

RESOLUTION NO. 2024-013 - PC

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF SAN BERNARDINO, CALIFORNIA, FORWARDING A RECOMMENDATION TO THE MAYOR AND CITY COUNCIL RECOMMENDING APPROVAL OF 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 2, 2024, pursuant to the requirements of Section 19.52.020 (Hearings and Appeals – Application Processing) of the City of San Bernardino Development Code, the City gave public notice by advertising in the San Bernardino Sun, a newspaper of general circulation within the City of San Bernardino of the holding of a public hearing at which Development Code Amendment 24-02 would be considered; and

WHEREAS, on March 12, 2024, pursuant to the requirements of Section 19.52.040 (Hearings and Appeals – Hearing Procedures) of the City of San Bernardino Development Code, the Planning Commission held the duly noticed public hearing at which interested persons had an opportunity to testify in support of, or opposition to Development Code Amendment 24-02 and at which meeting, the Planning Commission considered Development Code Amendment 24-02; and

WHEREAS, pursuant to the requirements of Section 19.42.030 (Development Code Amendments – Commission Action on Amendments) of the City of San Bernardino Development Code, the Planning Commission has the authority to recommend to the Mayor and City Council the approval of Development Code Amendment 24-02.

NOW THEREFORE, the Planning Commission of the City of San Bernardino does hereby resolve, determine, find, and order as follows:

SECTION 1. INCORPORATION OF RECITALS:

The recitals above are true and correct and hereby incorporated by this reference.

SECTION 2. ENVIRONMENTAL DETERMINATION:

As the decision-making body for the project, the Planning Commission has reviewed and considered the information contained in the administrative record for Development Code Amendment 24-02. Based upon the facts and information contained in the administrative record, including all written and oral evidence presented to the Planning Commission, the Planning Commission hereby recommends to the Mayor and City Council as follows:

(1) The administrative record has been completed in compliance with the California Environmental Quality Act (“CEQA”), the State CEQA Guidelines, and the City’s Local CEQA Guidelines and

(2) The proposed project is exempt from the requirements of the California Environmental Quality Act (“CEQA”) under CEQA Guidelines Section 15061(b)(3), the “common sense” rule that states that CEQA applies only to projects that have the potential for causing a significant effect on the environment. This amendment modifies existing standards for the development of emergency shelters on properties in areas zoned for residential use. No specific development is authorized by the adoption of this resolution and, therefore, this amendment does not have the potential to cause a significant effect on the environment; and

(3) The determination of CEQA exemption reflects the independent judgment of the Planning Commission.

SECTION 3. FINDINGS FOR DEVELOPMENT CODE AMENDMENT 24-02:

Section 19.42.050 of the City of San Bernardino Development Code requires that Development Code Amendments meet certain findings prior to approval by the Mayor and City Council. Accordingly, the following findings are provided in support of the recommendation by the Planning Commission for the approval of 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. RECOMMENDATION FOR DEVELOPMENT CODE AMENDMENT 24-02:

Pursuant to Section 19.42.030 (Development Code Amendments – Commission Action on Amendments), the Planning Commission forwards the amendments to the Development Code attached hereto as EXHIBIT “A-E” for approval by the Mayor and City Council.

SECTION 5. PLANNING COMMISSION ACTION:

The Planning Commission hereby takes the following action:

1. Adoption of Planning Commission Resolution No. 2024-013, forwarding a recommendation that the Mayor and City Council:
 - a. **Find** the Exemption, pursuant to Section 15061(b)(3) of the CEQA Guidelines for Development Code Amendment 24-02, and directing the Director of Community Development to prepare and file with the Clerk of the County of San Bernardino a Notice of Exemption as provided under Public Resources Code Section 21152(b) and CEQA Guidelines Section 15062; and
 - b. **Approve** Development Code Amendment 24-02 based on the Findings of Fact.

SECTION 6. SEVERABILITY:

If any provision of this Resolution or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications, and to this end, the provisions of this Resolution are declared to be severable.

SECTION 7. CUSTODIAN OF RECORDS:

The location and custodian of the documents and any other material, which constitute the record of proceedings upon which the Planning Commission based its decision, is as follows: Genoveva Rocha, City Clerk, 201 North E Street (Building A), 909-384-5002.

PASSED, APPROVED AND ADOPTED this 12th day of March 2024.


Dolores Armstead, Chairperson
San Bernardino Planning Commission

ATTEST:


Travis Martin, Planning Commission Secretary
City of San Bernardino, California

CERTIFICATION:


I, Jennifer Meamber, Recording Secretary of the Planning Commission of the City of San Bernardino, California, do hereby certify that the foregoing Resolution No. 2024-013 - PC, was duly adopted by the Planning Commission of the City of San Bernardino, California, at a regular meeting thereof held on the 12th day of March 2024, by the following vote, to wit:

AYES: I. Garcia, Flores, Armstead, Quiel, Sherrick, and O. Garcia

NOES: None

ABSENT: Lopez and Lewis

ABSTAIN: None



Jennifer Meamber, Recording Secretary
City of San Bernardino, California

EXHIBIT A

Development Code Section 19.02.050 (Definitions)

19.02.050 (Definitions) shall be modified to read as follows:

Emergency Shelter. ~~As used in Government Code Sections 65582, 65583 and 65589.5 (Senate Bill 2), and as defined in Health and Safety Code Section 50801(e), “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. Emergency shelters shall be occupied only by homeless persons unable to pay for housing. Facilities occupied by individuals who pay for their housing shall not be permitted as emergency shelters. Also referred to as “homeless shelter”, “homeless facility” or “social service center with a residential component.”~~ Any structure or facility, the primary purpose of which is to provide housing or temporary shelter, with minimal supportive services for homeless persons that is limited to occupancy of six (6) months or less by homeless persons. No individual or household may be denied emergency shelter because of an inability to pay. This definition includes other interim interventions, including but not limited to a navigation center, bridge housing, and respite or recuperative care.

EXHIBIT B

**Development Code Section 19.06.020
(Permitted, Development Permitted, and Conditionally Permitted Uses)**

19.04.020 (Permitted, Development Permitted, and Conditionally Permitted Uses); Table 06.01 (Commercial Zones – Permitted, Development Permitted, and Conditionally Permitted Uses) shall be modified to read as follows:

**TABLE 06.01
PERMITTED, DEVELOPMENT PERMITTED, AND
CONDITIONALLY PERMITTED USES**

LAND USE ACTIVITY		CO	CG-1	CG-2	CG-3	CR-1	CR-2	CR-3	CR-4	CH	CCS-1	CCS-2
H.	Medical/Care Facilities/Social Services Commercial establishments, which provide services of a medical/care nature, related to the health and welfare of the City's residents. Examples of allowable land use activities include, but are not limited to, the following:											
	1. Blood Banks	C	C	-	-	-	-	-	-	-	-	-
	2. Emergency Shelters	-	-	-	-	-	D ¹⁵	-	-	D ¹⁵	-	-
	3. Health Clinics/Outpatient Surgery	D	D	D	D	D ⁵	D	D	-	-	D	-
	4. Medical Offices	D	D	D	D	D	D	D	-	D	D	D
	5. Hospitals	C	C	-	-	-	-	-	-	-	-	-
	6. Outpatient – Treatment Programs	C	C	C	-	-	-	-	-	-	D	-
	7. Residential Care Facilities	C	C	C	-	-	C	-	-	-	-	-
	8. Senior/Congregate Care Facilities	C	C	C	-	-	C	-	-	-	-	-
	9. Social Services Centers	C	C	C	C	-	C	C	-	-	-	-

¹⁵ Permitted in the Emergency Shelter Overlay, pursuant to Chapter 19.10-E.

EXHIBIT D

**Development Code Section 19.08.020
(Permitted, Development Permitted, and Conditionally Permitted Uses)**

19.08.020 (Permitted, Development Permitted, and Conditionally Permitted Uses); Table 08.01 (Industrial Zones – Permitted, Development Permitted, and Conditionally Permitted Uses) shall be modified to read as follows:

**TABLE 08.01
PERMITTED, DEVELOPMENT PERMITTED, AND
CONDITIONALLY PERMITTED USES**

LAND USE ACTIVITY		OIP	IL	IH	IE
11.	Emergency Shelters	<u>D¹</u>	<u>D¹</u>	=	=

¹ Permitted in the Emergency Shelter Overlay, pursuant to Chapter 19.10-E.

CHAPTER 19.10-E

ES (EMERGENCY SHELTER OVERLAY) ZONE

<u>Section</u>	<u>Page</u>
19.10-E.010 Purpose	II-19.10-E-1
19.10-E.020 Applicability	II-19.10-E-1
19.10-E.030 General Provisions	II-19.10-E-1
19.10-E.040 Development Standards	II-19.10-E-2

19.10-E.010 PURPOSE

The purpose of this chapter is to provide for areas within the ~~CH~~, Commercial Regional (CR-2), Commercial Heavy (CH), ~~IL~~, Industrial Light (IL), and ~~OIP~~, Office Industrial Park (OIP) zones as referenced in Table 06.01 of Chapter 19.06 and Table 08.01 of Chapter 19.08, where emergency shelters, in accordance with Government Code Section 65583, are allowed without a conditional use permit or other discretionary permit. Recognizing the need for available and affordable sites for establishment of emergency shelters ~~outside the traditional locations in commercial zones~~, the Emergency Shelter Overlay zone provides several areas within the CR-2, CH, IL, and OIP zones for new emergency shelters to be integrated with commercial and light industrial uses and existing social services throughout the City. The purpose of the designated boundaries (area of applicability) is to maximize the potential for provision of emergency shelter and support services throughout the City of San Bernardino.

19.10-E.020 APPLICABILITY

The Emergency Shelter Overlay zone shall apply to ~~CH~~, Commercial Regional (CR-2), Commercial Heavy (CH), ~~IL~~, Industrial Light (IL), and ~~OIP~~, Office Industrial Park (OIP) zones as specified in reference maps adopted with the Emergency Shelter Overlay zone and available in the Community Development and Housing Department. All land use regulations and development standards for commercial and industrial uses as specified in Chapters 19.06 and 19.08 shall remain in effect. The effect of the Emergency Shelter Overlay zone shall be to define the area of applicability where emergency shelters shall also be permitted with Director approval, and to add general and specific development standards for emergency shelters within the CR-2, CH, IL, and OIP zones.

19.10-E.030 GENERAL PROVISIONS

- Emergency shelters located in the Emergency Shelter Overlay zone shall be developed and operated according to the land use regulations, development standards and design guidelines for the CR-2, CH, IL, and OIP zones, as applicable, as well as Chapter 19.10-E.
- Emergency shelters shall be permitted with the ministerial approval of an Administrative Development Permit within the Emergency Shelter Overlay zone as specified in Table 06.01 of Chapter 19.06 and Table 08.01 of Chapter 19.08. The purpose of the Administrative Development Permit shall be limited to review for conformance with the development standards established within this subsection.

19.10-E.040 DEVELOPMENT STANDARDS

1. The following standards shall apply to development of emergency shelters within the Emergency Shelter Overlay zone:

A. EMERGENCY SHELTERS

Emergency shelters, providing temporary housing and support services to homeless persons, shall be permitted in the Emergency Shelter Overlay zone of the ~~CH~~, Commercial Regional (CR-2), Commercial Heavy (CH), ~~H~~, Industrial Light (IL), and OIP, Office Industrial Park (OIP) zones, subject to the standards in this Section. ~~As social services with residential components, emergency shelters are also conditionally permitted in several commercial zones and throughout the IL, Industrial Light zone.~~ The following standards shall be required for development or establishment of emergency shelters in the Emergency Shelter Overlay zone:

- ~~(1) The maximum resident density shall be one resident per 150 sq. ft., up to a maximum of 60 residents;~~
- ~~(2) The maximum length of stay shall be six months;~~
- ~~(3) The site shall be located no more than ½ mile from a public transit line;~~
- ~~(4) Any new or existing structure proposed for use as an emergency shelter shall meet current California Building Code requirements.~~
- ~~(5) Off-street parking shall be provided at a ratio of one space per 1,000 square feet of gross floor area, or one space for each employee on the largest shift plus one space for each agency vehicle plus three visitor spaces, whichever is greater;~~
- ~~(6) Fencing and exterior lighting conforming to the development standards of Chapter 19.20 shall be required to ensure the security of site residents;~~
- ~~(7) A security and management plan shall be required to demonstrate adequate plans and capability to operate the emergency shelter in a safe and effective manner, including complete descriptions of the following:~~
 - ~~(a) Fencing, lighting, video cameras, and any other physical improvements intended to provide or enhance security for residents and staff;~~
 - ~~(b) Staffing plans, including the qualifications and responsibilities of all staff members and the number and positions of employees on each shift;~~
 - ~~(c) Procedures and policies for screening of potential residents to identify individuals who should be referred to medical facilities, residential care facilities, other service agencies or law enforcement;~~
 - ~~(d) Plans and policies for daily operations and supervision of residents;~~

- ~~(e) Support services to be offered to residents, including life skills training, counseling, referral to other service agencies and job placement assistance;~~
- ~~(f) Plans to coordinate services of the facility with other homeless service providers in San Bernardino County, to improve the effectiveness of the network of agencies serving the homeless, countywide.~~
- (1) Number of Beds. The maximum number of beds or persons permitted to be served nightly by an emergency or homeless shelter shall be determined and as allowed by Building and Fire Codes.
- (2) Required Parking. An emergency or homeless shelter shall provide off-street parking at a ratio of one (1) space per employee.
- (3) Waiting Area. An emergency or homeless shelter shall provide an on-site, client intake, waiting area to prevent queuing on public sidewalks.
- (4) Onsite management. An emergency or homeless shelter shall have a manager on-site during operating hours.
- (5) Proximity. Emergency or homeless shelters shall not be less than 300-feet apart from other emergency or homeless shelters, as measured from the nearest property lines.
- (6) Length of Stay. The maximum length of stay at an emergency or homeless shelter shall be 180-days in a consecutive 365-day period, or not longer than the time frame established by the California Health and Safety Code for Emergency Shelters, whichever is greater.
- (7) Lighting. Sites with an emergency or homeless shelter shall provide lighting in all parking, pedestrian, and entry areas. Lighting shall be in compliance with Title 24, California Code of Regulations.
- (8) Security. Emergency or homeless shelters shall provide on-site security during hours that the emergency shelter is in operation.

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Exhibit E - EMERGENCY SHELTER OVERLAY PARCELS

Existing parcels within Emergency Shelter Overlay

District 1

0269-171-05	0269-231-22
0269-171-09	0269-231-23
0269-171-12	
0269-171-21	
0269-171-27	
0269-171-39	
0269-171-35	
0269-171-42	
0269-171-46	

District 2a

0142-081-12	0142-211-05
0142-081-25	0142-211-08
0142-081-26	0142-211-19
0142-094-34	0142-211-10
0142-094-38	0142-211-11
0142-094-42	0142-211-28
0142-094-45	0142-211-29 (portion of combined parcel)
0142-094-46	
0142-094-47	0142-212-03
0142-094-48	0142-212-04
0142-094-49	0142-212-05
0142-095-15	0142-212-06
0142-095-16	0142-212-07
0142-111-04	0142-212-15
0142-111-10	0142-212-18
0142-111-13	0142-212-22
0142-111-17	0142-212-24
0142-111-18	
	0142-221-02
0142-112-13	0142-221-04
0142-112-14	0142-221-05
0142-112-24	0142-222-12
0142-211-01	0142-222-03
0142-211-02	0142-222-31
0142-211-26	

District 2b

0142-042-01	0142-043-09
0269-271-71	
	0269-291-04
0142-043-04	
0142-043-07	0269-291-11
0142-043-08	

Exhibit E - EMERGENCY SHELTER OVERLAY PARCELS

District 3

0283-032-01	0283-041-04
0283-032-02	0283-041-05
0283-032-03	0283-041-06
0283-032-04	0283-041-07
0283-032-05	0283-041-09
0283-032-06	0283-041-10
0283-032-07	0283-041-11
0283-032-08	0283-041-12
0283-032-09	0283-041-13
0283-032-10	0283-041-14
0283-032-12	0283-041-18
0283-032-13	0283-041-19
0283-032-15	0283-041-22
0283-032-16	0283-041-23
0283-032-17	0283-041-34
0283-032-18	0283-041-35
0283-032-19	
0283-032-22	
0283-032-23	
0283-032-25	
0283-032-29	
0283-032-30	
0283-032-31	
0283-032-32	
0283-032-33	
0283-032-34	
0283-032-39	
0283-032-41	
0283-032-42	
0283-032-45	
0283-032-46	
0283-032-47	
0283-032-48	
0283-032-50	
0283-032-51	

District 4

1191-231-35
1191-231-36
1191-231-49
1191-231-50
1191-231-51

District 5

(deleted)

District 6

0280-021-48 (portion of combined parcel)

Exhibit E - EMERGENCY SHELTER OVERLAY PARCELS

Proposed (CR-2) parcels to add to Emergency Shelter Overlay

0134-014-24	0134-061-10
0134-014-25	
0134-014-26	0134-081-18
0134-014-27	0134-081-21
0134-021-26	0135-021-04
0134-021-27	0135-021-05
0134-021-28	
0134-021-29	0135-021-07
0134-023-19	0135-081-11
	0135-081-12
0134-023-50	0135-081-13
0134-023-57	0135-081-14
	0135-081-15
0134-051-29	0135-091-09
	0135-091-10
0134-052-22	0135-091-11
0134-053-07	0135-101-08
0134-053-20	0135-101-28
0134-053-21	
0134-053-22	0140-282-02
0134-053-23	0140-282-05
0134-053-25	0140-282-43
0134-053-26	0140-282-71
	0140-282-73
0134-061-06	0140-282-74
	0140-282-81