



DEPARTMENT OF CITY PLANNING RECOMMENDATION REPORT

CITY PLANNING COMMISSION

Date: May 9, 2019
Time: After 11:30 a.m.
Place: Los Angeles City Hall
200 N. Spring Street, Room 340
Los Angeles, CA 90012

Case No.: CPC-2019-1881-CA
CEQA No.: ENV-2019-1882-SE
Council No.: All
Plan Area: Citywide

Applicant: City of Los Angeles

PUBLIC HEARING: Required


PROJECT LOCATION: Citywide

PROPOSED PROJECT: An ordinance amending Sections 12.80 and 12.81 of the Los Angeles Municipal Code (LAMC) to make technical amendments to align with emergency shelter regulations in state law (Government Code Section 8698 et seq.).

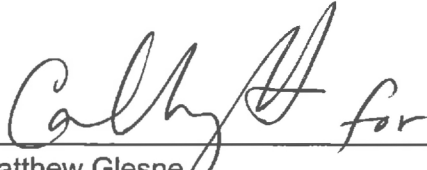
RECOMMENDED ACTIONS:

1. **Approve** the proposed ordinance (Exhibit A) and recommend its adoption by City Council;
2. **Adopt** the staff report as the Commission's report on the subject;
3. **Adopt** the attached Findings;
4. **Approve** and recommend that the City Council determine, based on the whole of the administrative record, that the proposed ordinance is exempt from the California Environmental Quality Act (CEQA) pursuant to Section 21080(b)(4) of the Public Resources Code and CEQA Guidelines Sections 15061(b)(3) and 15269.

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- A. Proposed Ordinance

PROJECT ANALYSIS

1. Project Summary

This report recommends the adoption of a technical amendment to the City's emergency shelter regulations in Los Angeles Municipal Code (LAMC) Sections 12.80 and 12.81. The amendment has been prepared in response to a motion adopted by the City Council on March 27, 2019 (CF 15-1138-S40). The amendment would remove the requirement that the City Council adopt a shelter crisis declaration every 365 days, as this is not required by State law.

2. Background

According to the 2018 Homeless Count, 31,285 individuals are experiencing homelessness in the City of Los Angeles, with approximately 22,887 (73%) of those individuals considered to be unsheltered on any given night. Emergency shelters are an important component of the City's overall Homeless Strategy, as they often can provide the first point of entry into the homeless services system for many who find themselves homeless.

Government Code Section 8698 et seq. allows California jurisdictions to declare a "shelter crisis" in order to take immediate action to alleviate the lack of available shelter for persons experiencing homelessness.

In 2017, the City Council adopted a Zoning Code amendment to the City's emergency shelter ordinance to more efficiently establish emergency shelters when a crisis has been declared (Ordinance 184,836). Specifically, that ordinance amended LAMC Sections 12.80 and 12.81 which allow for operation of emergency shelters during periods of a shelter crisis declaration. Currently, both Sections require that any shelter crisis declaration shall not exceed a period of 365 days. The City of Los Angeles is currently operating under a shelter crisis declaration (CF 15-1138-S33 and CF 15-1138-S40).

During periods of a declared shelter crisis, LAMC Section 12.80 allows the establishment of temporary shelters on property located in any zone, where the property is owned or leased by the City, without regard to the number of beds in the shelter. Shelters operated under that section must comply with certain minimum building code provisions in LAMC Section 91.8605. LAMC Section 12.81 provides similar provisions for the establishment of temporary shelters in certain zones if the shelter is operated by a religious institution or a non-profit, charitable organization and the shelter is located on property that is owned or leased by that organization. Shelters operated under LAMC Section 12.81 must comply with the "Cold/Wet Weather Temporary Shelter" requirements promulgated by the Los Angeles Fire Department.

In 2017, Government Code Section 8698.4 was added to further expedite the development of temporary homeless shelters pursuant to a shelter crisis declaration in certain cities, including Los Angeles. The declaration of a shelter crisis allows the City to utilize publicly owned or leased land as temporary shelters during the crisis, while also enacting reasonable alternative health,

safety and habitability standards in lieu of some state and local housing, planning and zoning or other standards, “to the extent that strict compliance would in any way prevent, hinder, or delay the mitigation of the effects of the shelter crisis.” In 2018, the City Council adopted an ordinance amending Building Code Section 91.8605 in order to expand opportunities to create additional emergency shelters in the City by updating health and safety regulations enforced by the Department of Building and Safety and the Fire Department. However, no language was amended in Sections 12.80 and 12.81 at that time to make those sections consistent with state law.

3. Proposed Ordinance

The proposed ordinance provided in Exhibit A incorporates a technical amendment to the City’s emergency shelter regulations in LAMC Sections 12.80 and 12.81 to better ensure consistency with State law’s definition of a “shelter crisis.” Both City and State emergency shelter regulations require that a shelter crisis declaration be authorized by a local governing body in order for the provisions to be applicable. However, LAMC Sections 12.80 and 12.81 currently include a provision that limits a shelter crisis declaration to a period of 365 days, which can then be renewed by City Council resolution. State law does not place any such time constraints on the declaration of a shelter crisis.

In order to better align with State law, the proposed ordinance would therefore remove this 365 day requirement from the City’s emergency shelter regulations in LAMC Sections 12.80 and 12.81. The City Council and the Mayor will retain the authority to declare a shelter crisis by resolution, as well as the authority to conclude that crisis by separate resolution.

The proposed ordinance does not create any changes to the existing allowances for emergency shelters in the City, nor does it result in any other changes to the City’s existing emergency shelter regulations.

4. Key Issues

Following is a discussion of the key issues pertaining to the proposed amendments.

Length of Shelter Crisis Declaration

The amendments to LAMC Sections 12.80 and 12.81 would remove explicit time limits on the length of a shelter crisis declaration that are not in alignment with state law. The state law authorizing a declaration of a shelter crisis does not prescribe any specific time limits to the declaration. The only requirement for a shelter crisis is that there exists a “duly proclaimed existence of a situation in which a significant number of persons are without the ability to obtain shelter, resulting in a threat to their health and safety.” While there is an implicit assumption that any shelter crisis would not be in place in perpetuity, there is no language in state law that places a finite limit on the length of time during which a shelter crisis can continue, as long as a large number of people in a locality remain without shelter. The proposed ordinance is intended to

eliminate any confusion stemming from the discrepancy between allowances under state law and the 365-day limit in the City's Zoning Code.

The City Council and the Mayor will retain the authority to declare the end of a shelter crisis, which will have the effect of ending the provision of shelters established under LAMC Sections 12.80 and 12.81.

Implications for Existing Emergency Shelter Procedures and Oversight

The proposed amendment would not create any changes to the existing allowances for temporary emergency shelters within the City of Los Angeles, nor would it result in reduced oversight. Procedures to open and operate a shelter would remain consistent with those in place today.

The consistency this ordinance will provide with the procedures and timelines provided in state law is important as it will provide greater certainty in the process for providers who partner with the City to open and operate emergency shelters. By aligning procedures with state law, the proposed ordinance will help ensure that an adequate supply of emergency and short-term housing can be established for people who are homeless or at risk of experiencing homelessness.

5. Conclusion

Staff recommends adoption of the proposed ordinance (Exhibit A), which will ensure that emergency shelter regulations in Los Angeles are in alignment with the applicable provisions of state law (Government Code Section 8698 et seq.).

PUBLIC COMMUNICATIONS

The proposed ordinance includes an Urgency Clause, which finds and declares that the ordinance is required for the immediate protection of the public peace, health, and safety; therefore, the Department followed an expedited public participation policy. The draft ordinance and public hearing notice were published on April 4, 2019, allowing for a 24-day public review period prior to completion of the CPC Staff Recommendation Report. The notice was provided through publication in local newspaper and posted to the Department's website, in addition to email notification to Neighborhood Councils. During this time, the Department has provided updates at regularly scheduled meetings of Neighborhood Council alliances including the April 13th PlanCheckNC meeting, and has provided additional information in email communications that are regularly sent to members of the public. The required public hearing will be held at the City Planning Commission meeting on May 9, 2019.

FINDINGS

General Plan/Charter Findings

City Charter Section 556

In accordance with Charter Section 556, the proposed ordinance is in substantial conformance with the purpose, intent and provisions of the General Plan in that it would facilitate the provision of emergency shelters for persons experiencing homelessness in a timely manner to help alleviate hardship and potential threats to their health and safety that may occur as a result of the shelter crisis.

The City's General Plan includes an overarching goal of preventing and ending homelessness, as well as a number of related objectives and policies around the provision of short-term emergency housing. Specifically, the proposed ordinance is consistent with, and helps to further accomplish the following goals, objectives and policies of the General Plan as set forth below.

General Plan Framework Element

GOAL 4A – An equitable distribution of housing opportunities by type and cost accessible to all residents of the City.

Objective 4.4 – Reduce regulatory and procedural barriers to increase housing production and capacity in appropriate locations.

Housing Element

GOAL 4 – A City committed to preventing and ending homelessness.

Objective 4.1 – Provide an adequate supply of short-term and permanent housing and services throughout the City that are appropriate and meet the specific needs of all persons who are homeless or at risk of homelessness.

Policy 4.1.1 – Ensure an adequate supply of emergency and temporary housing for people who are homeless or are at a risk of becoming homeless, including people with disabilities.

Policy 4.1.5 – Plan for emergency housing needs that will result from natural or man-made disasters.

The proposed ordinance meets the intent and purposes of the General Plan in that it clearly reduces regulatory and procedural barriers to the operation and placement of shelters for the homeless when a shelter crisis is declared. The proposed ordinance will provide greater alignment between local zoning code regulations for emergency shelters, and the applicable provisions of State Law, thereby providing for greater certainty for providers who partner with the City to open

and operate emergency shelters. By aligning procedures with state law, the proposed ordinance will help ensure that an adequate supply of emergency and short-term housing can be established for people who are homeless or at risk of experiencing homelessness.

City Charter Section 558(b)(2)

In accordance with Charter Section 558(b)(2), the adoption of the proposed ordinance would be in conformity with public necessity, convenience, general welfare and good zoning practice because its measures are needed to ensure adequate emergency shelters can be established during a shelter crisis when quick action is needed most.

Urgency Clause Findings

The City finds and declares that this ordinance is required for the immediate protection of the public peace, health, and safety for the following reasons: The measures contained in the ordinance are designed to protect those without shelter from the life-threatening impacts related to homelessness, including but not limited to exposure to extreme temperatures, weather conditions, and communicable diseases. The City of Los Angeles is already in the midst of a shelter crisis, with the City Council having formally declared a shelter crisis under California Government Code Section 8698, based on a finding that a significant number of homeless people in Los Angeles are without the ability to obtain shelter, resulting in a threat to their health and safety, and the homeless population continues to grow. In order to address the threat to the health and safety of the homeless there must be an increase in the number of shelters available to the homeless to find refuge.

The proposed ordinance will provide greater alignment between local zoning code regulations for emergency shelters, and the applicable provisions of State Law, thereby providing for greater certainty for providers who partner with the City to open and operate emergency shelters. By aligning procedures with state law, the proposed ordinance will help ensure that an adequate supply of emergency and short-term housing can be established for people who are homeless or at risk of experiencing homelessness.

For all of these reasons, this ordinance shall become effective upon publication pursuant to Section 253 of the Los Angeles City Charter.

CEQA Findings

Pursuant to Section 21080(b)(4) of the Public Resources Code and California Environmental Quality Act (CEQA) Guidelines Sections 15061(b)(3) and 15269, the adoption of the proposed ordinance amending LAMC Sections 12.80 and 12.81 is exempt from CEQA.

CEQA Guidelines Section 15061(b)(3)

Adoption of the proposed ordinance is exempt from CEQA pursuant to CEQA Guidelines Section 15061(b)(3) because it can be seen with certainty that there is no possibility that the project may have a significant effect on the environment.

CEQA Guidelines Section 15061(b)(3) provides that a project is exempt from CEQA if: “The activity is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA.”

The proposed ordinance does not involve any activities that will directly or indirectly alter the environment from its current conditions. The proposed amendments to LAMC Sections 12.80 and 12.81 are procedural and technical in nature, and will ensure that local regulations align with the applicable provisions of State law. There is no potential that the proposed ordinance will result in the creation of additional emergency shelters, as it does not make any changes to existing allowances for emergency shelters. The anticipated result of the proposed ordinance is that temporary emergency shelters will continue to be able to be established, and would not result in any direct or indirect impact to the environment. The provisions will continue to only apply during a declared shelter crisis emergency pursuant to state law. A shelter crisis may be revoked by the Mayor or City Council at any time.

PRC Section 21080(b)(4) and CEQA Guidelines Section 15269 (Emergency Projects)

Additionally, approval of the project is exempt from CEQA pursuant to Public Resources Code Section 21080(b)(4) and CEQA Guidelines Section 15269, which provide that emergency projects are exempt from the requirements of CEQA. In particular, this exemption provides that specific actions necessary to prevent or mitigate an emergency are exempt from CEQA.

While it is clear that the proposed ordinance will not have any significant effect on the environment, it is additionally clear that any changes that may occur would only occur during times of extreme need for housing, upon declaration of a shelter crisis emergency pursuant to Government Code Section 8698 et seq. Any potential impacts from the proposed amendments to LAMC Sections 12.80 and 12.81 would therefore be temporary in nature and necessary to mitigate an emergency shelter crisis in the City of Los Angeles.

Therefore, on the basis of the whole of the record before the lead agency including any comments received, the lead agency finds that the adoption of the proposed ordinance is exempt from CEQA. The analysis reflects the lead agency’s independent judgment and analysis. The records upon which this decision is based are with the Planning Department in Room 750, 200 North Spring Street in Los Angeles, California.

**EXHIBIT A:
Proposed Technical Amendment to Emergency Shelter
Ordinance**

CPC-2019-1881-CA
May 9, 2019

ORDINANCE NO. _____

An ordinance amending Sections 12.80 and 12.81 of the Los Angeles Municipal Code (LAMC) to make technical amendments to align with emergency shelter regulations in state law (Government Code Section 8698 et seq.).

**THE PEOPLE OF THE CITY OF LOS ANGELES
DO ORDAIN AS FOLLOWS:**

Sec. 1. Section 12.80 of Article 2 of Chapter 1 of the Los Angeles Municipal Code is amended to read as follows:

SEC. 12.80. HOMELESS SHELTERS – EMERGENCIES – GOVERNMENT OWNED AND LEASED PROPERTY.

Notwithstanding any provisions of this article to the contrary, during any period for which the Mayor and/or the City Council have declared a shelter crisis within the meaning of Government Code Sections 8698, et seq., a shelter for the homeless (as defined in Section [12.03](#) of this Code) may be established and operated on property owned or leased by the City of Los Angeles in any zone as a matter of right without regard to the number of beds or number of persons served. Facilities used as a shelter for the homeless under this section must comply with the minimum building regulations set forth in Section [91.8605](#) of this Code, as it is currently written or as it may be amended in the future. If the lot on which any such shelter is located does not have sufficient area to provide the number of parking spaces required by Section [12.21](#) A.4.(w) of this Code, then the number of spaces required shall be the number for which adequate area exists. If insufficient area for any parking spaces exists on the lot, no spaces shall be required.

~~Any declaration of a shelter crisis made pursuant to Government Code Sections 8698, et seq., shall not exceed a period of 365 days from the date of declaration. The City Council may renew a shelter crisis declaration made pursuant to Government Code Sections 8698, et seq., on an annual basis.~~

Sec. 2. Section 12.81 of Article 2 of Chapter 1 of the Los Angeles Municipal Code is amended to read as follows:

SEC. 12.81. HOMELESS SHELTERS – EMERGENCIES – CHARITABLE ORGANIZATIONS.

A. Notwithstanding any provisions of this article to the contrary, during any period for which the Mayor and/or the City Council have declared a shelter crisis within the meaning of Government Code Sections 8698, et seq., a shelter for the homeless (as defined in Section [12.03](#) of this Code) may be established and operated in the R3, RAS3, R4, RAS4, R5, C2, C4, C5, CM, M1, M2 and M3 zones without regard to the number of beds or number of persons served, if the shelter is operated by a religious institution or a non-profit, charitable organization and the shelter is located on property owned or leased by that institution or organization. If the lot on which any such shelter is located does not have sufficient area to provide the number of parking spaces required by Section [12.21](#) A.4.(w) of this Code, then the number of spaces required shall be the number for which adequate area exists. If insufficient

area for any parking spaces exists on the lot, no spaces shall be required. Unreinforced masonry and/or non-ductile concrete buildings shall not be used as shelters for the homeless.

~~Any declaration of a shelter crisis made pursuant to Government Code Sections 8698, et seq., shall not exceed a period of 365 days from the date of declaration. The City Council may renew a shelter crisis declaration made pursuant to Government Code Sections 8698, et seq., on an annual basis.~~

B. Requirements.

1. Providers shall register with the City of Los Angeles by submitting "Cold/Wet Weather Temporary Shelter Application" online via the City's website (www.lacity.org); and
2. Providers shall comply with the "Cold/Wet Weather Temporary Shelter" requirements promulgated by the Los Angeles Fire Departments Fire Prevention and Public Safety Bureau; and
3. Providers shall provide written notification to the owners of properties abutting the subject property, as well as to any school located within 500 feet of the subject property, prior to operating a shelter for the homeless on the subject property.
4. Providers shall comply with all local, state and federal requirements that apply to the permitted use of their property while operating a shelter for the homeless pursuant to this section.

Sec. 3. URGENCY CLAUSE. The City finds and declares that this ordinance is required for the immediate protection of the public peace, health, and safety for the following reasons: The measures contained in the ordinance are designed to protect those without shelter from the life-threatening impacts related to homelessness, including but not limited to exposure to extreme temperatures, weather conditions, and communicable diseases. The City of Los Angeles is already in the midst of a shelter crisis, with the City Council having formally declared a shelter crisis under California Government Code Section 8698, based on a finding that a significant number of homeless people in Los Angeles are without the ability to obtain shelter, resulting in a threat to their health and safety, and the homeless population continues to grow. In order to address the threat to the health and safety of the homeless there must be an increase in the number of shelters available to the homeless to find refuge. For all of these reasons, this ordinance shall become effective upon publication pursuant to Section 253 of the Los Angeles City Charter.