
Zoning for Shelter for the Homeless



August 6, 2013

Overview of Homeless Need in Menlo Park And State Law Requirements

Every other year, San Mateo County along with many other stakeholders, conducts a homeless count. The last count, which is also referenced in the recently adopted Housing Element, was conducted on January 24, 2013. The count found 16 (unsheltered) homeless people living in Menlo Park and 142 homeless residents in shelters, institutions, motel voucher programs, etc. Zoning for a homeless facility must address the unmet need established in the Housing Element.

Effective January 1, 2008, SB 2 (Chapter 633, Statutes of 2007) requires every California city and county to engage in a detailed analysis of emergency shelters and transitional and supportive housing in their Housing Element and to regulate zoning for these facilities. SB2 requires jurisdictions to explicitly recognize emergency, transitional and supportive housing in their zoning code. As part of the City's recently adopted Housing Element, specific implementation programs were identified to address this requirement.

General Plan Housing Element

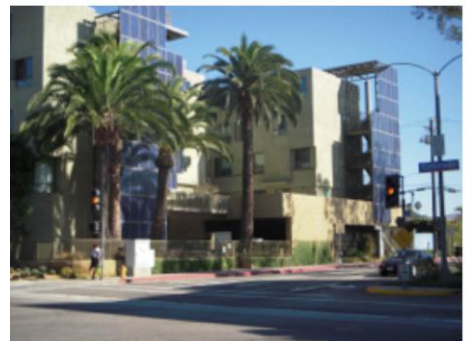
The Menlo Park Housing Element contains the following policy and implementing program related to zoning for a homeless facility.

Housing Element Policy H3.9

“Local Approach to Housing for the Homeless. The City of Menlo Park supports a “housing first” approach to addressing homeless needs, consistent with the Countywide HOPE Plan. “Housing first” is intended to provide homeless people with housing quickly and then provide other services as needed, with a primary focus on helping individuals and families quickly access and sustain permanent housing. The City also recognizes the need for and desirability of emergency shelter housing for the homeless and will allow a year-round emergency shelter as a permitted use in specific locations to be established in the Zoning Ordinance. Designated site(s) must be located within one-quarter mile of a bus stop that provides service 7 days a week, since this could be considered a reasonable distance for a person to walk to/from a bus stop.



Safe Harbor Shelter, South San Francisco, CA



Homeless Facility (with solar), Santa Monica, CA



Congregational Church of San Mateo County, Rotating Shelter, San Mateo, CA

In addition, the following would apply:

- a. The City will encourage a dispersion of facilities to avoid an over-concentration of shelters for the homeless in any given area. An over-concentration of such facilities may negatively impact the neighborhood in which they are located and interfere with the “normalization process” for clients residing in such facilities.
- b. The City will encourage positive relations between neighborhoods and providers of permanent or temporary emergency shelters. Providers or sponsors of emergency shelters, transitional housing programs and community care facilities shall be encouraged to establish outreach programs within their neighborhoods and, when necessary, work with the City or a designated agency to resolve disputes.
- c. It is recommended that a staff person from the provider agency be designated as a contact person with the community to review questions or comments from the neighborhood. Outreach programs may also designate a member of the local neighborhood to their Board of Directors. Neighbors of emergency shelters shall be encouraged to provide a neighborly and hospitable environment for such facilities and their residents.
- d. Development standards for emergency shelters for the homeless located in Menlo Park will ensure that shelters would be developed in a manner which protects the health, safety and general welfare of nearby residents and businesses, while providing for the needs of a segment of the population as required by State law. Shelters shall be subject only to development, design review and management standards that apply to residential or commercial development in the same zone, except for the specific written and objective standards as allowed in State law.”



Cloverfield Services Center, Santa Monica, CA



Homeless Facility, Jackson, CA



First Step for Families, San Mateo, CA

Housing Element Program H3.A

“Zone for Emergency Shelter for the Homeless. The City will establish an overlay zone to allow emergency shelters for the homeless to address the City’s need for providing 16 beds to address homeless needs in the community. Appropriate locations for the overlay zoning will be evaluated based on land availability, physical or environmental constraints (e.g., flooding, chemical contamination, slope instability), location (e.g., proximity to services, jobs, and transit), available acreage (i.e., vacant or non-vacant sites), compatibility with surrounding uses and the realistic capacity for emergency shelters. In reviewing potential non-vacant sites, the potential for reuse or conversion of existing buildings to emergency shelters will be considered. Based on review of other facilities in the Bay Area, it is estimated that about one-quarter to one-half acre of land would be needed to address Menlo Park’s homeless needs. The overlay zone designation will cover between 1 to 3 acres of land to provide a choice of potential sites if and when a facility or multiple, smaller facilities are proposed. The City will also investigate the use of local churches providing temporary shelter for the homeless. In addition, the City will establish written and objective standards in the Zoning Ordinance covering:

- a. Maximum number of beds;
- b. Off-street parking based upon demonstrated need;
- c. Size and location of on-site waiting and intake areas;
- d. Provision of on-site management;
- e. Proximity to other shelters;
- f. Length of stay;
- g. Lighting; and
- h. Security during hours when the shelter is open.

Responsibility: Planning Division; City Attorney; City Commissions; City Council

Financing: General Fund

Objectives: Amend the Zoning Ordinance.¹

Timeframe: 2014”

Overview of Homeless Facilities

State law requires jurisdictions to explicitly recognize emergency shelters in their zoning code. In addition, emergency shelters for the homeless are uses protected under the Housing Accountability Act. The Housing Accountability Act (Government Code Section 65589.5) prohibits a jurisdiction from disapproving a housing development project, including housing for very low, low, or moderate income households, or conditioning approval in a manner that renders the project infeasible for development for the use of very low, low, or moderate income households, including through the use of design review standards, unless it makes specific written findings based on substantial evidence in the record (Government Code Section 65589.5).

Definition of Emergency Shelters (Health and Safety Code Section 50801(e)): “Emergency shelter” means housing with minimal supportive services for homeless persons that is limited to occupancy of six months or less by a homeless person. No individual or household may be denied emergency shelter because of an inability to pay.

Overview of Homeless Regulations

State law requires that within one year of adoption of the Housing Element the City must rezone to allow an emergency shelter for the homeless in at least one zone without a conditional use permit or other discretionary action. Jurisdictions may not require a variance, minor use permit, special use permit or any other discretionary process, although they may apply non-discretionary design review standards. Because of State law, the areas that jurisdictions can regulate are limited and, according to HCD, the regulations must be “predictable and objective” and “encourage and facilitate” the development of shelters. The City is allowed to establish standards covering the number of beds, off-street parking, size and location of exterior and interior on-site waiting and client intake areas, on-site management, proximity to other emergency shelters (provided that emergency shelters are not required to be more than 300 feet apart), length of stay, lighting and security. Standards must (1) “promote” the use and be objective and predictable, (2) must not render emergency shelters infeasible and (3) must only address the use as an emergency shelter, not the perceived characteristics of potential occupants. The homeless shelter may also be subject to certain development standards that match the zoning district (e.g. lot area, height and setbacks).

¹ There must be a realistic potential for redevelopment or reuse within the proposed zone and it must be an appropriate location for a shelter, with access to transportation and services. Within this zone, shelters must be permitted without a conditional use permit or other discretionary action and shelters must be subject to the same development and management standards as other residential or commercial uses within the same zone.

These potential areas of regulation are discussed in more detail below.

(1) MAXIMUM NUMBER OF BEDS. State law specifically allows jurisdictions to regulate the number of beds in an emergency shelter. At the same time, it says limits on the numbers of beds must “facilitate,” “promote,” and “encourage” new emergency housing. There are a couple of ways to approach the bed limits. Homeless shelters in San Mateo County range from six beds to 87 beds, with the median number being 22 beds. Menlo Park, which has a low demonstrated need could set the maximum shelter size the same as their need (16 beds).

(2) OFF-STREET PARKING BASED UPON DEMONSTRATED NEED. The standards may not require more parking for emergency shelters than for other residential or commercial uses within the same zone. Parking is needed for employees, volunteers/visitors and residents. Most homeless families will have a car while most homeless individuals will not. The rule of thumb that InnVision Shelter Network uses is one car per family or .35 cars per individual bed, plus one parking spot per staff member on duty when residents are there (but less if on major a transit route). Homeless shelters that serve the chronically homeless or the mentally ill will have lower parking needs. As a comparison, available parking spaces for various emergency shelters are summarized below:

- Crossroads (Oakland), 0.55 acres, 125 residents, 47 employees, 17 parking spaces
- Family Emergency Center, (San Rafael), 0.25 acres, 52 beds, 16 spaces
- Mill Street Shelter (San Rafael) 0.33 acres, 40 beds, 10 spaces
- Safe Harbor (S. San Francisco), 90 beds, 24 spaces (parking lot is full at night)

(3) SIZE AND LOCATION OF EXTERIOR AND INTERIOR ON-SITE WAITING AND CLIENT INTAKE AREAS. Most ordinances do not have minimum size requirements for waiting and client intake areas, but this is an important topic. According to the Center on Homelessness and other experts, a common design flaw in shelters is to have too little public/communal space or office space. Having adequate waiting/ communal/ gathering areas will reduce the likelihood of loitering and smoking off the property. Communal areas also give space for volunteers to stage and donations to be accepted and sorted. Based on experiences at InnVision Shelter Network, roughly ten square feet per bed is needed. The Safe Harbor facility in South San Francisco recommends roughly two offices or cubicles for each 20 clients. At least one office or up to 25 percent of the offices should also be private. In addition to shelter staff, partner organizations often use the office to provide client services.



Upward Bound House, Culver City, CA

(4) THE PROVISION OF ON-SITE MANAGEMENT. Most ordinances require on-site management when the shelter is open (i.e. has clients at the facility). There are many topics to include in a good management plan, including:

- Client smoking areas and policies
- Volunteer and donation procedures
- Health and Safety plan including emergencies
- Neighborhood communication plan

One useful tool for ensuring a thorough management plan is the Quality Assurance Standards recently produced by the HOPE Quality Improvement Work Group. This document describes both minimal and higher level (desirable) standards and procedures for all aspects of



Step Up on Second, Santa Monica, CA

operating a homeless facility. The City may want to require that management plans consider and address the Quality Assurance Standards. A stronger approach would be to require that the management plan meet the relevant minimum standards.

(5) THE PROXIMITY TO OTHER EMERGENCY SHELTERS. State law allows jurisdictions to establish a 300 feet distance between facilities.

(6) THE LENGTH OF STAY. A standard definition is 30 or 60 days. Ordinances should allow a set length of time with an extension possible if there is no other housing available. For example, temporary shelter shall be available to residents for no more than 60 days but extensions up to a total stay of 180 days may be provided if no alternative housing is available.

(7) LIGHTING. It is difficult to write a lighting ordinance that does not include some degree of subjectivity. “Adequate” lighting may not meet the standard for objectivity as required by law. An alternate definition to consider is — “The lighting shall be sufficient to provide illumination and clear visibility to all outdoor areas, with minimal shadows or light leaving the property. The lighting shall be stationary, directed away from adjacent properties and public rights-of-way, and of intensity compatible/comparable with the neighborhood.”

An alternate standard for lighting would be to use the AB 244 rules (California Financial Code Section 13040-13041), which were written in 1991 to reduce crime at outdoor ATM machines. While objective, these rules have received mixed reviews. Some experts credit the regulations for reducing crime, others believe the standards rely too much on sheer brightness, creating glare and other problems. Adapted for shelters, the rules would read — “There shall be a minimum of 10 candlefoot power at the ~~face of the automated teller machine~~ *door of the shelter* and extending in an unobstructed direction outward five feet... There shall be a minimum of two candlefoot power...*in other areas of the front yard.*” The State definition for candlefoot power is the light intensity of candles on a horizontal plane at 36 inches above ground level and five feet in front of the area to be measured. The hours of darkness are defined as the period beginning 30 minutes after sunset and ending 30 minutes before sunrise.

It may be possible to offer shelters the option of meeting the AB 244 standards or providing adequate external lighting, giving both an objective standard and a more conventional planning definition.

(8) SECURITY DURING HOURS OF OPERATION. Most shelters do not admit dangerous clients, will work to quickly deescalate potentially dangerous situations, and will call the police if a client poses a threat. Staff members are told not to engage or restrain dangerous clients. Still, best practices call for shelters to have a security/emergency plan.

(9) NON-DISCRETIONARY DESIGN STANDARDS. Traditionally, homeless shelters were seen as basic, utilitarian housing for the poor. They were often crowded and lacked basic design amenities. Recently, there has been an effort to raise the standards of homeless shelters to make them fit in better with the neighborhood and be more inspirational places for the clients.

Some specific design guidelines include:

- Shelters should have designated smoking areas not visible from the street, ideally outside.
- There should be no space for outdoor congregating in front of the building and no outdoor public telephones.
- There should be a refuse area screened from view.
- The shelter should have disabled access.

- There should be bicycle parking.
- Other design standards that apply to residential buildings.

(10) OTHER DEVELOPMENT STANDARDS. The shelter may be subject to objective standards applied to other uses in the zone. For instance, FAR, setback, height, lot area, etc. could be covered. In addition, HCD suggests there may be some flexibility for additional standards that are the same as other residential uses in the zone. For instance, if residential uses require outdoor space, the standard could be applied to shelters. In recent years, many jurisdictions have required amenities at homeless shelters, but based on a strict reading of the law, these should now be treated as optional or desired, rather than required. The best source of standards is the recently published Quality Assurance Standards referenced above. Sample best practices from this material include:

- Outdoor gathering space and smoking space is important
- Laundry facilities or tokens to local laundry
- Safe storage for belongings (this is definitely desirable but can be a management challenge). Ideally storage should be located at the beds
- Toiletries (soap, toilet paper)
- Clean drinking water
- Phone to make free local calls and/or outlets to charge cell phones
- Shared/communal areas for socializing
- Hiring a diverse staff, and training -for staff in how to interact with gay/lesbian/transgender populations and people with disabilities
- Assistance finding permanent housing
- Classes or training for important life skills
- Family shelters need play areas
- Interior lighting should be dimmable for nighttime use

Background on Possible Criteria for Zoning for Shelter for the Homeless

Below are possible factors (or criteria) to consider in Menlo Park for the location of appropriate zoning for emergency shelter for the homeless. This initial list can provide a starting point for discussion at the Steering Committee’s first meeting.



Maple Street Shelter, Redwood City, CA

- (1) **Is the location suitable for a residential use of this kind?** What other uses are permitted in the underlying zoning and is the underlying zoning suitable for residential or emergency shelters (e.g., an industrial zone with manufacturing activities may have environmental conditions rendering it unsuitable for residential or shelter uses. In some localities, manufacturing or industrial zones may be in transition, where older industrial uses are redeveloping to residential, office or commercial). Quality residential locations should consider the following conditions:
 - a. High noise levels (traffic or from commercial activities)
 - b. Hazards (toxic soils, etc.)
 - c. Compatibility with the operation of adjacent uses — ensure neighborhood livability, physical compatibility, function of the area and public services.

- (2) **Are there transitional areas that might be acceptable for a homeless facility?** Transition areas may be compatible with residential uses and suitable for emergency shelters. Also, a commercial zone allowing

residential or residential compatible services (i.e., social services, offices) could be suitable for shelters. For example, Sacramento County permits emergency shelters in its commercial zone along with other residential uses and uses such as retail that are compatible with residential.

- (3) **Is there sufficient capacity to accommodate the need?** The identified overlay zone must have sufficient capacity, when taken as a whole, to meet the need for shelters identified in the housing element, and have a realistic potential for development or reuse opportunities in the planning period. Sub-factors related to the ability to accommodate the need include:
 - a. **Minimum site area required.** Are there sites in the area zoned that can accommodate a facility on one-quarter to one-half of an acre to accommodate the facility and parking demand?
 - b. **Choices of sites.** Are there sites available and appropriately zoned for a homeless facility?
 - c. **Site development constraints.** Capacity for emergency shelters must be suitable and available and account for physical features (flooding, seismic hazards, chemical contamination and other environmental constraints, and slope instability or erosion).
- (4) **Location and proximity to services.** Access to supportive services, community services and transportation should be considered. Residents generally need ready access to community services such as shopping, transportation and health care. One example would be a requirement that a facility be located within one-quarter mile of bus stop. Another example would be the location in proximity of a facility that operates to serve the homeless population, such as a jobs center or other service locations.
- (5) **Is there sufficient acreage and realistic capacity?** Zoning must also address available acreage (vacant or underutilized) and the realistic capacity for emergency shelters in the zone. For example, if a jurisdiction identifies public institution zoning district as the zone where emergency shelters will be allowed without a conditional use permit, the Housing Element should demonstrate sufficient acreage within the zoning district that could accommodate the actual development of an emergency shelter. The Housing Element could also discuss the potential for reuse or conversion of existing buildings to emergency shelters.
- (6) **Concentration of emergency facilities.** Generally, cities that have numerous residential care facilities try to control the close concentration of emergency facilities to ensure (1) a fair distribution of residential care facilities, (2) prevent the perceived “institutionalized ghetto” affect that occurs when social service providers concentrate their facilities in one location, and (3) better serve the homeless by integrating them into functioning communities and removing them from negative influences.
- (7) **Minimum distance to sensitive uses.** Possible examples of sensitive uses include day care facilities, schools and parks. Consultation should also with the Police Department on current criminal activity of proposed placement location area.
- (8) **Service population.** Homeless shelters often focus on certain service populations. Examples of service population are single individuals, youth (under 18 years), families, and mixed populations. Zoning may differentiate among these groups in terms of specific locations and standards, but all groups need to be served.