



## MEMORANDUM

**TO:** City Council

**FROM:** Brian Pedrotti, Community Development Director

**BY:** Andrew Perez, Planning Manager

**SUBJECT:** Public Hearing to Discuss and Consider Introduction of an Ordinance Amending Title 16 of the Arroyo Grande Municipal Code Regarding Emergency Shelters; Development Code Amendment 23-004

**DATE:** June 27, 2023

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### **SUMMARY OF ACTION:**

Introduction of a proposed ordinance amending Title 16 of the Arroyo Grande Municipal Code ("AGMC") to: 1) align the AGMC with the City's adopted Housing Element by clarifying that emergency shelters are permitted in the Industrial Mixed-Use (IMU) and the Highway Mixed-Use (HMU) zoning districts without discretionary review; and 2) permit emergency shelters without discretionary review in the Fair Oaks Mixed-Use (FOMU) zoning district. Introducing the ordinance will allow for adoption at a future City Council meeting, and following this noticed public hearing.

### **IMPACT ON FINANCIAL AND PERSONNEL RESOURCES:**

No financial impact is projected.

### **RECOMMENDATION:**

Introduce an Ordinance amending Sections 16.36.030 and 16.52.091 of the Arroyo Grande Municipal Code regarding Emergency Shelters and finding the Ordinance exempt from the California Environmental Quality Act (CEQA) because the Ordinance will not result in a direct or reasonably foreseeable indirect physical change in the environment. (State CEQA Guidelines section 15060, subd. (c)(2), (3).).

### **BACKGROUND:**

The AGMC currently allows emergency shelters in the IMU and HMU zoning districts. Consistent with state law, the AGMC defines an emergency shelter as "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."

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Senate Bill 2 (SB 2), which became effective on January 1, 2008, requires the Housing Element of all cities and counties in California to identify a zone or zones where emergency shelters are allowed without a conditional use permit or other discretionary approval. The City's Housing Element identifies the IMU and HMU zones as districts where emergency shelters are allowed without a discretionary permit. However, AGMC section 16.36.030 currently conflicts with the Housing Element as it provides that emergency shelters are allowed in these areas with a minor use permit (MUP), which is a discretionary permit. The ordinance included as Attachment 1 rectifies this inconsistency.

In 2018, the City Council adopted Resolution 4883, declaring a homeless shelter crisis citing a lack of homeless shelters in the City and neighboring cities (Attachment 2). As in 2018, there are still no permanent emergency shelters within city limits. To increase the number of potential sites for this use, the ordinance also proposes to expand the zones in which an emergency shelter can be established ministerially to the FOMU zone. 5 Cities Homeless Coalition is evaluating sites for a permanent emergency shelter and this code amendment makes many more sites potentially available for this use.

The Planning Commission reviewed the draft ordinance at its meeting on June 6, 2023. The Commission was supportive of the ordinance as proposed and recommended that Council adopt the ordinance as drafted. The Commission's recommendation to the Council is included as Attachment 3. Courtesy notices were mailed to owners of property in the FOMU district ahead of the Planning Commission meeting, and no public comment was received.

#### **ANALYSIS OF ISSUES:**

##### Consistency Between General Plan and Zoning Ordinance

The City's Housing Element is one of eight (8) mandatory elements of the Arroyo Grande General Plan and is a critical component of the City's blueprint to providing affordable housing opportunities in the community. State law mandates that a Housing Element identify and analyze projected housing needs, identified goals, policies, programs, and quantitative objectives to further the development of housing within the City. Updates to the Housing Element occur on regular schedules, typically referred to as cycles. The current Housing Element was adopted in January 2021, and covers the period between December 30, 2020, through December 31, 2028.

Goal J of the Housing Element establishes policies and programs to reduce or minimize the incidence of homelessness in the community. Specifically, Policy J.2 states "the City shall continue to allow emergency shelters for overnight lodging and other housing serving homeless persons in appropriate zoning districts, in compliance with state law." As previously noted, the AGMC defines an emergency shelter as "housing with minimal supportive services for homeless persons that is limited to occupancy of six months or less

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by a homeless person. No individual or household may be denied emergency shelter because of an inability to pay.”

AGMC section 16.36.030 is inconsistent with the Housing Element because it requires the approval of a MUP to establish an emergency shelter in the IMU and HMU zones. This section prohibits emergency shelters in all of the other zoning districts. The impetus for the proposed ordinance included in Attachment 1 is to comply with California Government Code section 65860, which requires an agency’s zoning ordinance to be consistent with its General Plan. To achieve that consistency, the proposed ordinance amends AGMC section 16.36.030 to allow emergency shelters without a discretionary permit in the IMU and HMU districts.

Fair Oaks Mixed-Use District (FOMU)

The FOMU zone is located along East Grand Avenue between Brisco Road and Halcyon Road. The ordinance included in Attachment 1 proposes to allow emergency shelters in the FOMU district without a discretionary permit. The FOMU zone is adjacent to the HMU zone and a logical expansion of the area in which an emergency shelter can be established. This stretch of East Grand Avenue is centrally located between Highway 101 and Oak Park Boulevard. Existing development in this zone is predominantly commercial uses and most of the residential development is within a single manufactured home park near Halcyon Road. SB 2 requires the zones in which emergency shelters are allowed to be evaluated to confirm there is sufficient capacity to accommodate the need. The evaluation of the properties within the zone for suitability for the establishment of an emergency shelter should take the location into consideration and whether it is near transit, public and community services, and job centers. The FOMU zone contains services to support an emergency shelter such as bus stops on both the north and south side of the street, and the Community Health Center located at 1057 E Grand Avenue. San Luis Obispo County Department of Social Services also has a location in the FOMU zone, at 1086 E Grand Avenue. The Social Services Department provides public services and programs that ensure the protection of children, the elderly and dependent adults, and provide a safety net for individuals and families who need assistance with basic necessities, such as food, housing and health care. Community Action Partnership of San Luis Obispo (CASPSLO) also has a family resource center located at 1086 E. Grand Avenue.

Site Design and Development Standards

State law limits local agencies to applying objective standards to emergency shelters such as maximum number of beds, provisions for onsite management, length of stay, and security. AGMC Section 16.52.091 already contains these objectives standards, and no changes are proposed to those standards at this time. For example, this section limits the number of guests an emergency shelter can host to 34. The emergency shelter must be operated by onsite management. The operators are required to have a written

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management plan including, as applicable, provisions for staff training, neighborhood outreach, security, screening of residents to ensure compatibility with services provided at the facility, and for training, and counseling and treatment programs for residents. Additionally, onsite security is required during all hours of operation. Emergency shelters may not be located within 300 feet from another emergency shelter, school, childcare center, or park. This measurement is taken from property line to property line where the subject uses are located.

#### **Next Steps**

Introduction of the ordinance is the first step in amending the regulations related to emergency shelters. If introduced as proposed, adoption of the ordinance would be scheduled to occur at the July 25, 2023 City Council meeting.

#### **ALTERNATIVES:**

The following alternatives are provided for the Council's consideration:

1. Introduce the attached ordinance; or
2. Modify as appropriate and introduce the modified ordinance; or
3. Do not introduce the ordinance and provide direction to staff on specific revisions to the ordinance; or
4. Provide other direction to staff.

#### **ADVANTAGES:**

The ordinance will make the AGMC consistent with its Housing Element, and therefore, in compliance with State law. Allowing emergency shelters in the FOMU zone provides additional opportunities for the establishment of a shelter and improve the shelter crisis.

#### **DISADVANTAGES:**

Allowing shelters in the FOMU zone potentially eliminates parcels that could otherwise be developed with permanent housing and commercial uses in a mixed-use district.

#### **ENVIRONMENTAL REVIEW:**

In compliance with the California Environmental Quality Act (CEQA), the Community Development Department has determined that the ordinance does not qualify as a "project" under CEQA and because the ordinance will not result in a direct or reasonably foreseeable indirect physical change in the environment. (State CEQA Guidelines section 15060, subd. (c)(2), (3).) Section 15378 of the State CEQA Guidelines defines a project as the whole of an action, which could potentially result in either a direct physical change, or reasonably foreseeable indirect physical change, in the environment. Here, the ordinance will not result in any construction or development, and it will not have any other effect that would physically change the environment. The ordinance therefore does not qualify as a project subject to CEQA.

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In the alternative, even if the ordinance did qualify as a “project” under CEQA, it would be exempt from CEQA under State CEQA Guidelines section 15061(b)(3), which exempts projects from CEQA “[w]here it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment.” Thus, even if the ordinance could result in some physical change in the environment, the ordinance is exempt from CEQA because it can be seen with certainty that there is no possibility that the ordinance may have a significant effect on the environment.

**PUBLIC NOTIFICATION AND COMMENTS:**

The Agenda was posted at City Hall and on the City’s website in accordance with Government Code Section 54954.2. A public hearing notice was published in the Tribune on June 16, 2023. Courtesy notices were mailed to property owners in the FOMU zone on June 16, 2023 also.

**Attachments:**

1. Proposed Ordinance
2. City Council Resolution 4883
3. Staff Report and Minutes from the June 6, 2023 Planning Commission Meeting