

City of Sacramento

Legislation Text

File #: 2021-00018, Version: 1

Title:

Emergency Ordinance Small Temporary Residential Shelters and Temporary Shelter Facilities (M20-015) {Two-Thirds Vote Required} [To be published in its entirety upon adoption] (Noticed 01/08/2021)

File ID: 2021-00018

Location: Citywide

Recommendation:

Conduct a public hearing and upon conclusion: 1) pass a Motion waiving Rule 7.K.3.b of the Council Rules of Procedure, which requires that the text of an ordinance brought to council be the same as the text that was submitted to the Law and Legislation Committee; 2) adopt a Resolution determining the Ordinance exempt from review under the California Environmental Quality Act under CEQA Guidelines sections 15269(c), 15303(c), 15304(e), 15311, and 15061(b)(3); and 3) adopt an Interim Ordinance authorizing the establishment of small temporary residential shelters and temporary shelter facilities through an administrative permit during a declared shelter crisis, and declaring the ordinance to be an emergency measure to take effect immediately upon adoption.

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Presenter: Greg Sandlund, Acting Planning Director, (916) 808-8931, Community Development

Attachments:

- 01-Description/Analysis
- 02-Resolution - Environmental
- 03-Draft Ordinance
- 04-Emergency Shelter Standards
- 05-Appendix X/O of the California Building Code
- 06-Maps of Potential Sites
- 07-Outreach Summary
- 08-Table Indicating Possible Shelter Locations by Council District
- 09-Information Requested by the Law & Legislation Committee
- 10-River District PBID Letter
- 11-Downtown Partnership Letter
- 12-Greater Land Park Letter
- 13-Boulevard Park Letter

14-Emails from Public

Description/Analysis

Issue Detail: The crisis of unsheltered homelessness is one that impacts an entire community, both those experiencing homelessness and the broader community of housed residents, businesses, and neighborhoods. Over the past several years, the City has made significant investments to increase access to shelter, services, and permanent housing for people and families experiencing homelessness. Despite these efforts, homelessness and its impacts continue to rise. There is insufficient capacity to shelter everyone experiencing homelessness in Sacramento.

In October 2019, the City Council discussed a Five-Point Plan that would include 1) master leasing of scattered site rental units, 2) homeless overnight parking, 3) sleeping cabins/tents, 4) motel conversion, and 5) permanent supportive housing. Furthermore, on January 14, 2020, the City Council adopted Resolution 2020-0017 declaring a Shelter Crisis under state law and directed the City Manager to take certain administrative actions to streamline shelter provisions to people experiencing homelessness. The council extended this declaration of shelter crisis on January 12, 2021. On July 28, 2020, Councilmember Hansen requested that a permit process be developed to allow projects such as Safe Ground temporary encampments. This proposal was scheduled for council consideration on October 27, 2020, but was continued for discussion at a later date. On January 5, 2021, the City Council requested this item be rescheduled for January 19, 2021.

The provisions of the attached draft ordinance would create an administrative permit process during a declared Shelter Crisis for small temporary residential shelters and temporary shelter facilities. “Small temporary residential shelters” are defined in the City’s Planning and Development Code as temporary residential shelters having not more than 24 beds and which are located within brick-and-mortar, building-code compliant facilities. The draft ordinance also creates a new land use for “temporary shelter facilities,” which is defined in the draft ordinance as a facility that provides short-term, temporary shelter to not more than 24 individuals using tents, park trailers, emergency sleeping cabins, or other types of emergency housing that comply with the California Building Code Appendix O, the California Residential Code Appendix X, or any other applicable law. Appendix O can be found in Attachment 5 as a reference. The provisions of Appendix X are substantially similar to Appendix O. The definition of a temporary shelter facility would also include a safe parking lot, which consists of paved parking lots that allow individuals living in their vehicles to park overnight.

The administrative permit process would apply to project sites complying with specific locational requirements and development standards. The key points to the proposed ordinance are listed below and the full draft ordinance may be found in Attachment 3.

1. Administrative permits granted under the Ordinance would be effective only during a declared Shelter Crisis.
2. At end of the Shelter Crisis declaration, temporary residential shelters and temporary shelter facilities would have to close or seek permanent permitting via the usual code provisions.
3. Ministerial approval of administrative permits for zoning review of small temporary residential shelters and temporary shelter facilities of 24 individuals or fewer that meet detailed site design, operational, and locational standards would be permitted.
4. The administrative permit would be free of charge to owner(s) of the site and would be revocable if there were health and safety problems or nuisances. However, if building permits are required, the building permit fees would apply.
5. Small temporary residential shelters and temporary shelter facilities would be permitted on:
 - a. assembly sites (such as churches) in any zone; or
 - b. on sites in commercial and industrial zones if located more than ½ mile from a temporary residential shelter and 500 feet away from sensitive uses such as:
 - i. temporary shelter facility;
 - ii. K-12 school;
 - iii. childcare center;
 - iv. childcare, in-home;
 - v. park; or
 - vi. museum.
6. Standards in the Planning and Development Code would continue to govern the development of small temporary residential shelters. Regarding temporary shelter facilities, standards include site layout, paving, and drainage; emergency access; drinking water; toilets; garbage removal and sanitation; hours of operation; quiet hours; and on-site management requirements.
7. While not mandated by the proposed ordinance, an example of safety and operational standards has been included as an attachment in this report to provide guidance of best practices for future operators of temporary shelter facilities (see Attachment 4 for emergency shelter standards). These community-wide emergency shelter standards were developed and vetted in November of 2019 with shelter operators, funders, and people experiencing homelessness. The protocols are based on principles of inclusion, dignity, accessibility, self-determination, and mutual accountability. The five areas covered by the standards include:
 - a. Operation: Curfew, storage of participant belongings, accessibility, pets, drugs and alcohol use and possession, admissions, denial and discharge policies and procedures, grievances and appeals, and good neighbor policies.
 - b. Staffing: Training for confidentiality protocols, shelter policies and procedures, first aid and CPR, crisis prevention and verbal de-escalation, emergency evacuation procedures, mental health issues, domestic violence, anti-discrimination and reasonable accommodation, overdose detection and response, and diversity awareness.
 - c. Food service: Meal schedules, food allergies, dining facilities, and sanitation.

- d. Facilities: Building standards, fire safety, pest control, and maintenance.
- e. Support Services: Housing navigation, recordkeeping, and transportation.

Policy Considerations: The 2035 General Plan Update was adopted by City Council on March 3, 2015. The General Plan goals, policies, and implementation programs define a roadmap to achieving Sacramento's vision to be the most livable city in America. The proposed Ordinance supports the following goals and policies of the General Plan:

Goal PHS 5.1: Human Services and Healthy Communities. Improve the provision of human services and promote public health and safety.

Policy PHS 5.1.4: Homeless Population. The City shall work with public and private social service agencies to site facilities to address the human service needs of the city's homeless populations.

Goal H-3.2: Special Needs. Provide housing choices appropriate for "special needs" populations, including homeless, youth, female-headed households, seniors, and persons with disabilities, including developmental disabilities (H-3.2).

Economic Impacts: No funds are being requested as part of this report.

Environmental Considerations: The proposed ordinance is exempt from review under the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines sections 15269(c), 15303(c), 15304(e), 15311, and 15061(b)(3). (See Resolution in Attachment 2)

First, the ordinance is exempt from review under CEQA Guidelines section 15269(c) as it is an action "necessary to prevent or mitigate an emergency." Specifically, the proposed ordinance is designed to mitigate the City's shelter crisis, as declared by the City Council on January 14, 2020 (Resolution 2020-0017), under Government Code sections 8698 et seq. In declaring a shelter crisis, the City, consistent with the law, found that a significant number of persons within the jurisdiction are without the ability to obtain shelter, resulting in a threat to their health and safety. This emergency has been exacerbated by the spread of COVID-19, a highly contagious and sometimes deadly disease.

In response to COVID-19, the U.S. Health and Human Services Secretary declared a national public health emergency in the United States on January 31, 2020; Governor Gavin Newsom proclaimed a state of emergency in the State of California on March 4, 2020; the County of Sacramento proclaimed a public health emergency on March 5, 2020; the City Council declared a local emergency on March 13, 2020; and on that same day, the President of the United States declared a national emergency. Further, the Sacramento County Health Official (SCHO) has directed local governments to refrain from citing, clearing, or relocating homeless encampments during the spread of COVID-19. Clearing encampments, according to the SCHO, "causes people to disperse

throughout the community and break connections with service providers, increasing the potential for infectious disease spread.” (SCHO Order Jan. 13, 2021.)

The proposed ordinance will address this crisis, and as such, the City must act without delay. The proposed ordinance sets forth minimum health and safety standards that will improve the living conditions in which many individuals experiencing homelessness currently live. The ordinance will also allow individuals experiencing homelessness to obtain shelter more rapidly than would otherwise be possible. The City’s immediate action is required, as even a slight delay can have significant deleterious effects on individuals experiencing homelessness.

The proposed ordinance is also exempt from CEQA review under various categorical exemptions including CEQA Guidelines sections 15303(c) (related to new construction or conversion of small structures), 15304(e) (related to the temporary use of land having negligible or no permanent effects on the environment), and 15311 (related to accessory structures). The proposed ordinance authorizes the temporary establishment and operation of small temporary residential shelters and temporary shelter facilities during-and only during-the shelter crisis emergency, as declared by the City Council. The anticipated improvements on the land to operate these shelters are small, limited, and temporary, and have negligible or no effects on the environment.

Finally, the proposed ordinance is exempt from CEQA review under CEQA Guidelines 15061(b)(3)-the “common-sense exemption”-as shown in Exhibit A of Attachment 2. In sum, it can be seen with certainty that there is no possibility that the proposed ordinance may have a significant effect on the environment. The proposed ordinance authorizes the establishment of temporary shelters-i.e., shelters that will only operate during a declared shelter crisis. Upon the expiration of the shelter crisis, the administrative permits authorized by the ordinance expire and permit holders must return the sites to their original condition. Further, these shelters are limited to 24 individuals, thereby ensuring a limited footprint, and the shelters must operate in accordance with the standards set forth in the ordinance, which assures no environmental effects.

None of the exceptions to the exemptions in CEQA Guidelines section 15300.2 apply.

Sustainability: Not applicable.

Commission/Committee Action: On August 18, 2020, the Law and Legislation Committee requested staff present a draft ordinance for consideration at a special L&L meeting in September. Staff was directed to reach out to homeless service providers and business districts while the ordinance was developed. The feedback has been included in Attachment 7. Additionally, members of the Committee asked that staff consider adding a requirement for minimum distance from single-unit and two-unit dwelling zones. Attachment 6 includes two maps indicating the sites that could accommodate temporary residential facilities. As indicated in the second map, applying a minimum distance from single-unit dwelling and duplex dwelling zones would significantly restrict the sites that could accommodate temporary shelter facilities, eliminating most commercial corridors in the City.

Therefore, staff does not recommend imposing a minimum distance from residential uses, and this has not been incorporated into the draft ordinance.

On September 29, 2020, the Law and Legislation Committee passed a motion to forward the ordinance attached to City Council for adoption. The motion included several changes to the draft ordinance including: 1) modifying the sensitive use buffer from 300 to 500 feet; 2) requiring ½ mile buffer from temporary residential shelters; and 3) adding museums to the sensitive use list. The Law and Legislation Committee also had follow-up questions and requested staff responses. These responses may be found in Attachment 9. All changes requested by the Law and Legislation Committee have been incorporated into the draft ordinance in Attachment 3. On October 29, staff met with homeless service providers and advocates to clarify the changes requested by the Law and Legislation Committee.

Comments were received from the River District PBID, Downtown Partnership, Greater Land Park, Boulevard Park, and members of the public. Feedback included removing specific areas of the city from the allowances of the ordinance, increasing sensitive use buffers from 300 to 500 feet, and ensuring there are connections for shelters to wrap around services and permanent housing. The letters may be found in Attachments 10 through 14 of this report.

Rationale for Recommendation: Homelessness is one of the biggest issues facing the City, and there is a critical need to provide short-term, feasible options to assist those individuals without shelter. Homeless encampments are increasing across the City on private property and within the public right-of-way, exposing individuals experiencing homelessness to traffic hazards, crime, risk of death and injury, lack of adequate sanitation and debris services, and other conditions that are detrimental to their health and safety.

It is in the City's best interest to authorize a streamlined process for review and approval that would allow an opportunity to implement locational requirements and development standards to ensure public safety. An administrative permit and ministerial process is recommended as the most expeditious way during the shelter crisis emergency to authorize small temporary residential shelters and temporary shelter facilities that meet all Council-adopted rules and regulations.

Amendments to the ordinance since the September 29th meeting of the Law and Legislation Committee include provisions to allow for temporary shelter facilities to utilize the water service connection of a neighboring property owner with the consent of that property owner and the Director of Utilities. Other amendments include updated findings based on changes to the County's health order. Accordingly, the staff recommendation asks council to waive the Council Rule of Procedure that requires the text of an ordinance be the same that was approved by the Law and Legislation Committee.

Financial Considerations: Planning Division review and permits are supported by the General

Fund, in addition to development fees. The financial implications associated with this request are anticipated to be minimal given the limitations in the ordinance. The costs associated with these permits will be supported by the existing General Fund budget of the Planning Division.

Local Business Enterprise (LBE): Not applicable.