

Temporary Inclement Weather Shelters

Staff: Nathan Warren

**Request:**

Consideration of amending Chapters 51 and 51A of the Dallas Development Code to define and establish regulations for inclement weather shelters.

**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.

In summary, their statements were:

- Buffer zones:
  - Why buffer zone?
  - Buffers allow decentralization
  - Do not include buffer
  - If buffer is included, it should be in Program Chapter (Chapter 45), not in Chapter 51A
- Operational period not limited by months.

- No exclusion of uses
- Require SUP
- The Office of Homeless Solutions would continue to brief the Citizen Homeless Commission on the progress of the code amendment.

**Purpose:**

To determine the appropriate land use to allow the temporary inclement weather program being developed and administered by OHS, to operate.

**General Information:**

After the briefing to Council on May 15, 2019, direction was given to establish a new use in Chapter 51A that would allow for the overnight sheltering of the homeless during times of inclement weather. An appropriate land use needs to be determined to enable interested parties to shelter the homeless during times of inclement weather. Currently, the use overnight general purpose shelter is prohibited to operate within 1,000 feet of a church. Quite often it is a faith-based use that has a structure that could accommodate emergency sheltering. The growing need for organizations to be allowed to shelter the homeless on an emergency basis has initiated an examination of city code to discover best practices to enable the programs to function.

The number of unsheltered homeless has increased by 9% from 2018 to 2019 and emergency shelter beds are at full capacity. Currently code only allows for an overnight general purpose shelter [Section 51A-4.205(2.1)(A)(ii)] defined as an emergency lodging facility (as opposed to a residential or medical treatment facility) that provides room and board to more than four persons who are not related by blood, marriage, or adoption to the head of the household or the owner or operator of the facility, and that negotiates sleeping arrangements on a daily basis, whether or not the facility is operated for profit or charges for the services it offers.

Overnight general purpose shelters are:

- Allowed with a SUP in LO(A), MO(A), GO(A), CR, RR, CS, LI, IR, central area, MU-2, MU-2(SAH), MU-3, MU-3(SAH), and multiple commercial districts if there are 20 overnight guests or less.
- Allowed with a SUP in GO(A), CS, LI, IR, and central area districts if there are more than 20 overnight guests.
- Permitted to have a maximum of 20 overnight guests in LO(A), MO(A), CR, RR, MU-2, MU-3, and multiple commercial districts.
- Permitted to have a maximum of 200 overnight guests in all other cases.
- Required to be spaced at least 1,000 feet away from a church, a public or private elementary or secondary school, any residential use listed in Section 51A-4.209 except a “college dormitory, fraternity, or sorority house”, any residential district, historic overlay district, or public park, and any other overnight general purpose shelter.

## Other Cities Research

### *Austin, TX*

The organization Front Steps coordinates with local churches and city emergency officials to open additional space to provide temporary overnight shelter on freezing nights. Austin's lack of shelter space forces many homeless people to sleep outside during winter months. Several years ago, Front Steps and Austin Area Interreligious Ministries (AAIM) developed the Cold Weather Shelter Program, coordinating local churches and community volunteers to provide shelter in church facilities on nights when the temperature drops to freezing.<sup>1</sup>

### *El Paso, TX*

The City of El Paso has no formal program for housing the homeless during times of severe weather. Opportunity Centers for the Homeless (OC) are night by night emergency shelters, supported by a network of permanent and transitional housing options, offering individual custom solution-focused services to help the homeless population achieve self-sufficiency, or be protected if they can't move on in life due to physical, mental and/or behavioral disorders. The Opportunity Center for the Homeless is a non-profit 501 (c)(3) organization.<sup>2</sup> The City of El Paso funds programs that assist individuals and families to quickly regain stability in permanent rental housing after experiencing a housing crisis and/or homelessness. Short-term rental assistance and utility assistance, as well as financial assistance to help move homeless individuals and families into permanent housing can be accessed via the programs funded with Homeless Housing and Services Program (HHSP) funds.<sup>3</sup>

### *Fort Worth, TX*

The City of Fort Worth adopted the Directions Home official homelessness plan in 2008. This Homeless System defines their Continuum of Care (CoC) as the collective networks, institutions, and organizations that provide housing and services to people who are at risk or are experiencing homelessness. The local CoC is staffed by the Tarrant County Homeless Coalition which serves 10,369 through 8 agencies totaling 19 programs that offer emergency shelter<sup>4</sup>.

### *Houston, TX*

The Mayor's Office for Homeless Initiatives (MOHI) manages the City of Houston's response to homelessness by coordinating the efforts of various City agencies, including the Housing and Community Development Department, the Health and Human Services Department, the Houston Police Department and others. The MOHI develops best practice-oriented public policy for the City of Houston, while guiding the City's participation in ongoing regional planning activities.

Externally, the MOHI coordinates directly with the federal, state and regional governments, national experts and local housing authorities. Additionally, the office works closely with private, philanthropic, faith-based,

<sup>1</sup> <https://www.frontsteps.org/what-we-do/arch/shelter/>

<sup>2</sup> <https://homelessoportunitycenter.org/>

<sup>3</sup> <https://www.elpasotexas.gov/community-and-human-development/>

<sup>4</sup> <http://fortworthtexas.gov/homeless-system/>

neighborhood and local homeless service organizations to advance Houston's regional response to homelessness known as 'The Way Home.'

The MOHI provides vital leadership to The Way Home and works closely with its' lead agency, the Coalition for the Homeless, and over 100 public and private agencies to prevent and reduce homelessness using the data-driven, national best practice of 'Housing First.'<sup>5</sup> Although the city does not directly manage these programs, local emergency shelters are open and accepting anyone who wants to get inside from inclement weather.<sup>6</sup>

#### *Los Angeles, CA*

The Los Angeles Homeless Services Authority's Winter Shelter Program provides shelter, warmth, food, and comfort to homeless individuals during the cold and wet weather season. In addition to temporary emergency shelter, each program location provides access to supportive services and housing assistance. The Los Angeles Homeless Services Authority coordinates the Winter Shelter Program in partnership with the California National Guard, the County of Los Angeles, and the City of Los Angeles.<sup>7</sup>

#### *Philadelphia, PA*

The City issues emergency warnings in response to the National Weather Service's prediction of bitter cold with wind chill temperatures at 20 degrees Fahrenheit or below or 32 degrees Fahrenheit with precipitation. Code Blue is a collaboration among the Office of Homeless Services, the Department of Behavioral Health and Intellectual disAbility Services and the Outreach Coordination Center operated by Project HOME. During Code Blue, Homeless Outreach increases staffing and transports homeless persons directly to shelter 24 hours a day. The Unified Dispatch are engaged to ensure that all first responders in the city are aware and on alert. Philadelphia Police are authorized to transport the homeless to a shelter. The collective goal is to prevent weather related deaths among persons experiencing homelessness.<sup>8</sup>

#### *Phoenix, AZ*

Human Services Department Homeless Programs provide emergency shelter, rapid-rehousing (Housing First), street outreach and supportive services components for homeless families, youth and individuals through city programs and through contracts with local community providers. Homeless Programs also oversees the City's We're Cool/Heat Relief Network to provide hydration and refuge to the homeless, elderly, and disabled. Homeless Programs coordinates the annual The Point-In-Time (PIT) Homeless Street Count for the city of Phoenix, which is a regional one-night street count used to determine the number of persons experiencing homelessness within Maricopa County.<sup>9</sup>

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<sup>5</sup> <http://www.houstontx.gov/homeless/>

<sup>6</sup> <http://www.homelesshouston.org/winter-storm-shelter-updates/>

<sup>7</sup> <https://www.lahsa.org/winter-shelter>

<sup>8</sup> <http://philadelphiaofficeofhomelessservices.org/services/weather-code-blue/>

<sup>9</sup> <https://www.phoenix.gov/humanservices/programs/homeless>

*San Antonio, TX*

The City of San Antonio supports the community's efforts to end homelessness through participation on the South Alamo Regional Alliance to End Homelessness Continuum of Care; support and coordination with Haven for Hope, and contracts with community based homeless services providers.<sup>10</sup>

*San Jose, TX*

The San José City Council adopted a permanent ordinance (Ordinance No. 29976) amending Title 20 of the San José Municipal Code to revise land use provisions for temporary and incidental shelter of homeless people, including amending Sections 20.80.1600, 20.80.1610 and 20.80.1620, and adding Sections 20.80.1630, 20.80.1640 and 20.80.1650 to Part 17, Chapter 20.80; adding definitions of "Assembly Use", "Incidental Shelter", and "Places of Assembly"; creating standards for incidental shelter of homeless individuals and families; allowing incidental shelter as an incidental permitted use to an existing legal assembly use where the shelter is provided inside existing buildings that are constructed and operating in compliance with the San José Municipal Code.<sup>11</sup>

*Seattle, WA*

The Human Services Department opens severe or cold weather shelters when the extended forecast for overnight temperatures are around freezing. The Seattle Center Exhibition Hall was utilized in a particular instance in December 2018 in which the Salvation Army operated the shelter. Public transportation, specifically Bus Route #3 and Rapid Ride D Line, provided service to the shelter. The shelter served adults 18 and older.<sup>12</sup>

*Tacoma, WA*

The Emergency Temporary Aid and Shelter Plan is a three-phased approach to reduce the impacts of homelessness on residents, businesses and property owners by addressing public health and safety concerns resulting from growing concentrations of people living in encampments in Tacoma. The plan includes mitigation of human suffering by providing access to basic amenities, service outreach, enforcement of laws on public and private property, temporary transition sites with onsite resources, and identification of short-term and transitional housing availability in Tacoma and throughout Pierce County.<sup>13</sup>

**Staff Analysis:**

Addressing temporary inclement weather sheltering requires taking a two-pronged approach. The first prong is the responsibility of ZOAC to address the land use and amendments to Chapters 51 and 51A to allow for the operation of the Temporary Inclement Weather Shelter Program. The second prong is the Temporary Inclement Weather Shelter Program being developed by the Office of Homeless Solutions and creating

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<sup>10</sup> <https://www.sanantonio.gov/humanservices/HomelessServices>

<sup>11</sup> <http://www.sanjoseca.gov/documentcenter/view/72781>

<sup>12</sup> <https://humaninterests.seattle.gov/2018/12/04/city-opens-severe-weather-shelter-at-seattle-center/>

<sup>13</sup> <https://www.cityoftacoma.org/cms/One.aspx?portalId=169&pageId=130997>

Chapter 45 in the Dallas Development Code. This new chapter will include, but not limited to, the program details and regulations, operations, life safety requirements, licensing, and permitting of the program.

Initially, a new use was thought to be classified as a lodging use because an overnight general purpose shelter is codified as a lodging use. If a new use were to be applied, then it would be necessary to be in conjunction with a Certificate of Occupancy for a nonresidential use. The dual nature of this newly created use must be paired with 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, temporary inclement weather shelters are more appropriately categorized as an 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 is to be secondary and incidental 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 secondary use where there is an existing main use. Not only does temporary inclement weather shelter more reasonably fit as an accessory use, but such a classification enables this use to be allowed in most Planned Development Districts. Moreover, a primary use of a church, for example, would be eligible to apply for an accessory use of a temporary inclement weather shelter.

The amendment to Chapters 51 and 51A that creates a new specific accessory use is in conjunction with the creation of a new chapter. The new Chapter 45, 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 would 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

Temporary inclement weather shelters will be a specific accessory use under Section 51A-4.217. This means that temporary inclement weather shelters will be incidental to a main use. Additionally, temporary inclement weather shelters may only operate in conjunction with an existing Certificate of Occupancy for a main use. A temporary inclement weather shelter means an overnight general purpose shelter as defined in Section 51A-205(2.1) that operates during times of inclement weather in compliance with Chapter \_\_\_.

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

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

The area restrictions in Subsection (a)(3) do not apply to temporary inclement weather shelters. Those restrictions are *except as otherwise provided in this article, accessory uses listed in Subsection (b) or in Sections 51A-4.201 through 51A-5.216 are subject to the following area restrictions: If the use is conducted outside, it may not occupy more than five percent of the area of the lot containing the main use. If the use is conducted inside, it may not occupy more than five percent of the floor area of the main use. Any use which exceeds these area restrictions is considered to be a separate main use.*

**Draft Recommendation:**

SEC. 51A-4.217. ACCESSORY USES.

(b) Specific accessory uses.

(11.1) Temporary inclement weather shelter.

(A) Definition: An overnight general purpose shelter as defined in Section 51A-205(2.1) that operates during times of inclement weather in compliance with Chapter \_\_.

(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 \_\_.

(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.