

CITY OF FAIRFIELD

URGENCY ORDINANCE NO. 2020-19

URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FAIRFIELD IMPLEMENTING A PROGRAM TO ALLOW TEMPORARY SHELTER SERVICES TO BE PROVIDED AT EXISTING CHURCHES OR OTHER PLACES OF WORSHIP AND AT OTHER EXISTING ASSEMBLY USES SUBJECT TO CONDITIONS

THE CITY COUNCIL OF THE CITY OF FAIRFIELD DOES ORDAIN AS FOLLOWS:

SECTION 1. Urgency Findings. The City Council finds as follows:

(a) On September 4, 2018, the City Council adopted Resolution 2018-223, finding that the health and safety of homeless individuals in Solano County was threatened by a lack of shelter and declaring the existence of a shelter crisis in the City of Fairfield pursuant to Government Code Section 8698.2.

(b) The point-in-time count performed in January 2019 indicated that there are 1,151 individuals in Solano County who are homeless, and that more than 80% of those individuals are unsheltered. Although the overall number of homeless individuals decreased from the point-in-time count conducted in 2017, the number of unsheltered individuals rose.

(c) On January 30, 2020, the World Health Organization Director-General declared the spread of the novel coronavirus (COVID-19) a public health emergency of international concern.

(d) On February 26, 2020, the Centers for Disease Control and Prevention confirmed community transmission of COVID-19 in the San Francisco Bay Area.

(e) On March 4, 2020, the State of California declared a state of emergency in response to the COVID-19 pandemic.

(f) On March 16, 2020, the City Council ratified the City Manager's proclamation of the existence of a local emergency related to COVID-19 due to the danger this infectious disease created to the public health and safety of the residents of the City of Fairfield.

(g) On March 18, 2020, the public health officer of the County of Solano issued a public health order directing residents of the County to shelter at home. The County of Solano has subsequently superseded this order with succeeding stay at home orders, most recently with an order issued on June 16, 2020, and effective until superseded. The June 16, 2020 order directs persons to continue to limit activities and shelter at home to

reduce the spread of COVID-19, and provides requirements for low, medium, and high risk activities, as defined, to occur as authorized by the order.

(h) People experiencing homelessness are especially vulnerable to poor health and highly communicable diseases like COVID-19 due to limited options for safe and sanitary shelter, an inability to practice social distancing, and a lack of access to health care. The Governor has ordered the State to take extraordinary measures to secure shelter for homeless individuals during this emergency to limit exposure to and spreading of COVID-19.

(i) The State of California Business, Consumer Services, and Housing Agency has provided expertise and guidance to prevent and mitigate the potential transmission of COVID-19 among high-risk homeless individuals, and recommends, among other things, that additional sheltering options be identified to reduce crowding and allow for physical distancing, to accommodate higher shelter demands, to isolate and quarantine people who are exposed to or test positive for COVID-19, and to provide protective housing for individuals at highest risk of severe illness.

(j) There are insufficient housing options available in the City to provide adequate overnight shelter for the City's unsheltered homeless population.

(k) Religious facilities and other assembly uses within the City wish to provide temporary shelter to individuals who are homeless. While such uses have the space needed to provide shelter, they may not be designed for human occupancy or meet building and fire code standards that are necessary to ensure the safety of shelter occupants.

(l) The current zoning and land use regulations governing homeless shelters do not address the need for establishment and safe operation of temporary shelters on an ancillary basis.

(m) Based upon the findings above, the City Council finds that there is a current and immediate need to permit temporary shelter uses to operate in the City, in order to mitigate the threats to the public health, safety and welfare presented both by the lack of available shelter and by COVID-19. The establishment of a temporary shelter permit will ensure that temporary shelters are operated safely and, in a manner, so as to protect shelter residents and staff and reduce potential impacts in surrounding neighborhoods. Further, the waiver of fees for a temporary shelter permit will serve a public purpose by reducing barriers to the creation of temporary shelter space.

(n) Based upon the findings above, the City Council finds that this urgency ordinance is necessary for the immediate preservation of the public health, safety, and welfare. The City Council finds and determines that the immediate preservation of the public health, safety and welfare requires that this Ordinance be enacted as an urgency ordinance pursuant to Government Code Section 36937(b) and take effect immediately upon adoption. As described above, the City was experiencing a homeless shelter crisis prior to the COVID-19 pandemic, and COVID-19 has greatly exacerbated the health and

safety risks to homeless individuals in the City. Religious facilities and assembly uses are willing and equipped to provide temporary shelter services as an ancillary use to their primary activities, but the City's Zoning Ordinance is not clear on what types of operations would be considered ancillary or on what life safety and operational standards would apply. This Ordinance needs to become effective immediately in order to allow for existing facilities to safely provide shelter to at-risk homeless individuals. Therefore, this Ordinance is necessary for the immediate preservation of the public peace, health, safety and welfare and its urgency is hereby declared.

SECTION 2. A new Section 25.32.19, "Temporary Shelters," is hereby added to Chapter 25 of the Fairfield Municipal Code, to read as follows:

"25.32.19 Temporary Shelters.

- A. **Purpose and Applicability.** The purpose of this section is to establish criteria for the location of temporary shelters at existing religious or assembly use facilities that assure compatibility of shelter activities with surrounding uses and provide a safe place for individuals and families to obtain temporary shelter.
- B. **Definition of Temporary Shelter.** A temporary shelter is a facility, building, or room used to provide short-term shelter to individuals experiencing homelessness, which may include but is not limited to beds (including overnight accommodations), food, and social services. A temporary shelter differs from a homeless shelter, as defined in Section 25.50, in that a temporary shelter is a short-term use of an existing space for a limited timeframe.
- C. **Location.**
1. Temporary shelters are permitted as an ancillary use within any zoning district, provided that they are located at an existing church or other place of worship or at an existing assembly use and meet the requirements of this section. As an ancillary use, temporary shelters shall be subordinate to or part of the principle assembly use at the existing religious or other assembly facility.
 2. A temporary shelter may not be located within 1,000 feet of any other temporary shelter or homeless shelter that is permitted to operate during the same time-period.
- D. **Temporary Shelter Permit.** No temporary shelter may be established or maintained unless and until a temporary shelter permit has been issued pursuant to Chapter 5A of the Fairfield Municipal Code, the temporary shelter permit is in full force and effect, and a temporary certificate of occupancy has been issued."

SECTION 3. Chapter 5A, "Carnivals," of the Fairfield Municipal Code is hereby replaced in its entirety with a new Chapter 5A, "Temporary Shelter Program," to read as follows:

"CHAPTER 5A

TEMPORARY SHELTER PROGRAM

5A.1 Purpose and Applicability. The purpose of this chapter is to establish a program for the operation of temporary shelters as ancillary uses at existing religious or assembly use facilities, and to implement standards that ensure a safe place for individuals and families to obtain temporary shelter as well as compatibility of shelter activities with surrounding uses. The Temporary Shelter Program shall be administered by the Manager of the Homeless Services Division within the City Manager's Office.

5A.2 Permit Required. No temporary shelter may be established or maintained unless and until a temporary shelter permit has been issued by the Manager of the Homeless Services Division, such permit is in full force and effect, and a temporary certificate of occupancy has been issued.

5A.3 Permit Term and Renewal. A temporary shelter permit shall expire one year after the date of issuance unless earlier revoked. A permit may be renewed upon submission of a new application in the same manner as for the original permit.

5A.4 Permit Application. Any person or organization desiring to operate a temporary shelter under this Chapter shall submit a temporary shelter permit application to the Manager of the Homeless Services Division. The application shall be in writing and include the following:

- A. A site plan and floor plan showing the location of the temporary shelter facility and areas to be used by shelter residents.
- B. If the applicant is not the property or building owner, documentation demonstrating that the applicant has the owner's permission to obtain a temporary shelter permit and proceed to operate the proposed temporary shelter.
- C. A management plan that describes how the shelter will be operated, including the number of people that would be temporarily housed, the days and hours of operation, and the number of monitors that would be on-site during operation of the shelter.
- D. Any additional or supplemental information as is reasonably necessary to verify or clarify that the proposal meets the requirements of this chapter or any other provision of the Fairfield Municipal Code, or to determine appropriate permit conditions or limitations.

5A.5 No Permit Fee Required. No fee shall be required for the processing of a temporary shelter permit application or issuance of a temporary shelter permit. Any applicable fees for zoning clearance, building or fire safety inspection, and issuance of a certificate of occupancy necessary for the temporary shelter permit shall be waived. Notwithstanding the above, if a building or fire safety inspection demonstrates that site repairs, modifications, and/or additional inspections are necessary to meet minimum building or fire code requirements for operation of a temporary shelter, this fee waiver shall not apply to such building permits, fire permits, inspections or other approvals related to such work.

5A.6 Permit Issuance or Denial.

- A. The Manager of the Homeless Services Division shall issue a temporary shelter permit except in the following circumstances:
1. The application is incomplete, or information contained in the application is found to be false in any material detail.
 2. The proposed location is not granted a Zoning Clearance, as required by section 25.32.20 of the City's Zoning Ordinance.
 3. The proposed location is not in compliance with Chapter 27 of the Fairfield Municipal Code.
 4. The applicant fails to complete a building or fire safety inspection, or the building, structure, or equipment at the proposed location does not comply with or fails to meet any health, building, fire or safety laws of the State of California or City of Fairfield.
 5. The application fails to demonstrate an ability to conform to the operating requirements set forth in this Chapter.
- B. The Manager of the Homeless Services Division may impose reasonable conditions of approval on the issuance of a permit to ensure the health, safety, and general welfare of shelter residents, shelter operators, and the surrounding neighborhood. These may include, but are not limited to, conditions regarding parking, noise, trash clean-up, security, insurance, and fire or other life safety measures.
- C. Where a permit application is denied, the applicant shall be notified in writing of the denial and the reasons, therefore.

5A.7 Operating Requirements. Every temporary shelter issued a permit under this chapter shall comply with the following:

- A. No more than 9 persons shall reside at a temporary shelter at one time.
- B. The temporary shelter may operate for up to 6 months within the one-year permit term. The 6-month operating period may be continuous or intermittent.
- C. Shelter operations shall be conducted as described in the management plan submitted with the permit application. Any material changes to the management plan during the term of the permit must be approved in advance by the Homeless Services Division.
- D. At least one manager shall be on-site at all times while the temporary shelter is operating.
- E. Set hours for client intake and discharge shall be established in the permit.
- F. A copy of the temporary shelter permit and temporary certificate of occupancy shall be prominently displayed at the shelter location and shall be exhibited upon request of any city official.
- G. The temporary shelter shall remain in compliance with applicable building and fire life safety codes at all times during the term of the permit.

5A.8 Permit Suspension or Revocation. The Manager of the Homeless Services Division may suspend or revoke a temporary shelter permit issued under this chapter. The following shall constitute grounds for suspension or revocation:

- A. Any of the grounds upon which the Manager may refuse to issue a permit.
- B. Any failure to comply with this chapter or the conditions of the permit.
- C. A violation of federal or state law or any provision of the Fairfield Municipal Code relating to the permit or the provision of the temporary shelter services.

5A.9 Appeals.

- A. An applicant or permittee that is aggrieved by a decision of the Manager of the Homeless Services Division with respect to a permit condition, denial, suspension, or revocation, may appeal the decision by filing a written notice thereof with the City Clerk within 10 calendar days after receipt of notice of the decision. The notice of appeal shall set forth the reasons why the decision should be reversed or modified.
- B. In the event an appeal is filed to challenge a suspension or revocation, the suspension or revocation shall remain in effect until the final decision has been rendered by the City Manager or designee.

- C. The City Manager or his or her designee shall serve as the Hearing Officer. The Hearing Officer shall consider a timely-filed appeal no later than 30 days from the date that the appeal is filed. The appellant shall be notified in writing of the time and place set for the hearing.
- D. Hearings shall be conducted in accordance with the procedures established by the Hearing Officer. All parties involved shall have a right to: (1) offer testimonial, documentary and tangible evidence bearing on the issues; (2) be represented by counsel; and (3) confront and cross-examine witnesses. Any relevant evidence may be admitted that is the sort of evidence upon which reasonable persons are accustomed to rely in the conduct of serious affairs. Any hearing may be continued for a reasonable time for the convenience of a party or a witness.
- E. Unless otherwise specifically provided by law, in any hearing under this chapter the burden is on the appellant to prove that the determination of the Manager was unreasonable and an abuse of discretion.
- F. The Hearing Officer shall, within 10 days of the conclusion of the hearing, issue a written decision on the appeal supported by findings. On the date of the decision, notice thereof shall be mailed to the appellant. The decision of the Hearing Officer shall be final.”

SECTION 4. CEQA. The City Council hereby finds that it can be seen with certainty that there is no possibility that the adoption of this Ordinance, and the activities authorized hereby, may have a significant effect on the environment, because the Ordinance only provides for the ancillary use of land that has already been developed. The temporary shelter services authorized by this Ordinance would be in existing facilities that comply with the City’s zoning, building, and fire code requirements, and the operational requirements adopted herein would ensure that operations would not have a significant effect on the environment. It is therefore not subject to the California Environmental Quality Act (“CEQA”) review pursuant to Section 15061(b)(3) of the CEQA Guidelines. In the alternative, the City Council finds that this Ordinance is exempt pursuant to CEQA Guidelines Sections 15269(c), which applies to specific actions necessary to prevent or mitigate an emergency; Section 15301, which applies to the operation, permitting, or minor alteration of existing structures involving negligible expansion of use; and Section 15303, which applies to installation of small new equipment and facilities in small structures, and the conversion of existing small structures from one use to another.

SECTION 5. Severability. If any section, subsection, sentence, clause, or phrase of this ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the ordinance. The City Council hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause, and phrase thereof, irrespective of the fact that anyone or more sections, subsections, sentences, clauses, or phrases be declared invalid or unconstitutional.

SECTION 6. Effective Date. This urgency ordinance shall go into effect immediately upon adoption and shall remain in effect until repealed by City Council. A summary of this ordinance shall, within fifteen (15) days after passage, be published in accordance with Section 36933 of the Government Code of the State of California with the names of the City Councilmembers voting for and against it.

PASSED AND ADOPTED at a regular meeting of the City Council of the City of Fairfield on the 20th day of October, 2020, by the following vote:

AYES: Councilmembers: PRICE / BERTANI / MOY / TIMM / VACCARO

NOES: Councilmembers: _____

ABSENT: Councilmembers: _____

ABSTAIN: Councilmembers: _____

MAYOR

ATTEST:

CITY CLERK