



*Community Development Department  
Planning Division  
Zoning Code Amendment*

**AGENDA ITEM NO.: 4**

**WARD NO: All  
NEIGHBORHOOD: All**

**PLANNING COMMISSION HEARING DATE: November 5, 2009**

**I. CASE NUMBER(S): P09-0618**

**II. PROJECT SUMMARY:**

- 1) Proposal:** To amend the Zoning Code (Title 19 of the Municipal Code) as it relates to: 1) Article X – Definitions by amending the definitions of emergency shelter, supportive housing and transitional housing for compliance with Government Code 65582 and 2) Article V – Base Zones and Related Use and Development Provisions by adding language to bring the Zoning Code into greater compliance with Government Code 37100 regarding uses prohibited by state and federal law.
- 2) Location:** City of Riverside
- 3) Applicant:** City of Riverside, Planning Division  
3900 Main Street, 3rd Floor  
Riverside, CA 92522  
(951) 826-5625
- 4) Case Planner:** Diane Jenkins, AICP, Principal Planner  
(951) 826-5625  
DiJenkins@Riversideca.gov

**III. RECOMMENDATION:**

**That the City Planning Commission:**

1. Determine that this proposal is exempt from California Environmental Quality Act (CEQA) review pursuant to Sections 15061(b)(3) as it can be seen with certainty that there is no possibility that this Code amendment will have a significant effect on the environment.
2. **RECOMMEND APPROVAL** of Planning Case P09-0618 based on the findings outlined in the staff report and summarized in the following and subject to the recommended conditions of approval:
  - a. that the proposed Zoning Code Text Amendment is consistent with the goals, policies, and objectives of the General Plan 2025, which is also in compliance with the Government

Code and state and federal laws;

- b. that the proposed Zoning Code Text Amendment will not adversely affect surrounding properties as compliance with the Government Code regarding shelters, supportive and transitional housing and prohibiting uses prohibited by state and federal law will protect properties in the City; and
- c. that the proposed Zoning Code Text Amendment promotes the public health, safety, and general welfare and serves the goals and purposes of the Zoning Code by complying with the Government Code regarding shelters, supportive and transitional housing and prohibiting use prohibited by state and federal law.

#### **IV. BACKGROUND/HISTORY:**

##### *Emergency Shelters, Supportive and Transitional Housing*

The City is currently working on the Housing Element update for the Regional Housing Needs Assessment (RHNA) Cycle of 2006 – 2014. As part of this update process, it was brought to our attention that our definitions for emergency shelters, and supportive and transitional housing are not in compliance with Government Code section 65582. For example, the City doesn't have a definition for supportive housing. Therefore, it is recommended the definitions for emergency shelters and supportive and transitional housing be amended.

##### *Uses Prohibited by State and Federal Law*

The California Government Code does not permit a City to have an ordinance that is in conflict with the Constitution and laws of the State or the United States. This section of the Government Code reads as follows:

37100 *The legislative body may pass ordinances not in conflict with the Constitution and laws of the State or the United States.*

To ensure the Zoning Code complies with this section of the Government Code, it is recommended that additional language be added to Article V – Base Zones and Related Use and Development Provisions.

#### **V. PROJECT ANALYSIS:**

##### *Emergency Shelters, Supportive and Transitional Housing*

The City's definitions for emergency shelters and transitional shelter/housing are overly cumbersome and the City currently does not have a definition for supportive housing (Exhibit 1). This amendment proposes to amend the definitions for emergency shelters, supportive housing and transitional housing to those found in Government Code section 65582, which refers to the Health and Safety Code as follows:

*Emergency shelters: 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. (Section 50801 (e))*

*Transitional housing and transitional housing development: means buildings configured as rental housing developments, but operated under program requirements that call for the termination of assistance and recirculation of the assisted unit to another eligible program recipient at some predetermined future point in time, which shall be no less than six months. (Section 50675.2 (h))*

*Supportive housing: housing with no limit on length of stay, that is occupied by the target population as defined in subdivision (d) of Section 53260, and that is linked to on- or off-site services that assist the supportive housing resident in retaining the housing, improving his or her health status, and maximizing his or her ability to live and, when possible, work in the community. (Section 50675.14 (b))*

*Target population: means adults with low-income having one or more disabilities, including mental illness, HIV or AIDS, substance abuse, or other chronic health conditions, or individuals eligible for services provided under the Lanterman Developmental Disabilities Services Act (Division 4.5 (commencing with Section 4500) of the Welfare and Institutions Code) and may, among other population, include families with children elderly persons, young adults aging out of foster care system, individuals exiting from institutional settings, veterans, or homeless people.*

Rather than actually writing out the definition, this proposal recommends just referring to the Health and Safety Code Section where the definition can be found. In this manner, the definitions will remain current with the Health and Safety Code, including all other references the definitions make to terminology and other Sections of the Health and Safety Code.

#### *Uses Prohibited by State and Federal Law*

In Article V – Base Zones and Related Use and Development Provisions all of the zones are defined and the permitted and prohibited uses are called out. Therefore, it is recommended that under each zone where permitted and prohibited uses are discussed, the following sentence be added:

*Any use which is prohibited by state and/or federal law is also strictly prohibited.*

This would bring the Zoning Code into greater compliance with the Government Code. To be clear, the Zoning Code is currently compliant with the Government Code as it does not permit any use which is prohibited by state or federal law. Any use which is not listed on the Permitted Uses Table – 19.150.020 (A) is prohibited per section 19.150.020 – Permitted Land Uses of the Zoning Code. This addendum is intended to state this provision in clear and unambiguous language.

#### *Summary*

Exhibit 1 of this staff report reflects the recommended changes to Article X – Definitions and Article V – Base Zones and Related Use and Development Provisions in **redline** and ~~strikeout~~. It is noted that there are additional changes to Article V – Base Zones and Related Use and Development Provisions in Exhibit 1, than the noted addition of the added sentence, these changes

are to create consistency between the “Permitted Land Uses” sections under each zoning classification.

**VI. PUBLIC NOTICE AND COMMENTS:**

Pursuant to Section 19.670.040 (Notice of Hearing for Legislative Actions) of the Zoning Code, a one-eighth page ad public notice was placed in the local newspaper of general circulation within the City (*The Press Enterprise*) ten (10) days prior to this hearing.

**VII. EXHIBITS:**

1. Proposed Amendment to Title 19 (Zoning Code) of the Riverside Municipal Code

## **RECOMMENDED CONDITIONS & GENERAL INFORMATION NOTES**

Case Number: P09-0618

Meeting Date: November 5, 2009

**CONDITIONS**      *All mitigation measures are noted by an asterisk (\*).*

### **Case Specific**

#### ● **Planning**

1. The Zoning Code shall be amended s shown on Exhibit 1.
2. The City Attorney's Office shall prepare the appropriate ordinance for City Council adoption of the Zoning Code Text Amendment within thirty days of Planning Commission approval of this case.

### **GENERAL INFORMATION NOTES**

1. Appeal Information
  - a. Actions by the City Planning Commission, including any environmental finding, may be appealed to the City Council within ten calendar days after the decision.
  - b. Appeal filing and processing information may be obtained from the Community Development Department, Planning Division, Public Information Section, 3rd Floor, City Hall.

# P09-0618, Exhibit #1

## CITY PLANNING COMMISSION PROPOSED AMENDMENT TO TITLE 19

(Please note “**redline**” text reflects added language, the “~~strikeout~~” text indicates deleted language)

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### ARTICLE V – BASE ZONES AND RELATED USE AND DEVELOPMENT PROVISIONS

#### Chapter 19.100

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### ***Residential Zones (RA-5, RC, RR, RE, R-1-½ Acre, R-1-13000, R-1-10500, R-1-8500, R-1-7000, R-3-4000, R-3-3000, R-3-2500, R-3-2000, R-3-1500, R-4)***

#### 19.100.030 Permitted Land Uses

Table 19.150.020 A (Permitted Uses Table), Table 19.150.020 B (Incidental Use Table) and Table 19.150.020 C (Temporary Uses Table) in Chapter 19.150 (Base Zones Permitted Land Uses) identify permitted uses, **permitted accessory uses, permitted temporary uses, and uses permitted subject to the** requiring approval of a minor conditional use permit (Chapter 19.730 – Minor Conditional Use Permit), uses requiring approval of a conditional use permit (Chapter 19.760 – Conditional Use Permit), or uses requiring some other permit. Table 19.150.020 A also identifies those uses that are specifically prohibited. Uses not listed in the Tables are prohibited unless the Zoning Administrator, pursuant to Chapter 19.060 (Interpretation of Code), determines that the use is similar to and no more detrimental than a listed permitted or conditional use. **Any use which is prohibited by state and/or federal law is also strictly prohibited.**

#### Chapter 19.110

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### ***Commercial and Office Zones (O, CR, CG and CRC)***

#### 19.110.020 Permitted Land Uses

- A. Table 19.150.020 A (Permitted Uses Table), Table 19.150.020 B (Incidental Uses Table) and Table 19.150.020 C (Temporary Uses Table) in Chapter 19.150 (Base Zones Permitted Land Uses) identify permitted uses, permitted accessory uses, **permitted temporary uses,** and uses permitted subject to the approval of a minor conditional use permit (**Chapter 19.730 – Minor Conditional Use Permit**) or conditional use permit (**Chapter 19.760 – Conditional Use Permit**), or **uses requiring** subject to the approval of some other specified permit. Table 19.150.020 A also identifies those uses that are specifically prohibited. Uses not listed in the Tables are prohibited unless, pursuant to the provisions of Chapter 19.060 (Interpretation of Code), the Zoning Administrator, **pursuant to Chapter 19.060 (Interpretation of Code),** determines that such **the** use is similar to and no more detrimental than a listed permitted or conditional use. **Any use which is prohibited by state and/or federal law is also strictly prohibited.**

- B. The provisions set forth in Chapter 19.215 (Neighborhood Commercial Overlay Zone – NC) may be applied to any commercial zone and may further limit the uses permitted.

## Chapter 19.120

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### ***Mixed-Use Zones (MU-N, MU-V, MU-U)***

#### 19.120.020 Permitted Land Uses

Table 19.150.020 A (Permitted Uses Table), Table 19.150.020 B (Incidental Uses Table and Table 19.150.020 C (Temporary Uses Table) in Chapter 19.150 (Base Zones Permitted Land Uses) identify permitted uses, permitted accessory uses, permitted temporary uses, and uses permitted subject to the approval of a minor conditional use permit (Chapter 19.730 – Minor Conditional Use Permit), uses requiring approval of a conditional use permit (Chapter 19.760 – Conditional Use Permit), or uses requiring some other permit. Table 19.150.020 A also identifies those uses that are specifically prohibited. Uses not listed in the Tables are prohibited unless the Zoning Administrator, pursuant to Chapter 19.060 (Interpretation of Code), determines that the use is similar to and no more detrimental than a listed permitted or conditional use. Any use which is prohibited by state and/or federal law is also strictly prohibited.

## Chapter 19.130

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### ***Industrial Zones (BMP, I, AI and AIR)***

#### 19.130.020 Permitted Land Uses

Table 19.150.020 A (Permitted Uses Table), Table 19.150.020 B (Incidental Uses Table and Table 19.150.020 C (Temporary Uses Table) in Chapter 19.150 (Base Zones Permitted Land Uses) identify permitted uses, permitted accessory uses, permitted temporary uses, and uses permitted subject to the approval of a minor conditional use permit (Chapter 19.730 – Minor Conditional Use Permit), or conditional use permit (Chapter 19.760 – Conditional Use Permit), or subject to the approval of uses requiring some other specified permit. Table 19.150.020 A also identifies those uses that are specifically prohibited. Uses not listed in the Tables or in Section 19.130.025 (Uses Specifically Prohibited) are prohibited unless, pursuant to the provisions of Chapter 19.060 (Interpretation of Code), the Zoning Administrator, pursuant to Chapter 19.060 (Interpretation of Code), determines that the such use is similar to and no more detrimental than a listed permitted or conditional use. Any use which is prohibited by state and/or federal law is also strictly prohibited.

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## ***Public Facilities Zone (PF)***

### **19.140.020 Permitted Land Uses**

- A. Table 19.150.020 A (Permitted Uses Table), Table 19.150.020 B (Incidental Uses Table and Table 19.150.020 C (Temporary Uses Table) in Chapter 19.150 (Base Zones Permitted Land Uses) identify permitted uses, permitted accessory uses, permitted temporary uses, and uses permitted subject to the approval of a minor conditional use permit (Chapter 19.730 – Minor Conditional Use Permit), uses requiring approval of a conditional use permit (Chapter 19.760 – Conditional Use Permit), or uses requiring some other permit. Table 19.150.020 A also identifies those uses that are specifically prohibited. Uses not listed in the Tables are prohibited unless the Zoning Administrator, pursuant to Chapter 19.060 (Interpretation of Code), determines that the use is similar to and no more detrimental than a listed permitted or conditional use. Any use which is prohibited by state and/or federal law is also strictly prohibited.
- B. The following uses are permitted as a matter of right in the Public Facilities Zone:
1. Drainage and flood control facilities
  2. Any public facility use not involving a structure or building, except for public parks
- C. The following uses are permitted in the Public Facilities Zone subject to the granting of a Conditional Use Permit pursuant to the provisions of Chapter 19.760 (Conditional Use Permit) of the Zoning Code.
1. Public buildings and associated grounds used for governmental and related purposes and activities
  2. Public educational institutions
  3. Public parks and recreation facilities
  4. Public rifle, pistol and archery ranges
  5. Zoos, arboretums, wildlife preserves and similar uses
  6. Water and sewage treatment plants
  7. Utility substations
  8. Power generation facilities
  9. Government agency storage and maintenance yards
  10. Public parking garages

## ***Railway Zone (RWY)***

### **19.145.020 Permitted Land Uses**

- A. Table 19.150.020 A (Permitted Uses Table), Table 19.150.020 B (Incidental Uses Table and Table 19.150.020 C (Temporary Uses Table) in Chapter 19.150 (Base Zones Permitted Land Uses) identify permitted uses, permitted accessory uses, permitted temporary uses, and uses permitted subject to the approval of a minor conditional use permit (Chapter 19.730 – Minor Conditional Use Permit), uses requiring approval of a conditional use permit (Chapter 19.760 – Conditional Use Permit), or uses requiring some other permit. Table 19.150.020 A also identifies those uses that are specifically prohibited. Uses not listed in the Tables are prohibited unless the Zoning Administrator, pursuant to Chapter 19.060 (Interpretation of Code), determines that the use is similar to and no more detrimental than a listed permitted or conditional use. Any use which is prohibited by state and/or federal law is also strictly prohibited.
- B. The following uses shall be permitted by right in the Railway zone:
1. Right-of-way for railroad and associated transportation of goods and persons.
  2. Uses customarily incidental to railway operations and their related transportation purposes, including railway related structures and accessory buildings used specifically for that railway or transportation business, but not including manufacturing or business purposes not directly in connection with a railway or carrier itself.
  3. Light-rail transit related facilities consisting of:
    - a. Tracks
    - b. Energy transmission facilities, including rights-of-way and pressure control or booster stations for gasoline, electricity, natural gas, synthetic natural gas, oil or other forms of energy sources
  4. Public streets
  5. Any other use that the Zoning Administrator, pursuant to provisions of Chapter 19.060 (Interpretation of Code), the Zoning Administrator determines that such use is to an no more detrimental than a listed permitted or conditional use.
- C. Construction Caretaker Temporary Living Quarters shall be permitted subject to approval of a Minor Conditional Use Permit pursuant to the provisions of Chapter 19.730 (Minor Conditional Use Permit).
- D. The following uses are permitted subject to the granting of a conditional use permit pursuant to the provisions of Chapter 19.760 (Conditional Use Permit):
1. Parking lots, although no structures other than fencing are allowed.

2. Maintenance/repair facilities
  3. Train Stations
- E. Sound attenuation walls shall be permitted subject to Design Review pursuant to the provisions of Chapter 19.710 (Design Review).

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#### Chapter 19.147

### ***Downtown Specific Plan Zone (DSP)***

#### 19.147.020 Permitted Land Uses

All permitted and conditionally permitted uses for each subdistrict are listed in the adopted Downtown Specific Plan. **Any use which is prohibited by state and/or federal law is also strictly prohibited.**

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#### Chapter 19.148

### ***Orangecrest Specific Plan Zone (OSP)***

#### 19.148.020 Permitted Land Uses

All permitted and conditionally permitted uses for each subdistrict are listed in the adopted Orangecrest Specific Plan. **Any use which is prohibited by state and/or federal law is also strictly prohibited.**

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#### Chapter 19.150

### ***Base Zones Permitted Land Uses***

#### 19.150.020 Permitted Land Uses

Table 19.150.020 A (Permitted Uses Table), Table 19.150.020 B (Incidental Uses Table) and Table 19.150.020 C (Temporary Uses Table) **in Chapter 19.150 (Base Zones Permitted Land Uses)** identify permitted uses, **permitted** accessory uses, **permitted temporary uses, and** uses permitted subject to the approval of a minor conditional use permit (**Chapter 19.730 – Minor Conditional Use Permit**), or conditional use permit (**Chapter 19.760 – Conditional Use Permit**), or **uses requiring** subject to the approval of some other specified permit. **Table 19.150.020 A also identifies those uses that are specifically prohibited.** Uses not listed in Tables are prohibited unless, pursuant to the provisions of Chapter 19.060 (Interpretation of Code), the Zoning Administrator, **pursuant to Chapter 19.060 (Interpretation of Code)**, determines that such **the** use is similar and no more detrimental than a listed permitted or conditional use. **Any use which is prohibited by state and/or federal law is also strictly prohibited.**

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## ARTICLE X – DEFINITIONS

<b>19.910.060</b>	
<b>Emergency shelter</b>	See <del>shelter, emergency</del> . <b><u>Has the same meaning as defined in subdivision (e) of Section 50801 of the Health and Safety Code.</u></b>
<b>19.910.200</b>	
<b>Shelter, emergency</b>	<del>A facility that provides temporary overnight shelter for persons with no permanent housing. Such facilities may offer services to meet basic needs such as food, clothing, and limited medical care. Other permitted operations of individual facilities are defined through conditions of approval imposed upon each permitted facility. See definition in the General Plan.</del>
<b>Shelter or housing, transitional</b>	<del>Residential accommodations for two or more persons unrelated by blood, marriage, or legal adoption, including support/counseling services for homeless individuals and/or families. The intent of this type of facility is to provide a stable environment for the homeless and to facilitate self-sufficiency. This type of facility typically involves a situation wherein the resident is accountable to the owner/operator for his location and conduct among other factors. The use of United States Department of Housing and Urban Development repossessed single-family residences for shelter purposes shall not be defined as “transitional shelter.” See definition in the General Plan.</del>
<b>Shelter, permanent emergency</b>	<del>A facility operating year round to provide nightly shelter for homeless individuals and/or for families. The intent of this type of facility is to provide short duration emergency shelter.</del>
<b><u>Supportive housing</u></b>	<b><u>Has the same meaning as defined in subdivision (b) of Section 50675.14 of the Health and Safety Code.</u></b>
<b>19.910.210</b>	
<b>Transitional shelter or housing and transitional housing development</b>	See <del>shelter or housing transitional</del> . <b><u>Has the same meaning as defined in subdivision (h) of Section 50675.2 of the Health and Safety Code.</u></b>