

FILE NUMBER: DCA189-005

DATE INITIATED: May 29, 2019

TOPIC: Temporary Inclement Weather Shelters

CITY COUNCIL DISTRICTS: All

CENSUS TRACTS: All

PROPOSAL: Consideration of amending Sections 51-4.217 and 51A-4.217 of the Dallas Development Code to allow temporary inclement weather shelters as a specific accessory use.

SUMMARY: The proposal creates a new specific accessory use that allows temporary shelter during times of inclement weather in compliance with Chapter 45.

ZOAC RECOMMENDATION: Approval

STAFF RECOMMENDATION: Approval

BACKGROUND

- On April 17, 2019, the Office of Homeless Solutions (OHS) briefed full City Council on Inclement Weather. Direction was given to modify and refine terminology, clarify operation of temporary inclement weather shelters, and explore options to amend Chapter 51A.
- On May 2, 2019, the Citizen Homelessness Commission (CHC) convened a special called meeting to discuss inclement weather sheltering.
- On May 15, 2019, the Office of Homeless Solutions briefed full City Council on Inclement Weather. City Council supported staff recommendation to establish a new use in Chapter 51A.
- On June 20, 2019, staff gave a presentation on overview of temporary inclement weather shelter and potential code amendments to Chapter 51 and 51A to ZOAC. The committee asked questions throughout the presentation and requested the Office of Homeless Solutions provide prior Citizen Homeless Commission and City Council involvement and feedback, community feedback, and highlights on the Temporary Inclement Weather Shelter Program as being drafted for the new Chapter 45.
- On August 15, 2019, the Office of Homeless Solutions gave a presentation on the Temporary Inclement Weather Shelter Program to ZOAC. ZOAC requested that this item be delayed in returning to ZOAC until after the Citizen Homeless Commission meeting scheduled for September 12, 2019.
- On September 12, 2019, the Office of Homeless Solutions briefed the Citizen Homelessness Commission on an update of the Temporary Inclement Weather Shelter Program. The committee asked questions at the conclusion of the presentation relating to procedure and process of the program.
- On September 19, 2019, the Zoning Ordinance Advisory Committee (ZOAC) considered this issue and voted to recommended the proposal move to City Plan Commission (CPC).
- On November 21, 2019, staff briefed the City Plan Commission (CPC) on Temporary Inclement Weather Shelters.
- On December 10, 2019, the Office of Homeless Solutions was scheduled to brief the Housing and Homeless Solutions Council Committee on an update of the Temporary Inclement Weather Shelter Program. However, the committee moved to hold the item for briefing until the January committee meeting but have City Plan Commission move forward with the land use portion in Chapter 51 and Chapter 51A of the two pronged approach.

- Video: <https://dallastx.swagit.com/play/12102019-924>
- Presentation: <https://cityofdallas.legistar.com/LegislationDetail.aspx?ID=4276297&GUID=967842F0-1B30-4250-ADE6-2C9E2CC3D76E&Options=&Search=>

GENERAL INFO/STAFF ANALYSIS:

City Council gave direction to initiate a code amendment to allow the opportunity to provide temporary emergency shelter for the homeless during times of severe temperatures. Early iterations of this code amendment were of a new lodging use because an overnight general purpose shelter is codified as a lodging use. Under this new lodging use, a provision to be in conjunction with a Certificate of Occupancy for a nonresidential use was added. The paired use must then also be a nonresidential use to ensure that the overnight sheltering of the homeless is not permitted within residential uses. In this iteration of the new use, elements of implementing this use, such as defining inclement weather and inclement weather period and capping the maximum number of overnight guests, were built into the draft ordinance. After staff deliberation, meetings with OHS staff, and Building Inspections staff, it was determined that the details of the program would be located in the new chapter, not in the land use. The direction from Council was to create a use that would allow for the overnight sheltering of the homeless during times of inclement weather, not to establish the process by which this function will be actualized.

Upon further examination of the intent and function of the new use, it was determined that the use temporary inclement weather shelter is more appropriately categorized as a specific accessory use. Unlike an overnight general purpose shelter, a temporary inclement weather shelter is not meant to be a primary or exclusive use—meaning that this use would be accessory to a main use. The intent of this new use is to allow the overnight sheltering of the homeless during times of inclement weather on a temporary basis, as a accessory use where there is an existing main use. Not only does temporary inclement weather shelter more reasonably fit as a specific accessory use, but as such would be allowed in most Planned Development Districts. Generally, when a Planned Development District is established, Section 51-4.217 or 51A-4.217 ACCESSORY USES is referenced for applicability and regulations. When specific accessory uses, as listed in that section, are not to be allowed in the Planned Development District they are listed individually in the Planned Development District as “not permitted” and the other specific accessory uses listed are allowed. Therefore, if code amendments are made to Chapters 51 or 51A adding new specific accessory uses after the establishment of the Planned Development District, those uses would be allowed in the Planned Development District until such time as the Planned Development District was otherwise amended. However, Planned Development Districts that list all uses that

“are permitted” would not allow new uses that are added at a later date, such as the proposed specific accessory use Temporary Inclement Weather Shelters.

A two-pronged approach provides for the amendment to Chapters 51 and 51A to create a new specific accessory use in conjunction with the second prong which is the creation of a new chapter in City Code. The second prong, the new Chapter 45 being created by OHS, will contain the process and procedure in which interested parties may participate, operate, and be permitted. Additionally, potential spacing requirements from other temporary inclement weather shelters and overnight general purpose shelters will be housed in Chapter 45. Spacing has a precedent of being located in the chapter governing the operation of the program as is the case in Chapter 6 Alcoholic Beverages, for example.

PROPOSAL:

Staff proposes a two-pronged approach to establish temporary inclement weather shelters. The first prong is to create the land use to allow temporary inclement weather shelters by amending Chapters 51 and 51A. The second prong is creation of Chapter 45 in the Dallas City Code by the Office of Homeless Solutions. This new chapter will include, but is not limited to, the program details and regulations, operations, life safety requirements, licensing, and permitting of the program.

The temporary inclement weather shelter is proposed to be a specific accessory use under Section 51A-4.217. Temporary inclement weather shelters may only operate in conjunction with an existing Certificate of Occupancy (CO) for a main use. As a specific accessory use, temporary inclement shelter would be allowed in most Planned Development Districts unless specified otherwise in the Planned Development District. Because most PDs list the specific accessory uses that are “not permitted”, by default the other specific accessssory uses listed are allowed. Therefore additional specific accessory uses being added to the Code after the establishment of the PD would be allowed.

Temporary inclement weather shelters are not permitted in Parking (P) districts because no main use allowed in a parking district would allow the accessory use temporary inclement weather shelters.

No additional off-street parking or loading is required. The main use must already provide required parking.

This use must comply with the regulations in Chapter 45, and may only operate in conjunction with a Certificate of Occupancy. This use is not allowed in conjunction with single family, duplex, townhouse, or handicapped group dwelling unit.

The area restrictions in Subsection (a)(3) will not apply to temporary inclement weather shelters. Unless specifically called out, accessory uses can only occupy five percent of the area of the lot, or floor area, containing the main use.

**Zoning Ordinance Advisory Committee (ZOAC) Meeting Minutes
September 20, 2019**

Motion to accept staff's recommendation for amendments to the Dallas Development Code to define and establish regulations for inclement weather shelters as presented.

Motion: Brown
2nd: Behring

Result: Passed: 5-1
For: Shidid, Behring, Brown, Gomez, and Hall
Against: Murphy
Absent: None

DRAFT ORDINANCE

Sec. 51A-4.217 Accessory Uses

(b) Specific accessory uses.

(11.1) Temporary inclement weather shelter.

(A) Definition: A facility that offers shelter during times of inclement weather in compliance with Chapter 45.

(B) District restrictions: This accessory use is not permitted in Parking (P).

(C) Required off-street parking: None required.

(D) Required off-street loading: None required.

(E) Additional provisions:

(i) This use must comply with the regulations in Chapter 45.

(ii) This use may only operate in conjunction with a Certificate of Occupancy. This use is not allowed in conjunction with single family, duplex, townhouse, or handicapped group dwelling unit.

(iii) The area restrictions in Subsection (a)(3) do not apply to this use.