

ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF
ARROYO GRANDE 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**

WHEREAS, on May 5, 2021, the California Department of Housing and Community Development certified the City's sixth cycle (2020-2028) housing element; and

WHEREAS, the housing element profiles the City's compliance with various state housing laws, including Senate Bill 2; and

WHEREAS, among other things, SB 2 requires cities' housing elements to identify a zone or zones where emergency shelters are permitted without discretionary review; and

WHEREAS, the City's housing element states that emergency shelters are permitted without discretionary review in the Industrial Mixed Use ("IMU") and Highway Mixed Use ("HMU") zoning districts; and

WHEREAS, with respect to emergency shelters, portions of the City's zoning code are internally inconsistent and conflict with the housing element; and

WHEREAS, AGMC section 16.52.091 states that emergency shelters are permitted without discretionary review in the IMU and HMU zones; section 16.36.030 provides that emergency shelters in these zones require a minor use permit (a discretionary approval); and

WHEREAS, this ordinance amends section 16.36.030 to specify that emergency shelters are permitted in the IMU and HMU zones without discretionary review. So amending this section will ensure it no longer conflicts with the housing element and section 16.52.091; and

WHEREAS, the City Council recognizes that emergency shelters provide critical shelter and support to unhoused individuals. For these reasons, this ordinance also amends sections 16.36.030 and 16.52.091 to specify that emergency shelters are permitted without discretionary review in the Fair Oaks Mixed Use ("FOMU") zone; and

WHEREAS, on June 6, 2023, the Planning Commission conducted a duly noticed public hearing to consider the staff report, recommendations by staff, and public testimony concerning the ordinance. Following the public hearing, the Planning Commission voted to forward the ordinance to the City Council with a recommendation in favor of its adoption; and

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WHEREAS, on June 27, 2023, the City Council conducted a duly noticed public hearing to consider the ordinance, including: (1) the public testimony and agenda reports prepared in connection with the ordinance; (2) the policy considerations discussed therein; and (3) the consideration and recommendation of the Planning Commission; and

WHEREAS, the City Council of the City of Arroyo Grande, at its regularly scheduled public meeting on June 27, 2023 introduced this Ordinance to amend Sections 16.36.030 and 16.52.091 of Title 16 of the Arroyo Grande Municipal Code; and

WHEREAS, all legal prerequisites to the adoption of the ordinance have occurred.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF ARROYO GRANDE DOES ORDAIN AS FOLLOWS:

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

SECTION 2. Environmental. The City Council finds that this ordinance is exempt from the California Environmental Quality Act ("CEQA") because 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.

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.

SECTION 3. Required Findings. In accordance with section 16.16.040(E) of the Arroyo Grande Municipal Code, the City Council hereby makes the following findings:

1. *General Plan.* The ordinance's amendments to the AGMC are consistent with the general plan and necessary and desirable to implement the provisions thereof. Specifically, housing element policy J.2 provides that the City shall allow emergency shelters in appropriate zoning districts in accordance with state law. This ordinance effectuates and implements policy J.2 by: (1) aligning the AGMC with the requirements of SB 2; and (2) expanding the areas where emergency shelters are permitted by allowing

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this use in the FOMU zone. The ordinance is also consistent with, and implements, the general plan because it ensures that the AGMC does not conflict with the housing element's provisions regarding emergency shelters in the IMU and HMU zones. For these reasons, the ordinance's amendments to the AGMC are consistent with the general plan and necessary and desirable to implement the provisions thereof.

2. *Health, Safety, and Welfare; Illogical Land Use Pattern.* Adoption of the ordinance will not adversely affect the public health, safety, and welfare as it simply updates the AGMC to remove an internal inconsistency, comply with state law (i.e., SB 2), and ensure that the AGMC is consistent with the City's housing element. Furthermore, given that emergency shelters provide a safe alternative to sleeping outdoors, permitting emergency shelters in the FOMU zone will augment the public health, safety, and welfare by providing additional opportunities in the City for this use. Finally, this ordinance will not result in an illogical land use pattern as it is not amending the City's zoning map.

3. *Consistency with Title 16.* This ordinance is consistent with the purpose and intent of AGMC Title 16 because it removes an internal inconsistency therein and ensures that the provisions thereof are consistent with the City's housing element.

4. *Environmental.* See Section 2 above.

SECTION 4. Code Amendment. The entry for "emergency shelters" in Table 16.36.030(A) of section 16.36.030 of the Arroyo Grande Municipal Code is hereby amended to read as follows (additions shown in underline and deletions shown in ~~strike~~through):

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 ¹ D-2.20	RC ²	Specific Use Standards and other references
...										
Emergency Shelters	MUP <u>P</u>	NP	NP	NP	NP	NP <u>P</u>	MUP <u>P</u>	NP	NP	<u>16.52.091</u>
...										

SECTION 5. Code Amendment. Subsection (A) of section 16.52.091 of the Arroyo Grande Municipal Code is hereby amended to read as follows (additions shown in underline and deletions shown in ~~strike~~through):

“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), and the fair oaks mixed use (FOMU)~~ 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).

SECTION 6. Publication. A summary of this ordinance shall be published in a newspaper published and circulated in the City of Arroyo Grande at least five 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 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 7. Effective Date. This ordinance shall become effective 30 days after adoption.

SECTION 8. Severability. Should any provision of this ordinance, or its application to any person or circumstance, be determined by a court of competent jurisdiction to be unlawful, unenforceable or otherwise void, that determination shall have no effect on any other provision of this ordinance or the application of this ordinance to any other person or circumstance, and, to that end, the provisions hereof are severable. The City Council declares that it would have adopted all the provisions of this ordinance that remain valid if any provisions of this ordinance are declared invalid.

SECTION 9. Records. The documents and materials associated with this ordinance that constitute the record of proceedings on which the City Council's findings and determinations are based are located at 300 E. Branch Street, Arroyo Grande, CA 93420. The City Clerk is the custodian of the record of proceedings.

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

AYES:

NOES:

ABSENT:

the foregoing Ordinance was adopted this ____ day of _____, 2023.

CAREN RAY RUSSOM, MAYOR

ATTEST:

JESSICA MATSON, CITY CLERK

APPROVED AS TO CONTENT:

WHITNEY MCDONALD, CITY MANAGER

APPROVED AS TO FORM:

ISAAC ROSEN, CITY ATTORNEY