



PUBLIC HEARING

City of San Bernardino Request for Council Action

Date: April 17, 2024

To: Honorable Mayor and City Council Members

From: Charles A. Montoya, City Manager;
Gabriel Elliott, Director of Community Development and Housing

Department: Community Development and Housing

Subject: **Conduct a Public Hearing and Introduce Ordinance No. MC-1636: Development Code Amendment 24-02 (Emergency Shelter Overlay)**

Recommendation:

It is recommended that the Mayor and City Council of the City of San Bernardino, California:

1. Introduce for first reading, read by title only, and waive further reading of Ordinance No. MC-1636 of the Mayor and City Council of the City of San Bernardino, California, approving Development Code Amendment 24-02 amending the following Sections and table:
 - (i) Section 19.02.50 (Basic Provisions - Definitions).
 - (ii) Section 19.06.020;
 - (iii) Table 06.01 (Commercial Zones - Development Permitted and Conditionally Permitted Uses).
 - (iv) Section 19.08.020;
 - (v) Table 08.01 (Industrial Zones - Development Permitted and Conditionally Permitted Uses); and
 - (vi) Chapter 19.10-E (Emergency Shelter Overlay) of the City of San Bernardino Development Code (SBMC Title 19) in order to update the development standards for Emergency Shelters in compliance with state law; and finding that Development Code Amendment 24-02 is exempt from review under the California Environmental Quality Act; and
2. Conduct the Public Hearing; and

3. Schedule the adoption of the above Ordinance to the regularly scheduled meeting of the Mayor and City Council on May 1st, 2024.

Executive Summary

Approval of Development Code Amendment 24-02 will amend the City's Emergency Shelter Overlay (SBMC Title 19; Chapter 19.10-E) to comply with the current provisions of the state law for the development of emergency shelters.

Background

The Development Code (SBMC Title 19) is the primary mechanism by which the City implements the policies, goals, and objectives of both the General Plan and the Housing Element (an element of the General Plan). The Development Code achieves this by guiding development, on a lot-by-lot basis, throughout the city.

On December 6, 2010, the Mayor and City Council adopted Ordinance No. MC-1342, establishing the Chapter 19.10-ES (Emergency Shelter Overlay) of the City of San Bernardino Development Code to help regulate the development of Emergency Shelters within the City.

On September 28, 2022, the Governor signed Assembly Bill 2339 amending Government Code Section 65583 as it pertained to the development of emergency shelters. This bill became effective on January 1, 2023, rendering Chapter 19.10-ES (Emergency Shelter Overlay) of the City of San Bernardino Development Code inconsistent with state law.

As part of Housing and Community Development's (HCD's) October 2, 2023, letter regarding the City's draft Housing Element, HCD noted that the provisions of the City's Emergency Shelter Overlay constitute a constraint to the development of emergency shelters. The Stipulated Final Judgement and Order submitted in Gracia et al. v. City of San Bernardino states that the city will update the Emergency Shelter Overlay as required by statute and stipulation agreement. In the meantime, the City has issued an interdepartmental memo directing staff to conduct ministerial review of any application for an Emergency Shelter consistent with Government Code sections 65583(a)(4), and 65583.2(i). This Development Code Amendment 24-02 meets the requirements of state law.

Discussion

Emergency Shelters are currently permitted with the approval of a Conditional Use Permit (CUP) in the Commercial Regional (CR-2) zone and subject to an Administrative Development Permit (ADP) on specific parcels zoned Commercial Heavy (CH), Industrial Light (IL), and Office Industrial Park (OIP) identified in the Emergency Shelter Overlay. Additionally, Emergency Shelters are subject to development standards established in the Emergency Shelter Overlay.

Assembly Bill No. 2339 requires jurisdictions to identify one or more zoning designations that specifically allow residential uses (including mixed uses) where emergency shelters, including at least one year-round emergency shelter, must be allowed as permitted use,

by right. The City's existing regulations do not meet this requirement as the parcels in the Emergency Shelter Overlay do not permit any other type of residential use. Additionally, sites in these zoning designations chosen for emergency shelters must be located near services for homeless persons, and a jurisdiction must have sufficient sites zoned appropriately to meet the need for shelters in the locality.

To determine the need for Emergency Shelters in the City, Staff referred to the 2023 Point-in-Time Count (PITC). The PITC provides a count of sheltered and unsheltered homeless persons in the City. Per the 2023 PITC, there were 1,502 homeless persons surveyed in the City of San Bernardino. Of that number, 1,017 persons were identified as unsheltered (e.g., living on the streets, in parks, abandoned buildings, or in their cars). Based on the number of unsheltered persons (1,017) and the requirements in Government Code Section 65583, the city is required to dedicate 4.67 acres of undeveloped land to accommodate the unmet need for shelters. This land area is derived by multiplying 1,017 unsheltered persons by 200 square feet per person, which equals 203,400 square feet. At 43,560 square feet per acre, the total required area is 4.67 acres.

The zones where the City could allow Emergency Shelters consistent with the requirements of Government Code Section 655873(a)(4) include: the residential zones (RE, RL, RS, RU, RM, RMH, and RH) and the commercial zones (CO, CG-1, CG-2, CG-3, CR-1, CR-2, CR-3, and CCS-1), where residential uses (multiple-family and/or mixed-use w/ residential) are also permitted.

In considering the appropriate residential and/or commercial zones to permit Emergency Shelters by-right, Staff has determined that the most appropriate course of action would be to modify the existing permitting requirements (CUP) for the Commercial Regional (CR-2) zone. The CR-2 zone exists within the Downtown area and would provide for the necessary services for homeless persons, as noted above. Staff surveyed vacant properties within the CR-2 zone and identified approximately 8.9 acres that could be developed, thereby exceeding the 4.67 acres that would be required.

Emergency Shelters will also be subject to the following objective standards in compliance with the Government Code:

- a) The maximum number of beds or persons permitted to be served nightly by the facility.
- b) Sufficient 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 within the same zone.
- c) The size and location of exterior and interior onsite waiting and client intake areas.
- d) The provision of onsite management.
- e) The proximity to other emergency shelters, provided that emergency shelters are not required to be more than 300 feet apart.
- f) The length of stay.
- g) Required lighting.
- h) A requirement for security during hours that the emergency shelter is in operation.

Proposed Amendment

In order to ensure that the Emergency Shelter Overlay complies with state law, this amendment will update Section 19.02.50 (Basic Provisions - Definitions), Section 19.06.020; Table 06.01 (Commercial Zones - Development Permitted And Conditionally Permitted Uses), Section 19.08.020; Table 08.01 (Industrial Zones - Development Permitted and Conditionally Permitted Uses), and Chapter 19.10-E (Emergency Shelter Overlay). The attached exhibits (A-E) include the specific changes as proposed for adoption into the Development Code.

Implementation

The amendment to the Emergency Shelter Overlay will take effect 30 days following the approval of Development Code Amendment 24-02 by the Mayor and City Council.

General Plan Goals and Policies

The City of San Bernardino General Plan includes goals and policies to guide future development within the City, including the following:

Housing Element Program 2.7 (Constraints to a Variety of Housing); Objective 2.7c. - Amend SBMC's permitting, definitions, and associated regulations to facilitate development of emergency shelters, transitional and supportive housing, and low barrier navigation centers per state law.

Housing Element Program 5.6 (Homeless Services); Objective 5.6g. - Revise municipal code provisions for a security and management plan for emergency shelters in compliance with the Stipulated Final Judgement and Order submitted in the case of Gracia et. al v. City of San Bernardino.

The adoption and implementation of Development Code Amendment 24-02 is consistent with the City's General Plan by amending the City of San Bernardino Municipal Code in compliance with the program requirements of the adopted 2021-2029 Housing Element.

2021-2025 Strategic Targets and Goals

Development Code Amendment 24-02 aligns with Key Target Goal No. 3: Improved Quality of Life and 4(b): Economic Growth and Development – Update the General Plan and Development Code. Specifically, the amendment will update the Development Code for compliance with state law. The amendment to the Development Code will ensure consistency with state law.

Fiscal Impact

There will be no fiscal impact to the City's General Fund as a result of this action.

Conclusion

It is recommended that the Mayor and City Council of the City of San Bernardino, California:

1. Introduce for first reading, read by title only, and waive further reading of Ordinance No. MC-1636 of the Mayor and City Council of the City of San Bernardino, California, approving Development Code Amendment 24-02 amending the following Sections and table:
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2. Conduct the Public Hearing; and
3. Schedule the adoption of the above Ordinance to the regularly scheduled meeting of the Mayor and City Council on May 1, 2024.

Attachments

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| Attachment 1 | Ordinance No. MC-1636 (Approving Development Code Amendment 24-02) |
| Attachment 2 | Ordinance MC-1636 (Exhibits A-E) |
| Attachment 3 | Resolution No. 2024-013 - PC |
| Attachment 4 | Newspaper Publication |

Ward:

All Wards

Synopsis of Previous Council Actions:

N/A