Group Home Business License within twenty (20) days of its submission. An application is complete if it has been fully and properly completed in accordance with this Chapter and the non-refundable fee required pursuant to Section 5.44.040 of this Chapter has been tendered. If the Director determines that the applicant has not submitted a complete application, the Director shall promptly notify the applicant of such fact. The applicant may request to withdraw the application in order to provide additional time to complete the required information. However, if the applicant withdraws the application, the review period ends, and the completed application will be processed as a new submittal. Upon determination by the Director that a complete application has been submitted, the Director shall issue or deny the issuance of the Group Home Business License within 20 days of such determination.

5.44.110 Term of Group Home Business License.

1. A Group Home Business License shall be valid for a period of one year from the date of issuance.

2. Renewal applications shall be submitted on a form approved by and provided by the Director and shall contain all information required by this Chapter for initial issuance of the Group Homes Business License, and shall be accompanied by a non-refundable fee as provided in Section 5.44.040 of this Chapter.

3. Applications for the renewal of a Group Home Business License shall be filed with the Director no later than thirty (30) days prior to the expiration of the Group Business License to prevent a lapse of the permit. No temporary permits shall be issued as a result of an applicant’s failure to timely file a renewal application.

4. The review, approval, and issuance or denial of a renewal application shall be made in the same manner as for an original application pursuant to this Chapter. A renewal application may also be denied on the grounds that the applicant has failed to comply with any permit conditions or other requirements of this Chapter.

5.44.120 Group Home Operational Requirements.

All Group Homes shall comply with the following facilities and operational requirements:

1. Each Group Home and the operator shall comply with all applicable ordinances, laws, rules, and regulations for single family residences or, with respect to unlicensed group facilities, multifamily residences.

2. Each resident must be provided with their own bed, sleeping area and storage area. At no time may there be overcrowding, nor shall any resident be asked to or directed to sleep on the floor, whether or not a mattress is used.

3. Sufficient restroom and bathing facilities must be provided and operational for the number of residents and must be available at all time, except when repairs are being made.
4. Sufficient lighting, electricity and equipment shall be provided in the Group Home sufficient for the residents to conduct their daily living activities.

5. Each resident of a Group Home shall be free from violence, harassment, unconsented touching, verbal or physical abuse or compelled to be in the presence of anyone who is a danger to him/herself or others.

6. No illegal drugs, controlled substances or alcohol (if the residents handicap status relates to alcohol) shall be kept in or about the premises at any time.

7. The residents and the Director shall be informed immediately, in the event any person residing at the Group Home is convicted of a violent crime, crime of a sexual nature or of a crime of moral turpitude.

8. No resident who is a recovering alcoholic or drug or substance abuser shall be permitted to use, keep, purchase, or sell any alcohol, drug or substance while residing at the premises. Any resident who is a recovering alcoholic, drug or substance abuser who violates this section, shall be lawfully removed from the premises as soon as reasonably possible.

9. No Unlicensed Group Home or Unlicensed Group Facility shall be located within 500 of another Group Home.

10. Upon the vacating of a Group Home by any resident, the operator shall notify the Director. Prior to a new resident moving into the Group Home the Operator shall notify the Director, on a form to be approved and provided by the Director, of the name of the new resident and sufficient information to confirm the eligibility of the new resident to occupy the Group Home.

11. No transient occupancy of a Group Home shall be permitted and all residents must confirm in writing their intention to reside at the Group Home for a minimum of 6 months and in no event may any agreement for residence be on a less than month-to-month basis.

12. Procedures, rules and guidelines shall be established and enforced for the maintenance of the dwelling where the Group Home is located to assure that the residents have a safe and sanitary home.

13. Each Group Home operator shall maintain a current record of all residents. Copies of such records shall be provided to the Director within seven (7) calendar days of any request for such records by a City official.

5.44.130 Group Home Location or Operator Change.

1. No Group Home Business License shall be transferable. Any proposed change of operator, ownership interest or location of the Group Home shall require a new application for a Group Home Business License as provided in this Chapter.
2. Any attempt by a holder of a Group Home Group Home Business License to transfer any interest in the Group Home shall render the Group Home Business License to be revocable. Any attempt to transfer a Group Home Business License, either directly or indirectly, in violation of this Chapter is declared voided, and the permit shall be revocable.

5.44.140 Inspections.

The City shall have the right to inspect the location where the Group Home is operating, in the same manner as with any similar dwelling unit in accordance with the provisions of Chapter 5.40. Notwithstanding anything in Chapter 5.40, each Group Home shall be inspected annually or upon receipt of a complaint as described in Section 5.40.110.

5.44.150 Conditions.

The facilities and operational requirements of Section 5.44.120 of this Chapter shall be deemed conditions of approval for the Group Home Business License for an Unlicensed Group Home. Failure to comply with each and every such requirement shall be grounds for suspension or revocation of a Group Home Business License, or for a denial of a renewal application for a Group Home Business License.

5.44.160 Revocation.
1. The Director shall revoke a Group Home Business License, in addition to any other basis provided by this code, upon determination that any of the following conditions exist:

2. Failure to operate in a manner consistent with the application

3. Violation of any rule, regulation or Section of this Chapter by the operator, any employee or related person or any resident of the Group Home;

4. The Operator and/or the applicant has been made a material false, misleading, or fraudulent statement or omission of fact to the City, or engaged in fraud, in the application for permit or while operating the Group Home;

5. The Group Home for which the Group Home Business License has been approved is not in compliance with the provisions, requirements, or regulations of this chapter;

6. The occurrence of a public nuisance at the or emanating from the Group Home.

7. Conviction of any crime related to the use of the Group Home by the operator or the illegal use, sale or distribution by the operator of drugs, controlled substances or alcohol.


5.44.170 Re-Application After Denial or Revocation.
1. An applicant for a Group Home Business License regulated by the provisions of this Chapter whose application for such Group Home Business License has been denied may not reapply for such Group Home Business License for a period of one (1) year from the date such notice of denial was issued.
2. A holder of a Group Home Business License regulated by the provisions of this Chapter whose Group Home Business License has been canceled, revoked, or invalidated may not reapply for such Group Home Business License for a period of one (1) year from the date such revocation, cancellation, or invalidation became final.

5.44.180 Appeals.

Any decision of the Director to deny, suspend, or revoke a Group Home pursuant to the provisions of this Chapter may be appealed to the City Manager or his designee by filing a notice of appeal with the City Clerk within ten (10) days of the date of such decision. Failure of the City Clerk to receive a timely notice of appeal constitutes a waiver of the right to contest any decision hereunder. In this event, the decision is final and binding. Appeals under this chapter shall be heard as follows:

1. The hearing shall be conducted by the city manager or his duly authorized designee who shall act as hearing officer, and who shall herein be referred to as the “Hearing Officer” who shall consider all relevant evidence including, but not limited to, applicable staff reports, objections or protests relative to the decision. Such hearing may be continued from time to time.

2. Upon the conclusion of said public hearing, the hearing officer shall, on the basis of the evidence presented at such hearing, determine whether the decision should be upheld, modified or reversed. The determination of the hearing officer shall be final and conclusive.

3. A copy of the hearing officer’s decision shall be served upon the owner of the property by United States mail or by personal delivery. In addition, a copy of the order shall be posted in a conspicuous place on the property.

5.44.190 Public Nuisance.

Any Group Home operated, conducted, or maintained contrary to the provisions, requirements, and regulations of the Code shall be, and the same is declared to be, harmful to the public health and safety, unlawful and a public nuisance, and the City may, in addition to or in lieu of prosecuting a criminal action hereunder, commence an action or actions, proceeding or proceedings, for the abatement, removal, and enjoinder thereof, in the manner provided by law, and shall take such other steps and shall apply to such court or courts as may have jurisdiction to grant such relief as will abate or remove such Group Home establishments and restrain and enjoin any person from operating, conducting, or maintaining a Group Home establishment contrary to the provisions, requirements, or regulations of the Lancaster Municipal Code.

5.44.200 Recovery of Attorney’s Fees.

1. A prevailing party in any judicial action, administrative proceeding, or special proceeding, to abate or to cause the abatement of a public nuisance as defined in Section 5.44.190 of this Chapter, or in any appeal or other judicial action arising there from, may recover reasonable attorney’s fees in accordance with the following subsections:
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a. Attorney's fees are not recoverable by any person as a prevailing party unless the City Manager, or a designee thereof, or an attorney for, and on behalf of, the City, elects in writing to seek recovery of the City's attorney's fees at the initiation of that individual action or proceeding. Failure to make such an election precludes any entitlement to, or award of, attorney's fees in favor of any person or the City.

b. The City is the prevailing party when an administrative or judicial determination is made or affirmed by which a person is found to be responsible for one or more conditions or activities that constitute a public nuisance as defined by Section 5.44.190 of this Chapter. A person is the prevailing party only when a final administrative or judicial determination completely absolves that person of responsibility for all conditions or activities that were alleged, in that action or proceeding, to constitute a public nuisance. An administrative or judicial determination that results in findings of responsibility and non-responsibility on the part of a person for conditions or activities that were alleged in that action or proceeding to constitute a public nuisance, shall nevertheless result in the City being the prevailing party.

2. Provided the City has made an election to seek attorney's fees, an award of attorney's fees to a person shall not exceed the amount of reasonable attorney's fees incurred by the City in that action or proceeding.

5.44.210 Regulations Non-Exclusive.

The provisions of this Chapter regulating Group Homes are not intended to be exclusive and compliance therewith shall not excuse non-compliance with any other applicable provision, requirement, or regulation of the Code or other laws.

5.44.220 Conflicts.

If the provisions, requirements, or regulations of this Chapter conflict with or contravene any other provision, requirement, or regulation of the Code, the provisions, requirements, or regulations of this Chapter shall prevail as to all matters and questions arising out of the subject matter of this Chapter.