



MEMORANDUM

TO: CITY COUNCIL

FROM: TERESA McCLISH, COMMUNITY DEVELOPMENT DIRECTOR

BY: KELLY HEFFERNON, ASSOCIATE PLANNER

SUBJECT: CONSIDERATION OF ADOPTION OF AN ORDINANCE AMENDING PORTIONS OF TITLE 16 OF THE ARROYO GRANDE MUNICIPAL CODE REGARDING EMERGENCY SHELTERS AND SUPPORTIVE AND TRANSITIONAL HOUSING (DEVELOPMENT CODE AMENDMENT 14-006); CITYWIDE

DATE: APRIL 12, 2016

RECOMMENDATION:

It is recommended that the City Council adopt an Ordinance amending portions of Title 16 of the Arroyo Grande Municipal Code to allow emergency shelters as a permitted use in the Industrial Mixed Use (IMU) and Highway Mixed Use (HMU) zoning districts pursuant to Housing Element Program K.2-1, and to define supportive and transitional housing as residential uses subject to the same standards that apply to other housing in the same zone pursuant to Housing Element Program K.2-2 (Development Code Amendment 14-006).

IMPACT ON FINANCIAL AND PERSONNEL RESOURCES:

No financial impact is projected.

BACKGROUND:

On March 22, 2016 the City Council adopted a Resolution approving the Housing Element Update for the 2014-2019 Regional Housing Needs Assessment (RHNA) Cycle (General Plan Amendment No. 14-002) and introduced an Ordinance amending portions of Title 16 of the Arroyo Grande Municipal Code regarding emergency shelters.

ANALYSIS OF ISSUES:

SB2 became effective January 1, 2008, requiring all cities and counties in California to provide at least one zoning district which allows emergency shelters without a Conditional Use Permit (CUP) or other discretionary approval. The Housing Element must identify the zoning district(s) and demonstrate that there is sufficient land capacity to accommodate the locality's need for emergency shelters and at least one year-round emergency shelter facility. In 2014, SB 745 created new definitions of "supportive housing", "target population", and "transitional housing" that are more specific to Housing

CITY COUNCIL

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APRIL 12, 2016

PAGE 2

Element law. These definitions are included in proposed Development Code Amendment 14-006.

Consistent with SB2, the State Department of Housing and Community Development (HCD) requires that Program K.2-1 of the City's Housing Element, which permits emergency shelters in the IMU and Highway Mixed Use HMU districts without discretionary action, must be implemented before the current Housing Element can be certified. Program K.2-2, which is a new program to define transitional and supportive housing as a residential use subject to the same standards that apply to other housing in the same zone, must also be implemented prior to Housing Element certification.

The proposed Ordinance amends Table 16.36.030(A) to include emergency shelters as an allowable use in the IMU and HMU zoning districts, amends Table 16.32.040(A) to include supportive housing and transitional housing as permitted uses in all residential zoning districts, and adds a new Section 16.52.091 regarding specific use development standards regarding emergency shelters.

Once the Ordinance is adopted, the City will submit the Housing Element with the Ordinance to HCD for certification. A certified housing element makes the City eligible for State and Federal grant funding for various housing programs.

ADVANTAGES:

Currently, the Arroyo Grande Municipal Code (AGMC) does not address emergency shelters, and therefore these facilities are not listed as an allowable use in any zoning district within the City. The proposed Ordinance will allow emergency shelters without a Conditional Use Permit (CUP) or other discretionary approval in the IMU and HMU zoning districts, which has sufficient land capacity to accommodate the City's need for emergency shelters. The process for permitting emergency shelters will allow for a simplified procedure through the Minor Use Permit (MUP) process yet subject to specific use development standards to ensure that various issues such as noise, parking, lighting, etc. are addressed.

DISADVANTAGES:

The MUP approval process does not provide review through the public hearing process and therefore surrounding neighbors of a given proposed emergency shelter facility will not have the benefit of expressing their concerns in a public forum as they would through the discretionary CUP process.

**CITY COUNCIL
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(DEVELOPMENT CODE AMENDMENT 14-006); CITYWIDE
APRIL 12, 2016
PAGE 3**

ENVIRONMENTAL REVIEW:

In accordance with the California Environmental Quality Act (CEQA), staff has determined that the draft Ordinance is exempt per Section 15061(b)(3) of the CEQA Guidelines.

PUBLIC NOTIFICATION AND COMMENTS:

A summary of the Ordinance was published in The Tribune on March 28, 2016. The agenda was posted in front of City Hall on Thursday, April 7, 2016 and the agenda and staff report were posted in City Hall and on the City's website on Friday, April 8, 2016.

ORDINANCE NO.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ARROYO GRANDE AMENDING TITLE 16 OF THE ARROYO GRANDE MUNICIPAL CODE REGARDING EMERGENCY SHELTERS AND SUPPORTIVE AND TRANSITIONAL HOUSING

WHEREAS, the City of Arroyo Grande (“City”) seeks to be in compliance with the State of California’s regulations for the allowance of emergency shelters as required by State Senate Bill 2 (SB2), effective January 1, 2008, and codified in California Government Code Section 65583; and

WHEREAS, Government Code Section 65583 obligates cities and counties to establish a zoning district that allows emergency shelters as a land use which does not require a conditional use permit or other discretionary approval, and allows for the opportunity to create written standards for the development and operation of emergency shelters; and

WHEREAS, SB2 stipulates that supportive housing and transitional housing shall be considered residential uses, only subject to those restrictions that apply to other residential uses of the same type in the same zone; and

WHEREAS, Housing Element Policy K.2 calls for amending the Development Code to be in compliance with SB2; and

WHEREAS, the State Office of Housing and Community Development (HCD) requires implementation of Housing Element Programs K.2.1 and K.2.2 regarding emergency shelters and supportive and transitional housing prior to certification of the City’s Housing Element; and

WHEREAS, a State-approved Housing Element is required for eligibility for certain grants; and

WHEREAS, the City Council has considered the proposed Ordinance approving Development Code Amendment 14-006 at a duly noticed public hearing on March 22, 2016; and

WHEREAS, after consideration of all testimony and all relevant evidence, the City Council has determined that the following Development Code Amendment findings can be made in an affirmative manner:

- A. The proposed amendment to Title 16 of the Arroyo Grande Municipal Code (AGMC) is consistent with the goals, objectives, policies and programs of the general plan, and is necessary and desirable to implement the provisions of the general plan.

The proposed Development Code Amendment to add a new Section 16.52.091 pertaining to standards for emergency shelters and modify Tables 16.32.040(A) and 16.36.030(A) pertaining to supportive and transitional housing is consistent with the following policy of the Housing Element:

Policy K.2. The City shall allow emergency shelters for overnight lodging in appropriate zoning districts as part of the Development Code Update in compliance with State law.

- B. The proposed amendment will not adversely affect the public health, safety, and general welfare or result in an illogical land use pattern.

The proposed Development Code Amendment adds standards for emergency shelters which ensure that operating characteristics of any emergency shelter do not adversely impact public health, safety, and general welfare of the community in which a shelter is located. Compliance with the requirements of California Government Code Section 65583 for supportive housing and transitional housing will be of benefit to the public.

- C. The proposed revisions are consistent with the purpose and intent of Title 16, satisfy the intent of Chapters 16.04, 16.32 and 16.36 of the Municipal Code and provide for internal consistency.

- D. The potential environmental impacts of the proposed Development Code Amendment are insignificant.

The proposed Development Code Amendment is exempt from environmental review under the “general rule” at Section 15061(b)(3) of the California Environmental Quality Act (CEQA) Guidelines because it can be seen with certainty that there is no possibility that the proposed Development Code Amendment may have a significant effect on the environment.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Arroyo Grande as follows:

SECTION 1: The above recitals and findings are true and correct and incorporated herein by this reference.

SECTION 2: The following definitions in Arroyo Grande Municipal Code Subsection 16.04.070.C. are hereby added as follows:

16.04.070.C. Definitions

“Emergency shelter” means housing with minimal supportive services for homeless persons that is limited to occupancy of six months or less by a homeless person. No individual or household may be denied emergency shelter because of an inability to pay (as defined by California Health and Safety Code Section 50801(e)).

“Supportive housing” means housing with no limit on length of stay, that is occupied by the target population, and that is linked to onsite or offsite service that assists the supportive housing resident in retaining the housing, improving his or her health status, and maximizing his or her ability to live and, when possible, work in the community (as defined by Government Code Section 65582). Supportive housing shall be considered a residential use of property, and shall be subject only to those restrictions that apply to other residential dwellings of the same type in the same zone.

“Target population” means persons with low incomes who have one or more disabilities, including mental illness, HIV or AIDS, substance abuse, or other chronic health condition, or individuals eligible for services provided pursuant to the Lanterman Developmental Disabilities Services Act (Division 4.5 (commencing with Section 4500) of the Welfare and Institutions Code) and may include, among other populations, adults, emancipated minors, families with children, elderly persons, young adults aging out of the foster care system, individuals exiting from institutional settings, veterans, and homeless people (as defined by Government Code Section 65582).

“Transitional housing” means a building or buildings configured as rental housing developments, but operated under program requirements that require the termination of assistance and recirculation of the assisted unit to another eligible program recipient at a predetermined future point in time that shall be no less than six (6) months from the beginning of the assistance (as defined by Section 50675.2 of the Health and Safety Code). Transitional housing shall be considered a residential use of property, and shall be subject only to those restrictions that apply to other residential dwellings of the same type in the same zone. Transitional housing does not include state licensed residential care facilities.

SECTION 3: Table 16.32.040-A in Section 16.32.040 of the Arroyo Grande Municipal is hereby amended to add the following uses:

**Table 16.32.040(A)
Uses Permitted Within Residential Districts**

USE	RE	RH	RR	RS	SF	VR D-2.4	MF	MFA	MFVH	MHP
18. Supportive housing	P	P	P	P	P	P	P	P	P	P
19. Transitional housing	P	P	P	P	P	P	P	P	P	P

SECTION 4: Arroyo Grande Municipal Code Section 16.36.030 is hereby amended as follows:

**Table 16.36.030(A)
Uses Permitted Within Mixed Use and Commercial Districts**

Allowed Land Uses and Permit Requirements – LAND USE	IMU	TMU D-2.11	VCD HCO D-2.4	VMU D-2.11 HCO D-2.4	GMU	FOMU	HMU	OMU D- 2.20	RC
B. SERVICES - GENERAL									
Emergency shelters	MUP	NP	NP	NP	NP	NP	MUP	NP	NP

SECTION 5: Arroyo Grande Municipal Code Section 16.52.091 is hereby added:

16.52.091 – Emergency shelters.

A. Purpose and Intent. It is the purpose of this section to facilitate and encourage the provision of emergency shelters for homeless persons and households by allowing permanent year-round emergency shelters without a conditional use permit or other discretionary action in the Industrial Mixed Use (IMU) and Highway Mixed Use (HMU) zoning districts, subject only to the same development standards that apply to other permitted uses in these zones, except for the following requirements unique to emergency shelters, as authorized by Government Code Section 65583(a)(4).

B. Permit requirements.

1. Emergency shelter facilities shall comply with all federal and California State licensing requirements.
2. Emergency shelter facilities shall comply with all applicable Uniform Building Codes, Plumbing Codes and Fire Codes, including maximum occupancy restrictions.

C. Minimum site design and development standards. An emergency shelter is subject to all property development standards of the zoning district in which it is located except as modified by the following standards:

1. The maximum number of beds or persons to be served nightly by an emergency shelter shall be thirty-four (34).
2. Off-street parking shall include one (1) vehicle parking space per three (3) beds and one (1) space per employee on the largest shift. A covered and secured area for bicycle parking shall be provided for use by staff and clients, commensurate with demonstrated need, but no less than a minimum of eight (8) bike parking spaces.
3. Exterior lighting shall be provided for security purposes. The lighting shall be stationary, directed away from adjacent properties and public right-of-way, and of an intensity compatible with the neighborhood.
4. Security shall be provided for residents, visitors and employees during the hours that the emergency shelter is in operation.
5. On-site management shall be provided. The agency or organization operating the shelter shall comply with the following requirements:
 - a. Temporary shelters shall be available to residents for no more than six (6) months within a twelve (12) month period. The days of stay need not be consecutive.
 - b. Staff and services shall be provided to assist residents to obtain permanent shelter and income.
 - c. The provider shall have a written management plan including, as applicable, provisions for staff training, neighborhood outreach, security, screening of residents to insure compatibility with services provided at the facility, and for training, counseling and treatment programs for residents.
6. Appropriately sized and located exterior and interior on-site waiting and intake areas shall be provided.
7. Laundry facilities or services shall be provided that are adequate for the number of residents.
8. Emergency shelter facilities shall provide a refuse storage area that is completely enclosed with masonry walls not less than five (5) feet high with a solid-gated opening that is large enough to accommodate standard-sized trash and recycling bins, or other enclosures as approved by the Director of Community Development. The refuse enclosure shall be accessible to refuse collection vehicles.
9. The facility may provide one or more of the following specific common facilities for the exclusive use of the residents and staff:
 - a. Central cooking and dining room(s).
 - b. Recreation room.
 - c. Counseling center.
 - d. Child care facilities.
 - e. Other supportive services.
10. Organized outdoor activities may only be conducted between the hours of 8:00 a.m. and 9:00 p.m. for noise abatement purposes.

ORDINANCE NO.

PAGE 6

11. An emergency shelter shall not be located within three hundred (300) feet of another emergency shelter, kindergarten through 12th grade curriculum school, child care center, or park as measured from the closest property line.
12. No individual or household shall be denied emergency shelter because of an inability to pay.

SECTION 6: If any section, subsection, subdivision, paragraph, sentence, or clause of this Ordinance or any part thereof is for any reason held to be unlawful, such decision shall not affect the validity of the remaining portion of this Ordinance or any part thereof. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, or clause thereof, irrespective of the fact that any one or more section, subsection, subdivision, paragraph, sentence, or clause be declared unconstitutional.

SECTION 7: Upon adoption of this Ordinance, the City Clerk shall file a Notice of Exemption pursuant to 14 CCR § 15062.

SECTION 8: A summary of this Ordinance shall be published in a newspaper published and circulated in the City of Arroyo Grande at least five (5) days prior to the City Council meeting at which the proposed Ordinance is to be adopted. A certified copy of the full text of the proposed Ordinance shall be posted in the office of the City Clerk. Within fifteen (15) days after adoption of the Ordinance, the summary with the names of those City Council Members voting for and against the Ordinance shall be published again, and the City Clerk shall post a certified copy of the full text of such adopted Ordinance.

SECTION 9: This Ordinance shall take effect thirty (30) days from the date of adoption.

ORDINANCE NO.
PAGE 7

On motion of Council Member _____, seconded by Council Member _____, and
on the following roll call vote to wit:

AYES:
NOES:
ABSENT:

The foregoing Ordinance was adopted this 12th day of April, 2016.

**ORDINANCE NO.
PAGE 8**

JIM HILL, MAYOR

ATTEST:

KELLY WETMORE, CITY CLERK

APPROVED AS TO CONTENT:

DIANNE THOMPSON, CITY MANAGER

APPROVED AS TO FORM:

HEATHER K. WHITHAM, CITY ATTORNEY

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