

**ORDINANCE NO. MC-1636**

**ORDINANCE OF THE MAYOR AND CITY COUNCIL OF THE CITY OF SAN BERNARDINO, CALIFORNIA, APPROVING DEVELOPMENT CODE AMENDMENT 24-02 AMENDING 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) 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 UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT.**

**WHEREAS**, 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; and

**WHEREAS**, on September 28, 2022, the Governor signed Assembly Bill 2339 amending Government Code Section 65583 as it pertained to the development of emergency shelters; and

**WHEREAS**, on January 1, 2023, amended Government Code Section 65583 came into effect rendering Chapter 19.10-ES (Emergency Shelter Overlay) of the City of San Bernardino Development Code inconsistent with state law; and

**WHEREAS**, on October 2, 2023, the Community Development and Housing Department - Planning Division received a letter regarding the City's draft Housing Element noting that the provisions of the City's Emergency Shelter Overlay constitute a constraint to the development of emergency shelters; and

**WHEREAS**, in a Stipulated Final Judgement and Order submitted in Gracia et al. v. City of San Bernardino, it was stated that the City would update the emergency shelter to comply with state law; and

**WHEREAS**, Development Code Amendment 24-02 is a City-initiated amendment to 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) 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

**WHEREAS**, the Planning Division of the Community Development Department of the City of San Bernardino has prepared Development Code Amendment 24-02 in compliance with the California Government Code, consistent with the City of San Bernardino General Plan, and in compliance with the City of San Bernardino Development Code; and

**WHEREAS**, pursuant to requirements of the California Environmental Quality Act (“CEQA”), the Planning Division of the Community Development Department evaluated Development Code Amendment 24-02 and determined that it is exempt from CEQA under 15061(b)(3) of the CEQA Guidelines; and

**WHEREAS**, on March 12, 2024, pursuant to the requirements of Section 19.52.040 (Hearings and Appeals - Hearing Procedure) of the City of San Bernardino Development Code, the Planning Commission held a duly-noticed public hearing and adopted Resolution No. 2024-013 recommending the adoption of the Development Code Amendment 24-02 to the Mayor and City Council; and

**WHEREAS**, notice of the April 17, 2024 public hearing for the Mayor and City Council's consideration of Development Code Amendment 24-02 was published in The Sun newspaper on April 6, 2024, in accordance with Development Code Chapter 19.52 (Hearing and Appeals); and

**WHEREAS**, pursuant to the requirements of Chapters 19.52 (Hearing and Appeals) and Chapter 19.42 (Development Code Amendments) of the City of San Bernardino Development Code, the Mayor and City Council have the authority to take action on Development Code Amendment 24-02; and

**NOW THEREFORE, THE MAYOR AND CITY COUNCIL OF THE CITY OF SAN BERNARDINO, CALIFORNIA, DO ORDAIN AS FOLLOWS:**

**SECTION 1.** Incorporation of Recitals. The above recitals are true and correct and are incorporated herein.

**SECTION 2.** Compliance with the California Environmental Quality Act. The Mayor and City Council having independently reviewed and analyzed the record before it, including written and oral testimony, and having exercised their independent judgment, finds that there is no substantial evidence supporting a fair argument that approval of Development Code Amendment 24-02 and this Ordinance No. MC-1636 will result in a significant effect on the environment, and thus the project is exempt pursuant to Section 15061(b)(3) of the California Environmental Quality Act guidelines due to the fact that the activity does not result in a direct or reasonably foreseeable indirect physical change in the environment.

**SECTION 3.** Finding of Facts – Development Code Amendment 24-02

**Finding No. 1:** The proposed amendment is consistent with the General Plan.

**Finding of Fact:** Development Code Amendment 24-02 is consistent with the General Plan, as follows:

**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.

**Finding No. 2:** The proposed amendment would not be detrimental to the public interest, health, safety, convenience, or welfare of the City.

**Finding of Fact:** The adoption and implementation of Development Code Amendment 24-02 is in the interest or furtherance of the public health, safety, convenience, and general welfare through the establishment of regulations consistent with state law that will allow for the development of emergency shelters to provide temporary housing for the City's unsheltered residents.

**SECTION 4. Adoption of Ordinance.** Development Code Amendment 24-02 to amend 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) of the City of San Bernardino Development Code (SBMC Title 19) to update the Emergency Shelter Overlay in compliance with state law attached hereto and incorporated herein by reference as Exhibits "A" through "E", is hereby approved.

**SECTION 5. Notice of Exemption:** The Planning Division of the Community Development and Housing Department is hereby directed to file a Notice of Exemption with the County Clerk of the County of San Bernardino within five (5) working days of final approval certifying the City's compliance with the California Environmental Quality Act in approving Development Code Amendment 24-02.

**SECTION 6. Severability:** If any section, subsection, subdivision, sentence, or clause or phrase in this Ordinance or any part thereof is for any reason held to be unconstitutional, invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this Ordinance or any part thereof. The City Council hereby declares that it would have adopted each section irrespective of the fact that any one or

more subsections, subdivisions, sentences, clauses, or phrases be declared unconstitutional, invalid, or ineffective.

**SECTION 7. Effective Date.** This Ordinance shall become effective thirty (30) days after the date of its adoption.

**SECTION 8. Notice of Adoption.** The City Clerk of the City of San Bernardino shall certify to the adoption of this Ordinance and cause publication to occur in a newspaper of general circulation and published and circulated in the City in a manner permitted under section 36933 of the Government Code of the State of California.

**APPROVED** and **ADOPTED** by the City Council and signed by the Mayor and attested by the City Clerk this \_\_\_\_ day of \_\_\_\_\_, 2024.

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Helen Tran, Mayor  
City of San Bernardino

Attest:

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Genoveva Rocha, CMC, City Clerk

Approved as to form:

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Sonia Carvalho, City Attorney

**CERTIFICATION**

STATE OF CALIFORNIA  
COUNTY OF SAN BERNARDINO  
CITY OF SAN BERNARDINO

I, Genoveva Rocha, CMC, City Clerk, hereby certify that the attached is a true copy of Ordinance No. MC-1636, introduced on April 17<sup>th</sup>, 2024, and adopted by the City Council of the City of San Bernardino, California, at a regular meeting held at the \_\_\_\_ day of \_\_\_\_\_, 2024 by the following vote:

<b><u>Council Members:</u></b>	<b><u>AYES</u></b>	<b><u>NAYS</u></b>	<b><u>ABSTAIN</u></b>	<b><u>ABSENT</u></b>
SANCHEZ	_____	_____	_____	_____
IBARRA	_____	_____	_____	_____
FIGUEROA	_____	_____	_____	_____
SHORETT	_____	_____	_____	_____
REYNOSO	_____	_____	_____	_____
CALVIN	_____	_____	_____	_____
ALEXANDER	_____	_____	_____	_____

WITNESS my hand and official seal of the City of San Bernardino this \_\_\_\_ day of \_\_\_\_\_ 2024.

\_\_\_\_\_  
Genoveva Rocha, CMC, City Clerk