



Agenda Report

Fullerton City Council

MEETING DATE: NOVEMBER 20, 2018

TO: CITY COUNCIL / SUCCESSOR AGENCY

SUBMITTED BY: KENNETH A. DOMER, CITY MANAGER

PREPARED BY: TED WHITE, COMMUNITY DEVELOPMENT DIRECTOR

SUBJECT: FULLERTON MUNICIPAL CODE AMENDMENT PERTAINING
TO EMERGENCY SHELTERS FOR HOMELESS PERSONS AT
RELIGIOUS INSTITUTIONS

SUMMARY

A proposed amendment to Title 15 (Zoning Code) of the Fullerton Municipal Code (FMC) to clarify provisions and institute procedures for religious institutions to establish shelter for persons experiencing homelessness as an accessory use.

RECOMMENDATION

Introduce Ordinance No. XXXX for first reading by title only and waive further reading of the Ordinance.

ORDINANCE NO. XXXX – AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FULLERTON, CALIFORNIA, AMENDING CHAPTERS 15.04 AND 15.55 OF THE FULLERTON MUNICIPAL CODE TO CLARIFY AND STANDARDIZE REQUIREMENTS FOR ESTABLISHING EMERGENCY SHELTERS FOR PERSONS WHO ARE HOMELESS, AS AN ACCESSORY USE AT RELIGIOUS INSTITUTIONS

PRIORITY POLICY STATEMENT

This item matches the following Priority Policy Statement:

- Public Safety.

FISCAL IMPACT

Minor impact for staff time necessary to review applications.

DISCUSSION

In May 2018, the City Council authorized staff to review the Municipal Code for outdated and unclear language regarding homelessness, highlighting the lack of specificity in a zoning provision that allows a religious institution to provide emergency shelter for up to 12 persons experiencing homelessness. The definition of the term “Religious Institution” in FMC Section 15.04.040 allows an emergency shelter for up to 12 individuals as an accessory use, but does not include development, operational or safety standards for the emergency shelter use. The proposed amendment and an accompanying administrative review process is intended to provide those details.

The proposed code amendment would add the following definition for “Emergency Shelter for Homeless (Religious Institution)” and modify the definition of “Religious Institution” as follows:

“EMERGENCY SHELTER FOR HOMELESS (RELIGIOUS INSTITUTION) means housing with supportive services for up to 12 persons who are homeless. Shelter shall be within a habitable structure, either permanent or temporary, with access to restrooms and subject to provision of on-site management and security.”

RELIGIOUS INSTITUTION means an establishment the principal purpose of which is religious worship and for which the primary space is a sanctuary. Religious activities and services held in the sanctuary are conducted at scheduled times and in an organized fashion. The establishment may also include accessory facilities in the same or separate building including classrooms, assembly rooms, restrooms, kitchen, library or reading room, emergency shelter, subject to approval of an Application for Emergency Shelter for Homeless (Religious Institution) Permit ~~for 12 or fewer homeless individuals and a one single-family dwelling unit for use by the titular head of the institution.~~ Facilities for uses that have been defined separately in the Code, such as a day nursery, private school, community/social service or a human service agency, are not considered an inherent part of this establishment.”

The proposed definition for “Emergency Shelter for Homeless (Religious Institution)” clarifies the basic parameters for establishing an emergency shelter as an accessory use to a religious institution. The term “habitable” as used in the definition refers to Building Code provisions that address sleeping quarters, which differ depending on whether shelter is provided on a permanent or temporary basis. The Building Code also contains regulations regarding number of occupants, location of exits, sanitation facilities and other facility specifications. The definition also identifies that on-site management and security plans would be integral to the operation of the shelter.

The proposed code amendment also establishes a permitting process that would require a religious institution to submit an application to the City, a draft example of which is attached to this report as Attachment 3, for review and approval a minimum of thirty (30) days in advance of any shelter operations. The permit is intended to provide the City with a mechanism to keep track of where shelters are located, maintain contact information for shelter operators, provide for the administrative review of shelter operations and security plans, and provide for the review of any construction plans (if

any) related to shelter operations. The application would require the applicant to provide the following information: duration of the shelter, days and hours of operation, processes for admitting persons to the shelter and/or program, any types of supportive services offered, security measures and site supervision.

Planning Commission Hearing

The draft amendment was considered by the Planning Commission at a public hearing held on August 22, 2018, pursuant to Fullerton Municipal Code Section 15.72.040. There were 12 speakers on this item, four generally supported the direction proposed and eight stated that the amendment is not needed or that it goes too far in regulating expressions of worship. The Planning Commission posed a number of questions to staff and had an in-depth discussion on the proposed amendment. The questions, responses and discussion points are summarized below:

Necessity of the Proposed Amendment: Several speakers and Commissioners questioned the necessity of the proposed code amendment, expressing a preference to leave the Code as currently written. Staff believes that the proposed amendment provides value in clarifying that shelter, as an accessory use to a religious institution, must occur within a structure, and is subject to a permit process reviewing minimum operational, security, and fire and life safety standards.

Temporary/Permanent Shelter: A religious institution may determine whether to run a shelter on a temporary or permanent basis. For example, a number of religious institutions have participated in the Interfaith Shelter Network (ISN) in north Orange County for approximately 30 years. The ISN operates a shelter/transitional program that relies on a network of “host” religious institutions that provide shelter on a temporary basis (typically a few weeks) for up to 12 adults who are enrolled in a six month program. Other religious institutions may wish to operate more permanent-type facilities by using under-utilized classroom space or modular structures as shelter space. This would require compliance with applicable building codes relating to occupancy requirements.

Permit Process: The proposed amendment would establish a permit process that requires a religious institution to provide basic contact information, days and hours the shelter will operate, a detailed description of operation and security procedures and site and floor plans describing the shelter program. The application would be reviewed by Community Development, Police and Fire Departments, and approved administratively by the Community Development Director. The permit is intended to verify that adequate safety and security measures are incorporated into the operational plan. The religious institution would then be required to operate the shelter in accordance with all provisions of the approved permit.

Notification of Neighbors: Some Planning Commissioners and speakers expressed support for a notification process to inform neighbors prior to establishment of an emergency shelter at a religious institution. A notification process was not proposed in the code amendment primarily because a shelter, as an accessory use to a religious institution, is already a permitted use, and the amendment would only set guidelines and clarify the process in order to promote the safety of both surrounding properties and participants in such shelter program. Staff believes that notification could impede the

establishment of such shelters, costing time and creating a need to establish protocols for addressing protests.

Safe Parking Program: Several speakers expressed opposition to the proposed code amendment because it would not permit “safe parking programs” as a type of shelter at a religious institution. Staff believes that safe parking programs are significantly different than providing shelter space within a building and that a policy on safe parking programs warrants a separate discussion and direction from the City Council; therefore, safe parking programs are not permitted as part of this code amendment.

Twelve Person Limitation: Speakers also expressed that the number of individuals a shelter could serve should be related to the size of the religious facility and that some religious institutions could accommodate more than 12 persons. The 12-person limitation is consistent with the operational characteristics of successful faith-based shelter programs that have operated in Fullerton and surrounding communities for decades and is reflective of the current limitation in the municipal code. Due to the range of locations where religious institutions are located, including in single-family residential zones, staff believes that the 12-person limitation is appropriate.

Development and Operational Standards: A Planning Commissioner questioned whether the proposed code amendment should contain more detailed development and/or operational standards. The proposed code amendment maintains the current operational limitation on the maximum number of persons allowed to be sheltered, while providing flexibility in the nature and operation of the shelter program. Rather than focus on prescriptive development and operational standards, the proposed ordinance establishes a permitting process to provide for an appropriate level of City review to ensure that sheltering activities are operated in a safe and secure manner.

Planning Commission Recommendation: The Commissioners had varying opinions on the items summarized above, while a majority expressed that the amendment is not necessary. The Commission ultimately recommended that the City Council not adopt the proposed amendment by a vote of 4-2-1, with the majority including Commissioners Cantor, Dunlap, Gambino and Pendergraft; those opposed (supportive of adopting the amendment) including Carvalho and Gaarder; Shanfield absent.

Staff recommends that City Council adopt the proposed ordinance to clarify definitions associated with the provision of an emergency shelter as an accessory use at religious institutions. At this meeting, the City Council would introduce the proposed ordinance by title only, and waive further reading of the ordinance. The ordinance would be brought back to Council for a second reading and adoption.

Attachments:

- Attachment 1 – PowerPoint Presentation
- Attachment 2 – Draft Ordinance No. XXXX
- Attachment 3 – Draft Application Form
- Attachment 4 – Planning Commission Staff Report, August 22, 2018
- Attachment 5 – Planning Commission Minutes, August 22, 2018