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**SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
**COUNTY OF ORANGE**  
**CENTER JUSTICE CENTER**

EMERGENCY SHELTER COALITION, an  
unincorporated association,  
  
Petitioner,  
  
v.  
  
CITY OF SAN CLEMENTE, a California  
municipal corporation; CITY COUNCIL OF  
CITY OF SAN CLEMENTE, the duly-elected  
legislative body of the City; PLANNING  
COMMISSION OF CITY OF SAN  
CLEMENTE, the duly-appointed subagency of  
the City Council; and DOES 1 through 25,  
inclusive,  
  
Respondents.

CASE NO. 30-2014-00758880-CU-100M-CJC

**VERIFIED PETITION FOR WRIT OF  
MANDATE (C.C.P. § 1085)**

1 As a verified Petition for Writ of Mandate (the “Petition”) against respondents CITY OF SAN  
2 CLEMENTE (the “City”), CITY COUNCIL OF CITY OF SAN CLEMENTE (the “City Council”),  
3 PLANNING COMMISSION OF CITY OF SAN CLEMENTE (the “Planning Commission”), and  
4 DOES 1 through 25, inclusive (hereinafter, the City, the City Council, the Planning Commission, and  
5 DOES 1 through 25, inclusive, are sometimes collectively referred to as the “Respondents”), petitioner  
6 EMERGENCY SHELTER COALITION (“ESC”) alleges as follows:

7 **I. SUMMARY OF PETITION**

8 1. The Planning Commission “got it right” when, after many months of intense public  
9 hearings, it proposed an ordinance to zone 162 commercial and industrial lots in the City to serve as  
10 possible sites for emergency shelters for the homeless.

11 2. In contrast, the City Council got it terribly wrong when it flatly rejected the Planning  
12 Commission’s recommendation and decided, instead, to designate City-owned water towers, beach  
13 parking lots, civic buildings, and other public facilities to serve as shelter sites, knowing that no  
14 shelters could or would ever be built at those locations.

15 3. The homeless men, women, and children in San Clemente deserve better.

16 4. Indeed, after years of unconscionable delay in ignoring the needs of homeless persons  
17 in San Clemente—who must sleep outside in the cold and have no place to take a shower, wash their  
18 clothes, or store their possessions—the City Council must finally comply with the mandates in the  
19 City’s General Plan to establish suitable and available sites for emergency shelters and to adopt  
20 standards that will encourage and facilitate the development of at least one year-round shelter in San  
21 Clemente.

22 5. The sad truth is that, if left to their own devices, few, if any, cities in California would  
23 willingly approve, much less fund or support, the development of emergency shelters to accommodate  
24 the needs of the homeless persons living within their municipal boundaries.

25 6. Not surprisingly, there is only one year-round emergency shelter located in the entire  
26 South County area from Lake Forest to San Clemente, and that shelter was only established by the City  
27 of Laguna Beach after it was sued for trying to criminalize the involuntary condition of homelessness  
28 while, at the same time, providing insufficient shelter space for Laguna Beach’s homeless population.

1           7.       For too many years, the City has paid mere “lip service” to state law requirements, and  
2 the City’s own General Plan mandates, calling for the establishment of special zones in which  
3 emergency shelters may be operated without the need for obtaining any discretionary approvals from  
4 the City.

5           8.       Instead of working diligently to comply with state statutes designed to help the  
6 homeless, the City has made a mockery of them by recently adopting a zoning ordinance that can best  
7 be described as a “cruel joke” because, in zoning sites for possible emergency shelters, the ordinance  
8 (hereafter referred to as the “Emergency Shelter Ordinance”) only designates City-owned properties  
9 that are unavailable, unusable, and/or wholly-infeasible to accommodate the development and  
10 operation of a homeless shelter.

11           9.       The City’s Emergency Shelter Ordinance disingenuously suggests that the following  
12 properties would be suitable sites for an emergency shelter: (a) the City’s water reservoirs; (b) the  
13 City’s prized civic buildings, such as the Cultural Center, the Community Center, the Library, the Ole  
14 Hansen municipal pool complex, and the City’s administrative offices; and (c) the beach parking lots,  
15 animal shelter, sewage treatment plant, fire stations, and utility lots owned and operated by the City.

16           10.      In an obvious attempt to prevent charitable groups from leasing or buying any sites that  
17 could actually be used to run an emergency shelter, the City has done two things with the Emergency  
18 Shelter Ordinance. First, it has written the ordinance in the most vague and ambiguous manner  
19 possible by designating approximately 30-40 potential shelter sites as little irregularly-shaped boxes on  
20 a map attached as Exhibit B to the Emergency Shelter Ordinance. This has made it virtually  
21 impossible for the members of the public to determine from the face of the Emergency Shelter  
22 Ordinance what properties are actually covered by the Ordinance. Second, the City has unfairly  
23 limited these unidentified sites to properties that the City, itself, owns and controls and that are zoned  
24 for “public” or “civic center” use (hereinafter collectively referred to as the “Public Use Sites”).

25           11.      Before a non-profit provider of services to the homeless could acquire one of the Public  
26 Use Sites to use as an emergency shelter, the City Council would have to declare the site in question to  
27 be “surplus” property following a discretionary approval process in which members of the public could  
28 voice their objections to the site being used as a shelter. Such a discretionary process, of course,

1 would virtually guarantee that none of the Public Use Sites would ever be made available for use as an  
2 emergency shelter.

3 12. In bowing to public pressure, the members of the City Council, particularly those  
4 running for reelection, decided to reject the Planning Commission’s carefully-crafted recommendation  
5 that the emergency shelter sites designated by the Council should not consist of any of the Public Use  
6 Sites, but, instead, should include 146 parcels in the Rancho San Clemente Business Park (collectively,  
7 the “Business Park Parcels”) and 16 parcels in the Calle de Industrias area behind Denny’s Restaurant  
8 on Pico (collectively, the “Calle Industrias Parcels”). All of these lots are owned by private parties  
9 who would be free to sell or lease their properties to shelter providers without any involvement on the  
10 part of the City Council, and that is precisely why the City Council did not want those lots to be  
11 covered by the Emergency Shelter Ordinance.

12 13. The City Council’s politically-expedient conduct in scrapping the good faith efforts on  
13 the part of City staff and the Planning Commission in trying to facilitate the development of  
14 emergency shelters in the City clearly underscores the political reality that local jurisdictions, such as  
15 San Clemente, will never voluntarily take action to provide shelter space for their homeless  
16 populations. This unfortunate, yet undeniable, fact of life in local city politics is what prompted the  
17 California legislature to make the following findings in 2007:

18 “Because homelessness affects people of all races, gender, age, and geographic  
19 location there is a growing need for every city and county to plan for the location of  
20 adequate emergency shelters....The lack or shortage of emergency shelters for  
21 homeless individuals and families in cities and counties across the state leads to the  
22 concentration of services in inner cities and poor communities, like the skid row area  
23 in downtown Los Angeles.... In order to ensure access to services in every city and  
24 county for homeless individuals and families, it is important that cities and counties  
25 plan for these services to address the special needs and circumstances of this  
26 threatened population.”

27 (2007 Cal. Stats., ch. 633, emphasis added.)  
28

1           14.     Based on the above findings, the legislature adopted, and the Governor signed into law  
2 in October 2007, a special piece of legislation to clarify and strengthen California’s housing element  
3 law. This legislation, which amended sections 65583 and 65589.5 of the Government Code, is  
4 commonly referred to as Senate Bill No. 2 (“SB 2”). One of the landmark provisions of SB 2 was that  
5 all cities and counties in California would be required to establish one or more zones in which  
6 emergency shelters could be developed and operated without the need for the shelter operators to  
7 obtain a conditional use permit or any other type of discretionary approval from the city or county in  
8 question.

9           15.     In addition to requiring local zoning codes to be amended to create special zones in  
10 which emergency shelters would be permitted to operate as a matter of right, SB 2 also added  
11 provisions to the Government Code to require cities and counties to:

- 12           (a)     ensure that all zoning districts in which emergency shelters were permitted would  
13                   include “sufficient capacity” (i.e., adequate and available sites in suitable locations) to  
14                   meet the needs of the local homeless population and to accommodate the actual  
15                   development of one or more emergency shelters, including at least one year-round  
16                   shelter; and
- 17           (b)     adopt objective standards to “encourage and facilitate” the development of emergency  
18                   shelters.

19           16.     For the past seven years, the City has openly flouted the dictates of SB 2. As such, ESC  
20 has filed this Petition to obtain a writ of mandate to require Respondents to (a) vacate and set aside the  
21 Emergency Shelter Ordinance; (b) fully and properly comply with the mandatory duties set forth in  
22 Program 21 of the July 2008-July 2014 Housing Element of the City’s General Plan (the “Housing  
23 Element”)<sup>1</sup>; and (c) also comply with the dictates of section 65588 of the Government Code to  
24 immediately submit and adopt an updated Housing Element without further delay.

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28 <sup>1</sup> See Housing Element of the General Plan (July 2008 – July 2014), available at <http://san-clemente.org/home/showdocument?id=14366>.

1           17.     Program 21 succinctly spells out the duties and obligations that the City’s Housing  
2 Element imposed on Respondents over three years ago to adopt a Zoning Code amendment that  
3 implements the requirements of SB 2:

4           “Within one year of Housing Element adoption, the City will amend the Zoning  
5 Code to establish a definition and objective development standards that allow  
6 emergency shelters by-right in at least one zone. The City is currently evaluating  
7 the Industrial Zone for this purpose. Development standards will be designed to  
8 encourage and facilitate the establishment of shelters in suitable locations (e.g.,  
9 near transit and support facilities). The amendment will demonstrate that  
10 adequate capacity exists to meet the City’s needs, consistent with SB 2.”

11           (Emphasis added.)

12           18.     The City adopted the current version of its Housing Element on July 5, 2011, but,  
13 inexplicably, it was several years late in doing so at the time.<sup>2</sup> Compounding this three-year delay in  
14 2011, the City gave itself another year to comply with SB 2 by availing itself of the grace period in  
15 Government Code section 65583(a)(4)(A), which provides cities and counties with an extra year to  
16 adopt an SB 2 ordinance, as long as a program is included in the Housing Element to mandate the  
17 adoption of such an ordinance.<sup>3</sup> The above-quoted provisions of Program 21 clearly required the City  
18 to adopt a zoning ordinance that was fully compliant and consistent with the requirements of SB 2 no  
19 later than July 5, 2012.

20           19.     Predictably, however, despite the explicit obligations detailed in the Housing Element,  
21 and despite the fact that the City’s implementation of and compliance with SB 2 was long overdue, the  
22 City did not satisfy its duty to adopt a zoning ordinance to implement SB 2 by the appointed deadline  
23 of July 5, 2012. Instead, the City delayed another two years, until September 2, 2014, before finally  
24 adopting the Emergency Shelter Ordinance, formally entitled “An Ordinance of the City of San  
25 Clemente, California to Amend Section 17.56.100 of the Municipal Code to Implement Senate Bill 2  
26

27 \_\_\_\_\_  
28 <sup>2</sup> See Housing Element, p. vii.

<sup>3</sup> *Id.* at V-12 & V-13.

1 ('SB2'), the Emergency Shelter Act; City File No. ZA 14-121." A copy of the Ordinance is attached  
2 as Exhibit A hereto and is incorporated herein by reference.

3 20. The Emergency Shelter Ordinance does not come close to satisfying, and is wholly  
4 inconsistent with, the provisions of Program 21 of the Housing Element that require a Zoning Code  
5 amendment to be adopted by the City to (a) create an SB 2 zone that provides "adequate capacity" to  
6 meet the City's needs for emergency shelters "consistent with SB 2" and (b) promulgate development  
7 standards "designed to encourage and facilitate the establishment of shelters in suitable locations."

8 21. As noted above, the City's Emergency Shelter Ordinance subverts one of the most  
9 important provision of SB 2, i.e., the requirement that one or more zones must be established to allow  
10 emergency shelters to be developed and operated without the need for any discretionary approvals.  
11 Instead of allowing emergency shelters "by-right" as required by Program 21 of the Housing Element,  
12 the Emergency Shelter Ordinance adds a whole new layer of discretionary decision-making to the mix  
13 by creating an "ES Overlay Zone" that consists solely of the City-owned Public Use Sites.

14 22. Under the City's "Property Management Policies and Procedures for Lease and Sale of  
15 City-owned Property" ("Policy 901-1"), none of the Public Use Sites would be "available" for use as  
16 an emergency shelter site unless and until the City Council conducted a discretionary approval process  
17 to determine whether one or more of those sites were "not required for municipal purposes" and thus  
18 could be declared "surplus" properties that could be sold or leased to the public.

19 23. Moreover, Policy 901-1 requires that a potential surplus property undergo five separate  
20 levels of review, including Department/Agency Reviews, Planning Commission Review, Review by  
21 Other Boards and Commissions, City Manager's Recommendation, and City Council Designation.  
22 Government Code sections 37420 through 37430 describe additional procedures a city may utilize to  
23 declare a property "surplus," including that the City Council find that it is in the public interest to  
24 require sale of the property. In addition, sections 37423 and 37424 of the Government Code set forth a  
25 procedure by which the City Council publishes a resolution and allows persons to "protest" the  
26 proposed sale.

27 24. Despite the clear dictates of Program 21 and SB 2, the members of the City Council  
28 structured the Emergency Shelter Ordinance in such a way to ensure that the Council would retain full

1 discretionary authority to decide whether any of the Public Use Sites could be ever utilized for an  
2 emergency shelter.

3 25. For example, at the July 15, 2014 hearing held on the Emergency Shelter Ordinance,  
4 Council member Chris Hamm explained that he liked the idea of excluding any privately-owned  
5 properties from the ES Overlay Zone, and including only City-owned properties, because “with public  
6 facilities *we have the end say on what happens* so we have the ability to have stringent rules to ensure  
7 that we have the right facilities in the right locations.” (Emphasis added.)

8 26. Thus, by making sure that the Emergency Shelter Ordinance incorporated a  
9 discretionary approval process to allow the City Council to maintain absolute control over whether any  
10 of the Public Use Sites could ever be utilized for emergency shelters, the City failed to comply with the  
11 legal duty imposed by the Housing Element to amend the City’s Zoning Code to “allow emergency  
12 shelters by-right in at least one zone.” (Emphasis added.)

13 27. Likewise, the City Council shirked its duties under the Housing Element and SB 2 in  
14 two additional respects. First, the ordinance did not demonstrate sufficient capacity to meet the City’s  
15 emergency shelter needs consistent with SB 2. As noted above, instead of designating suitable and  
16 available sites for emergency shelters, the Emergency Shelter Ordinance designated a grab-bag of  
17 infeasible sites, such as water towers, civic buildings, parking lots, etc., that could never conceivably  
18 be used for an emergency shelter, even assuming that any of these sites were ever designated as  
19 “surplus” properties by the City Council.

20 28. What is incredible, however, is that, when the Emergency Shelter Ordinance was being  
21 considered by the City Council, the City Attorney, Jeff Oderman, publicly advised the members of the  
22 Council that restricting the ES Overlay Zone to just City-owned properties was “not going to satisfy  
23 the available sites requirements” for SB 2 purposes:

24 “To the extent that you are relying upon public properties to bring you up to the total of  
25 adequate sites, there has to be some showing that the public properties are actually available for  
26 the use. . . . There is nothing wrong with designating it, but it is not sufficient to satisfy your  
27 numerical requirement. The same thing goes for the City. If the City could have a thousand  
28 properties that we own and if the City Council said ‘we’ll never let a homeless shelter be



1 developed on any of our properties,’ then you could designate a thousand of your properties for  
2 SB 2 purposes, but that is not going to satisfy the available sites requirements. So what I am  
3 saying to you is that I think it is absolutely fine, permissible, and okay under SB 2 to designate  
4 public sites and to limit that to City-owned sites, but, to the extent that you are relying upon  
5 that to get you to the 65 or 70 bed requirement, you have to understand that, with that  
6 designation, comes some obligation on the part of the City and the City Council to do more  
7 than simply put it on a piece of paper. You have to have a willingness and an intention to move  
8 forward.”<sup>4</sup>

9 29. To say the least, the above-quoted statements by the City Attorney constitute damaging  
10 admissions on the part of the head legal officer of the City that the Emergency Shelter Ordinance is  
11 fatally flawed because it does not in any way, shape, or form demonstrate that any of the Public Use  
12 Sites are, or ever will be, available or suitable sites that could be utilized for a year-round emergency  
13 shelter.

14 30. Although the Emergency Shelter Ordinance also authorizes all churches in the City to  
15 serve as “mini-shelters” restricted to serving no more than ten (10) homeless persons at a time, there is  
16 no evidence in the record that this gratuitous gesture by the City Council will provide the capacity  
17 necessary to meet the City’s needs for shelters.

18 31. In fact, the evidence is to the contrary. At the August 19, 2014 hearing on the  
19 Emergency Shelter Ordinance, the City Council was provided with the results of a survey undertaken  
20 by the San Clemente Collaborative showing that, of the 19 permanent churches surveyed, 15  
21 responded that they lacked the necessary resources and improvements (such as restrooms, showers,  
22 and kitchen facilities) to house up to ten homeless persons on a regular basis and/or they had  
23 conflicting uses (such as elementary schools, preschools, or other church activities) that would make a  
24 shelter incompatible and unacceptable. Of the remaining four churches surveyed, three did not  
25 respond and one church stated that it did not have the ability to run a shelter at present, but it might  
26 want to join forces with other churches in the future to operate a shelter.

27  
28 <sup>4</sup> San Clemente City Council Hearing, July 15, 2014.





1           41.     Program 21 relies on the one-year grace period in Government Code section  
2 65583(a)(4)(A), which allows cities that have not yet adopted an SB 2 ordinance to include a program  
3 to amend their zoning code to achieve compliance within one year of the adoption of the housing  
4 element.

5           42.     Based on Program 21 and section 65583(a)(4)(A), Respondents were required to adopt  
6 a zoning ordinance that complied with SB 2 no later than July 5, 2012. Respondents missed that  
7 deadline by a wide margin and, to date, Respondents have still not adopted a zoning ordinance that is  
8 compliant and consistent with SB 2.

9 **B.     The Emergency Shelter Ordinance Is Not Compliant and Consistent with SB 2.**

10           43.     Over two years after the City was required by Program 21 and SB 2 to adopt a zoning  
11 ordinance that complied with SB 2, the City Council considered a draft ordinance on July 15, 2014 (the  
12 “Draft Emergency Shelter Ordinance”). As acknowledged in the Staff Agenda Report, dated July 15,  
13 2014, and as confirmed by the City Attorney during the July 15, 2014 public hearing, the Draft  
14 Emergency Shelter Ordinance was intended to be an implementation action under the Housing  
15 Element.

16           44.     The Draft Emergency Shelter Ordinance, which was recommended by the Planning  
17 Commission, would have established an Emergency Shelter Overlay Zone (“ES Overlay Zone”)  
18 consisting of (a) the 16 Calle De Industrias Parcels limited to 50 beds per facility; and (2) the 146  
19 Business Park Parcels that were at least 500 feet away from any residential zones, limited to a  
20 maximum of 35 beds per shelter. The Draft Emergency Shelter Ordinance also permitted churches to  
21 establish emergency shelters of up to six (6) beds each as an “accessory use.”

22           45.     Unfortunately, at the public hearing held on July 15, 2014, the City Council rejected the  
23 Draft Emergency Shelter Ordinance, and proposed that the ES Overlay Zone be limited to what was  
24 then a subset of the Public Use Sites. Given that the public hearing notice for the July 15 hearing did  
25 not specify that City-owned properties zoned for public use would be the only properties that the City  
26 Council would consider for inclusion in the ES Overlay Zone, the City Council continued the meeting  
27 until August 19, 2014 to allow for the public hearing to be re-noticed.

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1           46.     In light of the City Council’s proposed action to reject the Draft Emergency Shelter  
2 Ordinance, counsel for ESC sent Mayor Tim Brown and the other members of the City Council a letter  
3 on August 14, 2014, which explained that, among other things, a zoning ordinance that only designated  
4 the Public Use Sites as possible locations for emergency shelters and proposed standards that did not  
5 encourage and facilitate the development of emergency shelters would not be compliant and consistent  
6 with SB 2.

7           47.     Nonetheless, on August 19, 2014, the City Council voted 5-0 to introduce the  
8 Emergency Shelter Ordinance that limited the ES Overlay Zone to the Public Use Sites, including  
9 City-owned properties in non-residential zones that were at least 500 feet from residentially zoned  
10 properties. Also, section 17.53.103 of the Emergency Shelter Ordinance established a maximum limit  
11 of 20 beds per shelter, instead of the 50 and 35 bed limits recommended by the Planning Commission.  
12 In addition, the Emergency Shelter Ordinance permitted churches to operate emergency shelters,  
13 provided that no more than ten (10) homeless persons were allowed to sleep at each shelter at any one  
14 time. At its regular meeting held on September 2, 2014, in conducting the required second reading of  
15 the Emergency Shelter Ordinance, the City Council voted 5-0 to officially adopt the Ordinance.

16           **1.     Lack of Adequate Capacity to Meet City’s Needs for Emergency Shelters.**

17           48.     The Emergency Shelter Ordinance provides that emergency shelters will be allowed “by  
18 right” in “a. Public and Civic Center zoned properties; excluding parcels with schools or school  
19 facilities; and b. City owned parcels, in Commercial, Business Park or Industrial zoning districts, and a  
20 minimum of 500 feet from residential zoned properties.” A map which purports to demonstrate where  
21 these Public Use Sites are located in the City is attached as Exhibit B to the Emergency Shelter  
22 Ordinance.

23           49.     As noted above, while the glaring lack of specificity in Exhibit B makes it extremely  
24 difficult, if not impossible, for the public to identify which properties are included in the ES Overlay  
25 Zone, it appears that there may be approximately 32 to 44 Public Use Sites designated on Exhibit B.  
26 Notably, none of these Sites has been declared by the City Council to be surplus property that is “not  
27 required for municipal purposes.” This means that none of these properties would be available to  
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1 potential emergency shelter providers without first going through the discretionary process by which a  
2 property would be declared “surplus.”

3         50.     Declaring a property surplus is a time-consuming process that leaves considerable  
4 discretion to the City Council. As provided in the City’s current version of Policy 901-1, the  
5 determination as to whether a given piece of City-owned property will be designated as “surplus” and  
6 authorized for sale or lease to third parties will be in the nature of a discretionary decision by the City  
7 Council, based on a recommendation the Council receives from the City Manager. Specifically, Policy  
8 901-1 reads: “In conformance with the Government Code and the General Plan, it is the policy of the  
9 City to manage its real estate assets so that municipal needs which rely on these assets may be properly  
10 implemented. The City Council has the authority to review all City-owned real estate not required for  
11 municipal purposes and will determine the appropriate disposition for such property.” Policy 901-1  
12 also requires “(1) an appraisal of the property which is no more than six months old at the time the  
13 recommended transaction is presented to the City council; (2) a review of prevailing economic  
14 conditions and recent applicable trends; and (3) a determination of any special benefits that may accrue  
15 from sale, lease, or exchange.”

16         51.     In short, Policy 901-1 requires that all negotiated sales of properties designated as  
17 surplus must be approved by the City Council, and the City Council also maintains control over all  
18 lease amendments, assignments, subleases, etc. This is exactly the type of “discretionary approval”  
19 process prohibited by SB 2.

20         52.     Aside from the blatant inconsistency with SB 2’s requirement that emergency shelters  
21 be allowed to be developed without the need to obtain any discretionary approvals, the Emergency  
22 Shelter Ordinance also fails to demonstrate that the Public Use Sites in the ES Overlay Zone will  
23 provide sufficient “capacity” to meet the City’s needs for emergency shelters. The HCD guidelines  
24 interpreting SB 2 (the “HCD Guidelines”) state that “capacity for emergency shelters must be suitable  
25 and available and account for physical features (flooding, seismic hazards, chemical contamination,  
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1 other environmental constraints, and slope instability or erosion) and location (proximity to transit, job  
2 centers, and public and community services).”<sup>9</sup>

3         53. In order to have satisfied the Housing Element’s requirement for consistency with SB 2,  
4 the Emergency Shelter Ordinance should have designated, but failed to include, sites that (a) would be  
5 available for immediate development and/or operation as emergency shelters without the necessity for  
6 obtaining any discretionary approvals from the City; (b) would not have unusually high development  
7 costs; and (c) would be located in close proximity to public services and facilities. The Public Use  
8 Sites designated for the ES Overlay Zone established by the Emergency Shelter Ordinance do not  
9 come close to meeting these criteria.

10         **2. Improper Development Standards.**

11         54. Likewise, the development standards set forth in Emergency Shelter Ordinance do not  
12 encourage and facilitate the establishment of emergency shelters as required by SB 2. Under section  
13 65583(a)(4) of the Government Code (SB 2), the City has limited authority to impose development  
14 standards on emergency shelters. Except for eight specific standards listed in section 65583(a)(4) of  
15 the Government Code, state law very explicitly provides that “[e]mergency shelters may **only** be  
16 subject to those development and management standards that apply to residential and commercial  
17 development within the same zone.” (Emphasis added.)

18         55. As a threshold matter, therefore, emergency shelters can only be subjected to the **same**  
19 development and management standards that would apply to residential and commercial uses within  
20 the ES Overlay Zone, with eight noted exceptions as follows: (a) maximum number of beds or persons  
21 to be served nightly; (b) off street parking based on demonstrated need, but not in excess of residential  
22 or commercial parking requirements; (c) the size and location of onsite waiting and client intake areas;  
23 (d) the provision of onsite management; (e) the proximity to other shelters; (f) the length of stay;  
24 (g) lighting; and (h) security during hours that the shelter is in operation. (Gov. Code § 65583(a)(4)).

25  
26  
27 <sup>9</sup> Department of Housing and Community Development, Memorandum, “Senate Bill 2 Legislation  
28 *Effective January 1, 2008: Local Planning and Approval of Emergency Shelters and Transitional and Supportive Housing*,” available at [http://www.hcd.ca.gov/hpd/sb2\\_memo050708.pdf](http://www.hcd.ca.gov/hpd/sb2_memo050708.pdf) (“HCD Guidelines”), p. 9, emphasis in original.

1           56.     In addressing the eight development standards listed in section 65583(a)(4), the HCD  
2 Guidelines stress that any SB 2 standards adopted by local agencies must “not render emergency  
3 shelters **infeasible**” and must “only address the use as an emergency shelter, **not the perceived**  
4 **characteristics of potential occupants.**”<sup>10</sup>

5           57.     In providing further guidance regarding what type of development standards would be  
6 acceptable under SB 2, the HCD Guidelines state as follows:

7           **“These standards must be designed to encourage and facilitate the development of, or**  
8 **conversion to, an emergency shelter.** For example, a standard establishing the maximum  
9 number of beds should act to encourage the development of an emergency shelter; local  
10 governments should establish flexible ranges of hours of operation; length of stay provision  
11 should be consistent with financing programs or statutory definitions limiting occupancy to six  
12 months (Health and Safety Code Section 50801) and **should not unduly impair shelter**  
13 **operations.** Appropriate management standards are reasonable and limited to ensure the  
14 operation and maintenance of the property.”<sup>11</sup>

15           58.     Ignoring these very explicit Guidelines, the City Council decided to shrink the 50-bed  
16 limit recommended by the Planning Commission to a mere 20-bed limit for all emergency shelters in  
17 the City, except for churches, which were limited to only 10 beds per facility. (See sections 17.56.101  
18 and 17.56.103(D) of the Emergency Shelter Ordinance.)

19           59.     Such unreasonably low bed limits will not encourage or facilitate the development of  
20 emergency shelters; instead, they will render them “infeasible.” As repeatedly stated during the public  
21 hearing process for the Emergency Shelter Ordinance, it is highly improbable that there will ever be  
22 more than one year-round emergency shelter developed in San Clemente, given the multi-million-  
23 dollar commitment involved in establishing a shelter with adequate sleeping quarters, showers,  
24 restrooms, intake and counseling areas, and food service and laundry facilities.

25           60.     Simple economies of scale dictate that there needs to be a higher bed limit of at least  
26 45-50 beds (like the Friendship Shelter has in Laguna Beach) in order to justify the expense of

27 \_\_\_\_\_  
28 <sup>10</sup> HCD Guidelines, p. 10 & 7-15-14 Agenda Report at p. 7-A-208, emphasis added.

<sup>11</sup> HCD Guidelines, p. 11, emphasis added.



1 developing and operating a year-round shelter because, as ESC’s representative pointed out during the  
2 public hearing process, it would be next to impossible to convince donors and volunteers to spend  
3 significant time and money to create a small year-round shelter limited to a mere 20 beds. This is  
4 especially true given that the homeless population in San Clemente is acknowledged by the City to be  
5 at least 70 persons, all of whom could all be looking for shelter on a particularly cold or rainy night  
6 and would have to be turned away if the year-round shelter were limited to just 20 beds.

7         61. In addition to the low bed limits imposed by the City Council, the development  
8 standards set forth in the Emergency Shelter Ordinance would require shelter operators to meet  
9 requirements that far exceed the standards specified by SB 2. For example, the standards in the  
10 Emergency Shelter Ordinance purport to rewrite state occupancy requirements by imposing a floor  
11 area minimum of 125 square feet for each bed allowed in the emergency shelter. There is absolutely  
12 no legal basis for such a costly requirement and such a minimum floor area would make it unduly  
13 burdensome to provide reasonable sleeping accommodations at a shelter.

14         62. Likewise, there is no legal authority for the standards in the Emergency Shelter  
15 Ordinance that require shelter operators to incur the time and expense of screening its clients for drugs  
16 and alcohol, providing onsite kennels and offsite pet care for shelter clients, installing surveillance  
17 equipment, fencing, and excessive amounts of landscaping, preparing and enforcing neighborhood  
18 relations plans, and submitting annual reviews by, and providing annual reports to, the City. Although  
19 shelter operators might voluntarily decide to do such things on their own if time and money permitted,  
20 SB 2 does not allow the City to impose such burdensome standards.

21         **3. Churches Unable to Satisfy City’s SB 2 Obligations.**

22         63. The Emergency Shelter Ordinance also runs afoul of SB 2 when it provides that  
23 emergency shelters will be allowed as “accessory uses” at unspecified churches and religious  
24 institutions, subject to a ten-bed limit per facility. However, the administrative record is devoid of any  
25 commitment, request, or desire on the part of any church in San Clemente (almost all of which are  
26 located in residential areas) to expend their limited resources in establishing an emergency shelter to  
27 accommodate no more than ten people at a time. Without such evidence in hand, City Council had no  
28 basis whatsoever for *assuming* that any churches in San Clemente would, in fact, establish shelters,

1 particularly when the churches would be subject to the onerous development standards specified in the  
2 Emergency Shelter Ordinance.

3         64. In fact, the City Council’s assumption in this regard is directly contradicted by the  
4 evidence. As noted on the record at the August 19, 2014 hearing on the Emergency Shelter Ordinance,  
5 representatives of the San Clemente Collaborative conducted a survey of all 19 permanent churches in  
6 San Clemente, asking “Would your church (or religious center) be able to house up to 10 homeless  
7 individuals on a regular basis?” Fifteen of the 19 churches responded “No”; three did not respond, and  
8 one responded “maybe.” The single “maybe” response stated that the church in question might want to  
9 work with other churches/entities to operate an emergency shelter in the future, but did not presently  
10 have the capacity to operate an emergency shelter. The vast majority of the churches surveyed were  
11 unable to accommodate homeless individuals due to issues such as facility size, lack of proper  
12 restrooms or showers, and conflicting uses such as preschools and elementary schools.

13         65. During the July 15, 2014 hearing on the Draft Emergency Shelter Ordinance, the City  
14 Council was informed that a total of two churches may have operated some sort of homeless shelter  
15 facilities in the 1980s and 1990s. Based on this wholly-unsupported information, the City Council  
16 proceeded to “deputize” every church in San Clemente to serve as involuntary proxies to meet the  
17 City’s SB 2 obligations. Given the unwillingness of any church in San Clemente to operate an  
18 emergency shelter, the City Council cannot comply with the requirements of SB 2 by simply amending  
19 its Zoning Code to “allow” 10-bed shelters to be established at church sites.

20 **C. The City Has Failed to Comply with Its Statutory Duty To Submit An Updated Housing**  
21 **Element by October 15, 2013.**

22         66. Respondents have failed to comply with their mandatory duty under Government Code  
23 section 65588(e)(2)(A) to timely adopt an updated Housing Element. As a city within a metropolitan  
24 planning organization (the Southern California Association of Governments (the “Association”)) in a  
25 region classified as a nonattainment zone under the Clean Air Act, the City was required to adopt an  
26 updated Housing Element within 18 months of the first regional transportation plan adopted after  
27 September 30, 2010 (which was adopted by the Association in April 2012). Accordingly, as noted in  
28 HCD’s Housing Element Compliance Report (the “Report”), the City’s Housing Element is currently

1 listed as “DUE” and the Report states that the Element was to be submitted no later than October 15,  
2 2013.<sup>12</sup> The Report further explains that “DUE” means “the element is OUT for not [being] submitted  
3 for current 5th planning period in which due date has passed.”<sup>13</sup> In turn, “OUT” means “either the  
4 local government adopted an element the Department found did not comply with State housing  
5 element law, or the local government has not yet submitted an adopted housing element pursuant to the  
6 statutory schedule.”<sup>14</sup>

7 67. Respondents are fully aware that they are now over one year late in submitting a revised  
8 Housing Element. In fact, during the July 15, 2014 hearing regarding the Emergency Shelter  
9 Ordinance, Associate Planner Amber Gregg stated: “Right now, the deadline was in October [2013]  
10 for submitting and now we have passed the deadline in order to submit for a new certified Housing  
11 Element.” City Attorney Jeff Oderman confirmed that the “answers Amber provided are correct,” and  
12 the then Mayor of the City, Tim Brown, signaled his understanding by responding, “Okay.”

13 68. Over one year has passed since the City was required to have submitted its updated  
14 Housing Element to HCD, and there is no end in sight to the City’s inexcusable delay in this regard.  
15 Accordingly, judicial intervention is required to compel Respondents to perform their legal duties with  
16 respect to submitting and adopting an updated Housing Element in accordance with the Government  
17 Code.

### 18 **FIRST CAUSE OF ACTION**

#### 19 **(Against All Parties For A Writ Of Mandate And Ancillary Injunctive Relief)**

20 69. ESC realleges and incorporates herein by reference each and every allegation contained  
21 in paragraphs 1 through 68, inclusive, as set forth above.

22 70. The City has a mandatory duty to carry out the programs in its Housing Element and to  
23 take the actions specified therein. Failure to take the actions provided for in the Housing Element  
24 contravenes mandatory duties the City created by adopting the Housing Element and effectively  
25 constitutes acts and omissions inconsistent with that Element.

26  
27 <sup>12</sup> See Department of Housing and Community Development, “Housing Element Compliance Report,”  
available at <http://www.hcd.ca.gov/hpd/hrc/plan/he/status.pdf>.

28 <sup>13</sup> *Ibid.*

<sup>14</sup> *Ibid.*

1           71.     At all times since the current version of its Housing Element was adopted on July 5,  
2 2011, the City has had an ongoing duty under Program 21 to adopt a zoning ordinance that is fully  
3 compliant and consistent with SB 2. This action was to have been completed no later than July 5,  
4 2012, but has not been completed to date.

5           72.     For the reasons alleged above, the Emergency Shelter Ordinance does not comply with  
6 and, in fact, is materially inconsistent with, the requirements of SB 2. The requirements of SB 2 were  
7 expressly incorporated into Program 21 of the Housing Element and were to have been satisfied by the  
8 City at least two years ago, if not sooner. Accordingly, for all of the reasons alleged above, the City  
9 has failed to comply with the legal duties imposed on it by the Housing Element.

10          73.     Respondents also have a duty under Government Code section 65588(e) to timely  
11 submit and adopt an updated Housing Element, but, given the fact that Respondents are already over a  
12 year late in complying with this duty, Respondents appear to be in no hurry to satisfy this duty at any  
13 time in the near future.

14          74.     At all times relevant to the action, Respondents had the ability to perform each of the  
15 duties and obligations alleged herein, but have failed and refused to perform such legal duties and  
16 obligations. Respondents have acted arbitrarily, capriciously, and without evidentiary support in  
17 failing and refusing to carry out or discharge their mandatory duties and obligations as alleged herein.

18          75.     Unless compelled by this Court to perform the legal duties and obligations alleged  
19 above, Respondents will continue to abdicate such duties and obligations and will continue to violate  
20 the law. ESC and the public have been, and will continue to be, injured as a result of the City's acts  
21 and omissions as alleged above.

22          76.     In light of the foregoing, ESC is entitled to a peremptory writ of mandate which, *inter*  
23 *alia*:

24                 (a)     Directs Respondents to vacate and set aside the Emergency Shelter  
25 Ordinance and any actions which they have taken, or may hereafter take, in reliance thereon or  
26 in connection therewith;

27                 (b)     Directs Respondents to comply with the duties imposed by Program 21  
28 of the Housing Element to, *inter alia*, amend the City's Zoning Code by adopting an ordinance

1 that fully and properly (i) establishes at least one zone in which emergency shelters will  
2 permitted by right without the need for any discretionary approvals from the City;  
3 (ii) demonstrates that adequate capacity exists to meet the City's needs for emergency shelters;  
4 and (iii) promulgates standards designed to encourage and facilitate the development of  
5 emergency shelters in suitable locations, including at least one year-round shelter; and,

6 (c) Directs Respondents to comply with their duty under Government Code  
7 section 65588(e) to immediately submit and adopt an updated Housing Element without further  
8 delay.

9 77. In addition, ESC is entitled to ancillary injunctive relief in support of and relating to the  
10 mandamus relief sought above.

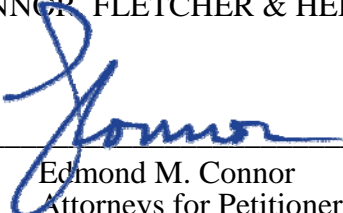
11 **WHEREFORE**, ESC prays for relief and judgment as follows:

- 12 1. For a peremptory writ of mandate as requested above.
- 13 2. For ancillary injunctive relief as prayed for above.
- 14 3. For attorney's fees pursuant to Code of Civil Procedure section 1021.5.
- 15 4. For costs of suit; and
- 16 5. For such other and further relief as the Court deems just and proper.

17 Dated: December 1, 2014

CONNOR, FLETCHER & HEDENKAMP LLP

18  
19 By: \_\_\_\_\_

  
Edmond M. Connor  
Attorneys for Petitioner  
Emergency Shelter Coalition

**VERIFICATION**

I, Cathleen Murphy, declare and say:

1. I am a member of petitioner EMERGENCY SHELTER COALITION, and I am authorized to make this verification on its behalf.

2. I have read the foregoing "Petition for Writ of Mandate" and I hereby verify that the facts alleged therein are true, except as to any matters which are alleged therein on information and belief, and as to such matters, I believe them to be true.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed this 1st day of December, 2014, at Irvine, California.

  
Cathleen Murphy

# Exhibit A

**ORDINANCE NO. 1585****AN ORDINANCE OF THE CITY OF SAN CLEMENTE, CALIFORNIA  
TO AMEND THE MUNICIPAL CODE TO IMPLEMENT SENATE BILL 2 ("SB 2"), THE  
EMERGENCY SHELTER ACT; CITY FILE NO.ZA 14-121.**

**WHEREAS**, State law requires all cities and counties to address emergency shelter needs (*Government Code* §65302(c));

**WHEREAS**, the City of San Clemente has evaluated land use and zoning opportunities and constraints to comply with SB 2 requirements to determine ways to best meet the requirements while balancing community safety, needs and resources; and

**WHEREAS**, the Planning Commission held five public meetings to help determine how best to meet emergency shelter needs; and

**WHEREAS**, City Housing Element policies and programs call for the adoption of an ordinance to implement SB 2 requirements; and

**WHEREAS**, the Planning Commission recommended the City Council amend the Zoning Ordinance to establish an Emergency Shelter (ES) Overlay Zone which allows the establishment of homeless shelters by right in various areas, as described in Exhibits A and B; and

**WHEREAS**, the Planning Commission recommended the City Council adopt development standards that establish operational and management standards that apply to homeless shelters established under this ordinance, as shown in Exhibit A; and

**WHEREAS**, July 15, 2014 the City Council held a duly noticed public hearing on the subject application, and considered evidence presented by City staff and other interested parties, and continued the meeting to a date certain; and

**WHEREAS**, August 19, 2014 the City Council held a duly noticed public hearing on the subject application, and considered evidence presented by City staff and other interested parties.

**WHEREAS**, the Planning Division reviewed this proposed ordinance and related General Plan and specific plan amendments pursuant to the California Environmental Quality Act (CEQA), and determined that the proposed actions will not have significant, adverse environmental impacts, and that, therefore, a Negative Declaration is warranted, as shown in Exhibit C;

**NOW, THEREFORE**, the City Council of the City of San Clemente hereby ordains as follows:

**Section 1: Findings.** The City Council finds as follows:



**Ordinance No.  
SB 2 Implementation**

- A. The proposed Zoning Ordinance and Map amendments are consistent with the General Plan as amended.
- B. The proposed amendments will not adversely affect the public health, safety and welfare in that the amendment implements General Plan policies and objectives for residential development.
- C. The proposed amendments are necessary to comply with State Housing law and to meet community emergency shelter needs.

**Section 2. Emergency Shelter Overlay Zone.** The City Council hereby amends the Zoning Ordinance, as shown in Exhibit A, and the official Zoning Map, as shown is Exhibit B, to establish the Emergency Shelter (ES) Overlay Zone to comply with State mandate SB 2.

**Section 3. Development Standards.** The City Council hereby approves the Development Standards, Exhibit A, to comply with SB 2 requirements in State Housing Law and further directs that these standards be included in Section 17.56.100 of the San Clemente Municipal Code.

**Section 4. Environmental Determination.** The City Council hereby has considered the Initial Environmental Study and Negative Declaration of Environmental Impact prepared by the City's Community Development Department for the proposed actions, as shown in Exhibit C. The City Council concurs with the Study's findings and hereby approves the Negative Declaration.

**Section 5. Severability.** If any portion of this Ordinance, or the application of any such provision to any person or circumstance shall be held invalid, the remainder of this Ordinance to the extent it can be given effect of the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby and to this extent the provisions of this Ordinance are severable.

**Section 6. Certification of Passage.** The City Clerk shall certify to the passage of this Ordinance and this Ordinance shall take effect as provided by law

APPROVED AND ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

ATTEST:

\_\_\_\_\_/s/  
City Clerk of the City of  
San Clemente, California

\_\_\_\_\_/s/  
Mayor of the City of San  
Clemente, California

STATE OF CALIFORNIA            )  
COUNTY OF ORANGE            ) ss.  
CITY OF SAN CLEMENTE         )

I, **JOANNE BAADE**, City Clerk of the City of San Clemente, California, hereby certify that Ordinance No. \_\_\_\_\_ having been regularly introduced at the meeting of \_\_\_\_\_, was again introduced, the reading in full thereof unanimously waived, and duly passed and adopted at a regular meeting of the City Council held on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, and said ordinance was adopted by the following vote:

AYES:

NOES:

ABSENT:

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the City of San Clemente, California, this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_/s/  
CITY CLERK of the City of  
San Clemente, California

APPROVED AS TO FORM:

\_\_\_\_\_/s/  
CITY ATTORNEY

**EXHIBIT A**  
**Zoning Ordinance Amendment**  
**Ch. 17.56 - Overlay Districts**

Add:

**17.56.100. Emergency Shelters**

**Purpose and Intent.** The purpose of the Emergency Shelter “ES” Overlay designation is to identify those areas where Emergency Shelters are allowed by right, subject to the development and operational standards set forth in this Chapter 17.56. The ES Overlay meets the requirements of State law by designating specific areas where Emergency Shelters, also referred to as “homeless shelters”, may be established and operated by right, to meet the shelter needs based on homeless population estimates in the City’s General Plan Housing Element. The goals for areas with this designation are as follows:

1. To facilitate efforts to address the needs of homeless persons in the City of San Clemente by identifying locations where Emergency Shelters are allowed by right and by establishing objective development and operational standards for Emergency Shelters.
2. To protect public safety, maintain land use compatibility, and preserve property values, neighborhood quality and economic vitality while addressing an identified humanitarian need.
3. To locate such facilities, to the maximum extent possible, close to public transportation, public and community services, near job centers, away from residential neighborhoods, schools, and parks.
4. To allow small-scale, family-oriented Emergency Shelters as an accessory use to Churches and other Religious Institutions.
5. To ensure that Emergency Shelters are designed in accordance with applicable standards, as allowed under State law, and that they comply with City standards and guidelines applying to all other uses in the zone.
6. To ensure that Emergency Shelters are operated in a responsible and community-sensitive manner that prevents and avoids impacts to adjacent neighborhoods and enables residents, businesses and property owners to support, monitor, communicate with shelter operators, and seek City action to protect public health, safety and welfare.
7. To minimize illegal use of open space areas within the City of San Clemente for homeless encampments, loitering, littering and other problems associated with homeless camps.
8. To achieve a Housing Element which complies with State law and that fully addresses all housing needs in the community while balancing other important

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SB 2 Implementation**

community needs and goals, to protect public safety, neighborhood peace and aesthetics, and economic vitality.

**17.56.101. Application of Emergency Shelter (ES) Overlay Zone Requirements.**

The requirements of this section are for Emergency Shelters within the ES Overlay Zone, and for Emergency Shelters allowed as accessory uses to Churches and other Religious Institutions. Emergency Shelters that comply with these standards may be established without use permit or any other discretionary City review.

**17.56.102. Emergency Shelter Overlay District Established.** The City hereby establishes an "Emergency Shelter Overlay Zone" (ES) or District. In this District, Emergency Shelters which meet the standards set forth in this Chapter 17.56 shall be allowed by right. The ES Overlay shall consist of:

- a. Public and Civic Center zoned properties; excluding parcels with schools or school facilities; and
- b. City owned parcels, in Commercial, Business Park or Industrial zoning districts, and a minimum of 500 feet from residential zoned properties.

**17.56.103. Development Standards.** Emergency Shelters shall comply with the following standards:

**A. Separation.** An Emergency Shelter shall not be established or operated at any location less than three hundred (300) feet from another Emergency Shelter providing shelter and other services to homeless persons.

**B. Number of Emergency Shelters.** The number and capacity of Emergency Shelters allowed without use permit review shall be limited to that required to meet the shelter needs of the number of estimated homeless persons in the City, as established by current reliable information and approved by the City Council.

**C. Emergency Shelter as Accessory Use to Churches and Other Religious Institutions.** Emergency Shelters shall also be allowed, by right, as an accessory use to Churches and Religious Institutions located outside the ES Overlay District, subject to a ten-bed limit per facility.

**D. Maximum Number of Beds.** The maximum number of beds per Emergency Shelter facility shall not exceed 20 within the ES Overlay District. The maximum number of Emergency Shelter beds in a Church or other Religious Institution shall not exceed a maximum of ten beds per facility.

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SB 2 Implementation**

**E. Floor Area Requirement.** Emergency Shelters shall provide a total building floor area of not less than 125 square feet per shelter bed.

**F. On-Site Waiting and Intake Areas.** On-site waiting and client intake areas shall be provided within the Emergency Shelter building. Outdoor waiting areas, if provided, shall be visually screened from the public right-of-way and from adjacent land uses.

**G. Entries and Outdoor Use Areas.** Entries and outdoor use areas shall be located and fully screened with landscaping, fencing or similar measure so that they are not visible from a public street or adjacent use.

**H. Parking.** On-site parking shall be supplied at a ratio of not less than one vehicle space per five beds, plus one additional space for the resident manager and each additional staff person. Parking spaces shall be designed to meet City standards. Enclosed, secure bicycle parking shall be provided on-site at the ratio of not less than one bicycle parking space per ten beds.

**I. Site Lighting.** Site lighting shall be provided for safety and security, consistent with City standards and Design Guidelines.

**J. Architectural Review.** Emergency Shelters shall comply with the City's Design Guidelines and where applicable, the Rancho San Clemente Specific Plan and West Pico Specific Plan architectural and development standards to ensure shelters are compatible with their surroundings, provide adequate privacy between uses and minimize potential impacts of the proposed shelter on adjacent uses.

**17.56.104. Emergency Shelters. Operational Standards.** Emergency Shelters shall be operated in conformance with the following standards:

**A. Shelter Operator.** The Emergency Shelter shall be operated by a responsible Social Service Provider with experience in managing or providing social services.

**B. Supervision.** The Emergency Shelter shall provide at least one qualified on-site supervisor at all times, plus one attendant for each twenty occupants.

**C. Maximum Stay.** Occupancy for any individual or family shall not exceed 180 days in a 365-day period.

**D. Management Plan.** Each Emergency Shelter operator shall submit a management plan for the Community Development Director's review and approval prior to commencement of shelter operations. Said Plan shall include site security measures including, but not limited to fencing, surveillance measures, and on-site security personnel; Neighborhood Relations Plan and enforcement provisions; client

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SB 2 Implementation**

intake and screening; services to be provided; length of stay; drug and alcohol screening requirements; parking provisions; hours of operation; signage; staff training; monitoring, Case Management and oversight measures; annual reporting and review; emergency plan, including, but not limited to emergency contact numbers, evacuation plans and on-site safety measures; and provisions to allow an on-site kennel or off-site pet care for shelter clients.

**17.56.105. Definitions.**

A. "Emergency Shelter" (also referred to as "homeless shelter") means housing with minimal supportive services for homeless persons, and that is limited to occupancy of six months or less by a homeless person.

B. "Church or Religious Institution" means a building which is used as an established place of worship, has a regular congregation and regularly offers religious service, represents a recognized creed and form of worship and is affiliated with an organization of ordained clergy. Legal, conforming churches and religious institutions may operate an Emergency Shelter as an accessory use, pursuant to this Chapter 17.56.

C. "Social Service Provider" means an agency or organization licensed or supervised by any federal, state or local health/welfare agency that participates in the federal Homeless Management Information System (HMIS) and has demonstrated experience with the homeless population by assisting individuals and families achieve economic self-sufficiency and self-determination through a comprehensive array of programs and actions.

D. "Case Management" means a system for arranging and coordinating care and services whereby a case manager assesses the needs of the client and client's family and arranges, coordinates, monitors, and advocates for services to meet the client's needs.

E. "Neighborhood Relations Plan" means 1) a description of operational rules and procedures to be followed to maintain safety, security and compatibility with adjacent land uses, businesses, residents, and property owners, 2) protocol to respond to neighbor or public questions or complaints on a 24-hour basis, and 3) Public information resources and communication methods to be used maintain clear communication between the Emergency Services Provider, the City, local Police, Fire and Medical agencies, businesses and residents.

**Zoning Ordinance Amendment**  
**Ch. 17.88 – Definitions**

Add:

17.88.030 – "C" Definitions:

**C**

**"Carport"** means an accessible structure used for automobile shelter which is permanently roofed.

**Carport, Street-Facing.** "Street-facing carport" means a carport which is oriented toward the street from which primary access to the carport is taken.

**"Change of Copy"** means the change of any words, letters, numbers, figures, designs or other symbolic representations incorporated into a sign.

**"Church or Religious Institution"** means a building which is used as an established place of worship, has a regular congregation and regularly offers religious services, represents a recognized creed and form of workshop and is affiliated with an organization of ordained clergy. Legal, conforming churches and religious institutions may operate an emergency shelter as an accessory use, pursuant to San Clemente Municipal Code Chapter 17.56.

**"Coastal sage scrub"** means a natural occurring plant community consisting mostly of perennial shrubs and groundcovers adapted to winter rains and summer drought that occurs mostly on coastal hills and canyons within Central and Southern California. Typical Coastal sage scrub plants include: *Rhus integrifolia* (Lemonadeberry), *Heteromeles arbutifolia* (Toyon or California Holly), *Artemisia californica* (Coastal Sagebrush), *Eriogonum fasciculatum* (California Buckwheat), *Quercus agrifolia* (Coast Live Oak), and *Salvia* spp. (various species of Sage).

**Zoning Ordinance Amendment  
Ch. 17.48.020 – Permitted and Conditional Uses within Public Zones Table**

<b>Use</b>	<b>CVC</b>	<b>P</b>	<b>INST</b>
Emergency Shelter	P	P	

6

6. Refer to Section 17.56.100, Emergency Shelter Overlay. Exception, Public zoned parcels with a school or school facilities shall not be permitted to establish an emergency shelter.

**Zoning Ordinance Amendment  
Ch. 17.08.010 – Zones Established**

Add:

**Zone Title**

**Map Designation**

**G. Overlay Districts**  
Emergency Shelter

-ES

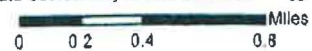


# Zoning Map - Emergency Shelter Overlay (ES)

# EXHIBIT B



Data Source: City of San Clemente 08 11 2014



**Exhibit C**  
**Initial Environmental Study and Negative Declaration**

**CITY OF SAN CLEMENTE**  
**ENVIRONMENTAL CHECKLIST FORM**

1. Project Title: SB2 Emergency Shelter Ordinance
2. Lead Agency Name and Address: City of San Clemente  
910 Calle Negocio, Suite 100  
San Clemente, CA 92673
3. Contact Person and Phone Number: Amber Gregg (949) 361-6196
4. Project Location: City of San Clemente
5. Project Sponsor's Name: City of San Clemente  
and Address 910 Calle Negocio, Suite 100  
San Clemente, CA 92673
6. General Plan Designation: Emergency Shelter Overlay; may include Public and Civic Center zoned parcels, City owned properties city-wide in Commercial, Business Park, and Industrial zoned properties, and properties in the Rancho San Clemente Business Park and West Pico Corridor Specific Plans. Project will also modify permitted uses for all churches which are located through out the City and in every Land Use designation.
7. Zoning: Emergency Shelter Overlay; may include Public and Civic Center zoned parcels, City owned properties city-wide in Commercial, Business Park, and Industrial zoned properties, and properties in the Rancho San Clemente Business Park and West Pico Corridor Specific Plans. Project will also modify permitted uses for all churches which are located through out the City and in every Land Use designation.
8. Description of the Project: (Describe the whole action involved, including but not limited to later phases of the project, and any secondary, support, or off-site features necessary for its implementation. Attach additional sheets if necessary)

Amend the General Plan, applicable specific plans, the Zoning Ordinance and Precise Zoning Map to allow emergency shelters, "by right," to comply with State law. The amendments designate an SB 2 overlay zone or "emergency shelter overlay", establishes development and management standards for homeless shelters, and allows homeless shelters as accessory uses to churches with a ten-bed limit. Senate Bill 2 (SB 2) requires

all Cities allow emergency homeless shelters by right in at least one zone. State criteria for SB 2 zones include, sufficient size and capacity to accommodate identified homeless need, realistic potential for development or reuse opportunities, and near transit, job centers and public and community services. Emergency Shelter Overlay; may include Public and Civic Center zoned parcels, City owned properties city-wide in Commercial, Business Park, and Industrial zoned properties, and properties in the Rancho San Clemente Business Park and West Pico Corridor Specific Plans. Project will also modify permitted uses for all churches which are located through out the City and in every Land Use designation. The City proposes to allow emergency shelters by right for up to 35 persons on parcels within the emergency shelter overlay.

The proposed project includes development standards for emergency homeless shelters which include but are not limited to:

- a) Maximum number of beds.
- b) Floor area requirements of 125 square feet per bed.
- c) Maximum length of stay, and
- d) A management plan.

A copy of the proposed modifications are provide under the attached exhibits.

9. Surrounding Land Uses and Setting: (Briefly describe the project's surroundings)  
The Emergency Shelter Overlay; includes Public and Civic Center zoned parcels, and, City owned properties city-wide in Commercial, Business Park, and Industrial zoned properties. Other areas considered for the overlay includes approximately 3.5 acres of Community Commercial designated parcels located in the West Pico Corridor Specific Plan, 250 acres of Business Park. Project will also modify permitted uses for all churches which are located through out the City and in every Land Use designation.

Public and Civic Center zoned parcels are dispersed throughout the community and located in every land use designation. They are commonly surrounded by residential zones. The City owned properties in commercial, business park and industrial locations are surrounded by commercial and industrial uses, and are at least 500 feet from residential zones.

The subject area of the West Pico Corridor Specific Plan is a predominantly improved area with a mix of commercial and light industrial uses. To the north and west is a steep slope, east is the I-5 freeway, and south is a mix of commercial uses. Residential zones are at least 500 feet from the area. The area has access to transit, job centers, and public and community services

The Rancho San Clemente, Business Park is a predominantly developed area that is surrounded by open space slopes. Residential zones are at least 500 feet from the SB 2 overlay zone. The area has access to transit, job centers, and public and community services.

Churches in San Clemente are located is all land use designations with the exception of open space: residential, institutional, public, mixed use and commercial.

10. Other public agencies whose approval is required: (e.g. permits, financing approval, or participation agreement).

California Department of Housing and Community Development (as part of its mandatory review of the City's Draft 2014-2015 Housing Element).

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**ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED:**

The following Initial Study indicates that the project may result in potential environmental impacts in the following marked categories:

<b>Aesthetics</b>	<b>Agricultural Resources</b>	<b>Air Quality</b>
<b>Biological Resources</b>	<b>Cultural Resources</b>	<b>Geology/Soils</b>
<b>Greenhouse Gas Emissions</b>	<b>Hazards/Hazardous Materials</b>	<b>Hydrology/Water Quality</b>
<b>Land Use/Planning</b>	<b>Mineral Resources</b>	<b>Noise</b>
<b>Population/Housing</b>	<b>Public Services</b>	<b>Recreation</b>
<b>Transportation/Traffic</b>	<b>Utilities &amp; Service Systems</b>	<b>Mandatory Findings of Significance</b>

**ENVIRONMENTAL DETERMINATION:**

On the basis of this initial evaluation:

- I find that the proposed project COULD NOT have a significant effect on the environment, and a NEGATIVE DECLARATION will be prepared.
- I find that although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because revisions have been made by or agreed to by the project proponent. A MITIGATED NEGATIVE DECLARATION has been prepared.
- I find that the proposed project MAY have a significant effect on the environment, and an ENVIRONMENTAL IMPACT REPORT is required.
- I find that the proposed project MAY have a "potentially significant impact" or "potentially significant unless mitigated" impact on the environment, but at least one effect: (a) has been adequately analyzed in an earlier document pursuant to applicable legal standards, and (b) has been addressed by mitigation measures based on the earlier analysis as described on the attached sheets. An ENVIRONMENTAL IMPACT REPORT is required, but it must analyze only the effects that remain to be addressed.
- I find that although the proposed project could have a significant effect on the environment, because all potentially significant effects (a) have been adequately analyzed in an earlier EIR or Negative Declaration pursuant to applicable standards, and (b) have been avoided or mitigated pursuant to that earlier EIR or Negative Declaration, including revisions or mitigation measures that are imposed upon the proposed project, nothing further is required.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
For

## EVALUATION OF ENVIRONMENTAL IMPACTS:

- 1) A brief explanation is required for all answers except "No Impact" answers that are adequately supported by the information sources a lead agency cites in the parentheses following each question. A "No Impact" answer is adequately supported if the referenced information sources show that the impact simply does not apply to projects like the one involved (e. g. the project falls outside a fault rupture zone). A "No Impact" answer should be explained where it is based on project-specific factors as well as general standards (e.g. the project will not expose sensitive receptors to pollutants, based on a project-specific screening analysis).
- 2) All answers must take account of the whole action involved, including off-site as well as on-site, cumulative as well as project-level, indirect as well as direct, and construction as well as operational impacts.
- 3) Once the lead agency has determined that a particular physical impact may occur, then the checklist answers must indicate whether the impact is potentially significant, less than significant with mitigation, or less than significant. "Potentially Significant Impact" is appropriate if there is substantial evidence that an effect may be significant. If there are one or more "Potentially Significant Impact" entries when the determination is made, an EIR is required.
- 4) "Negative Declaration: Less Than Significant With Mitigation Incorporated" applies where the incorporation of mitigation measures has reduced an effect from "Potentially Significant Impact" to a "Less than Significant Impact." The lead agency must describe the mitigation measures, and briefly explain how they reduce the effect to a less than significant level (mitigation measures from Section 17, "Earlier Analyses," may be cross-referenced).
- 5) Earlier analysis may be used where, pursuant to the tiering, program EIR, or other CEQA process, an effect has been adequately analyzed in an earlier EIR or negative declaration. Section 15063 (c) (3) (D). In this case, a brief discussion should identify the following:
  - a) Earlier Analysis Used. Identify and state where they are available for review.
  - b) Impacts Adequately Addressed. Identify which effects from the above checklist were within the scope of and adequately analyzed in an earlier document pursuant to applicable legal standards and state whether such effects were addressed by mitigation based on the earlier analysis.
  - c) Mitigation Measures. For effects that are "Less Than Significant with Mitigation Measures Incorporated," describe the mitigation measures which were incorporated or refined from the earlier document and the extent to which they address site-specific conditions for the project.
- 6) Lead agencies are encouraged to incorporate into the checklist references to information sources for potential impacts (e.g. general plans, zoning ordinances). Reference to a previously prepared or outside document should, where appropriate, include a reference to the page or pages where the statement is substantiated.
- 7) Supporting Information Sources. A source list should be attached, and other sources used or individuals contacted should be cited in the discussion.
- 8) This is only a suggested form, and lead agencies are free to use different formats; however, lead agencies should normally address the questions from this checklist that are relevant to a project's environmental effects in whatever format is selected.
- 9) The explanation of each issue should identify:
  - a) the significance criteria or threshold, if any, used to evaluate each question; and
  - b) the mitigation measure identified, if any, to reduce the impact to less than significant.

# INITIAL STUDY

## A. INITIAL STUDY CHECKLIST

IMPACT CATEGORY	Sources*	Potentially Significant Impact	Less than Significant w/Mitigation Incorporated	Less Than Significant Impact	No Impact
<b>*See Source References at the end of this Checklist.</b>					

**1. AESTHETICS -- Would the project:**

a) Have a substantial adverse effect on a scenic vista?	1, 3, 4, 5				X
b) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?	1, 3, 4, 5				X
c) Substantially degrade the existing visual character or quality of the site and its surroundings?	1, 3, 4, 5				X
d) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?	1, 3, 4, 5				X

**2. AGRICULTURE AND FORESTRY RESOURCES (In determining whether impacts to agricultural resources are significant environmental effects, lead agencies may refer to the California Agricultural Land Evaluation and Site Assessment Model (1997) prepared by the California Dept. of Conservation as an optional model to use in assessing impacts on agriculture and farmland. In determining whether impacts to forest resources, including timberland, are significant environmental effects, lead agency may refer to information compiled by the California Department of Forestry and Fire Protection regarding the state's inventory of forest land, including the forest and Range Assessment Project and the Forest Legacy Assessment project; and forest carbon measurement methodology provided in Forest Protocols adopted by the California Air Resources Board.) Would the project:**

a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance, as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?	1, 3, 4, 5				X
b) Conflict with existing zoning for agricultural use, or a Williamson Act contract?	1, 3, 4, 5				X
c) Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code Section 11220(g), timberland (as defined by Public Resources Code Section 4526), or timberland zoned Timberland Production (as defined by Government Code Section 51104(g))?	1, 3, 4, 5				X
d) Result in the loss of forest land or conversion of forest land to non-forest use?	1, 3, 4, 5				X
e) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland to non-agricultural use or conversion of forest land to non-forest use?	1, 3, 4, 5				X

IMPACT CATEGORY	Sources*	Potentially Significant Impact	Less than Significant w/Mitigation Incorporated	Less Than Significant Impact	No Impact
*See Source References at the end of this Checklist.					

**3. AIR QUALITY – (Where available, the significance criteria established by the applicable air quality management or air pollution control district may be relied upon to make the following determinations.) Would the project:**

a) Conflict with or obstruct implementation of the applicable air quality plan?	1-5				X
b) Violate any air quality standard or contribute substantially to an existing or projected air quality violation?	1-5				X
c) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors)?	1-5				X
d) Expose sensitive receptors to substantial pollutant concentrations?	1-5				X
e) Create objectionable odors affecting a substantial number of people?	1-5				X

**4. BIOLOGICAL RESOURCES -- Would the project:**

a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?	1, 3, 4, 5				X
b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?	1, 3, 4, 5				X
c) Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?	1, 3, 4, 5				X
d) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?	1, 3, 4, 5				X
e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?	1, 3, 4, 5				X
f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?	1, 3, 4, 5				X



IMPACT CATEGORY	Sources*	Potentially Significant Impact	Less than Significant w/Mitigation Incorporated	Less Than Significant Impact	No Impact
*See Source References at the end of this Checklist.					

**5. CULTURAL RESOURCES -- Would the project:**

a) Cause a substantial adverse change in the significance of a historical resource as defined in §15064.5	1, 3, 4, 5				X
b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to §15064.5?	1, 3, 4, 5				X
c) Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?	1, 3, 4, 5				X
d) Disturb any human remains, including those interred outside of formal cemeteries?	1, 3, 4, 5				X

**6. GEOLOGY AND SOILS -- Would the project:**

a) Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:	1, 3, 4, 5				X
i) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? (Refer to Div. of Mines and Geology Special Pub. 42.)	1, 3, 4, 5				X
ii) Strong seismic ground shaking?	1, 3, 4, 5				X
iii) Seismic-related ground failure, including liquefaction?	1, 3, 4, 5				X
iv) Landslides?	1, 3, 4, 5				X
b) Result in substantial soil erosion or the loss of topsoil?	1, 3, 4, 5				X
c) Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?	1, 3, 4, 5				X
d) Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property?	1, 3, 4, 5				X
e) Have soils incapable of adequately supporting the use of septic tanks or alternative waste water disposal systems where sewers are not available for the disposal of waste water?	1, 3, 4, 5				X

**7. GREENHOUSE GAS EMISSIONS -- Would the project:**

a) Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?	1, 3, 4, 5				X
b) Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases?	1, 3, 4, 5				X

IMPACT CATEGORY	Sources*	Potentially Significant Impact	Less than Significant w/Mitigation Incorporated	Less Than Significant Impact	No Impact
*See Source References at the end of this Checklist.					

**8. HAZARDS AND HAZARDOUS MATERIALS -- Would the project:**

a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?	1, 3, 4, 5				X
b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?	1, 3, 4, 5				X
c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?	1, 3, 4, 5				X
d) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?	1, 3, 4, 5				X
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area?	1, 3, 4, 5				X
f) For a project within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area?	1, 3, 4, 5				X
g) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?	1, 3, 4, 5				X
h) Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?	1, 3, 4, 5				X

**9. HYDROLOGY AND WATER QUALITY -- Would the project:**

a) Violate any water quality standards or waste discharge requirements?	1, 3, 4, 5				X
b) Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted)?	1, 3, 4, 5				X
c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner which would result in substantial erosion or siltation on- or off-site?	1, 3, 4, 5				X

IMPACT CATEGORY	Sources*	Potentially Significant Impact	Less than Significant w/Mitigation Incorporated	Less Than Significant Impact	No Impact
<b>*See Source References at the end of this Checklist.</b>					
d) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site?	1, 3, 4, 5				X
e) Create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff?	1, 3, 4, 5				X
f) Otherwise substantially degrade water quality?	1, 3, 4, 5				X
g) Place housing within a 100-year flood hazard area as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map?	1, 3, 4, 5				X
h) Place within a 100-year flood hazard area structures which would impede or redirect flood flows?	1, 3, 4, 5				X
i) Expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam?	1, 3, 4, 5				X
j) Inundation by seiche, tsunami, or mudflow?	1, 3, 4, 5				X
k) Potentially impact storm water runoff from construction activities?	1, 3, 4, 5				X
l) Potentially impact storm water runoff from post-construction activities?	1, 3, 4, 5				X
m) Result in a potential for discharge of storm water pollutants from areas of material storage, vehicle or equipment fueling, vehicle or equipment maintenance (including washing), waste handling, hazardous materials handling or storage, delivery areas, loading docks or other outdoor work/activity areas?	1, 3, 4, 5				X
n) Result in the potential for discharge of storm water to impact the beneficial uses of receiving waters?	1, 3, 4, 5				X
o) Create the potential for significant changes in the flow velocity or volume of storm water runoff to cause environmental harm?	1, 3, 4, 5				X
p) Create significant increases in erosion of the project site or surrounding areas?	1, 3, 4, 5				X
q) Would the project substantially alter the existing drainage pattern of the site or area, or add water features that could increase habitat for mosquitoes and other vectors and a potential for increased pesticide use?	1, 3, 4, 5				X
<b>10. LAND USE AND PLANNING -- Would the project:</b>					
a) Physically divide an established community?	1, 3, 4, 5				X

IMPACT CATEGORY	Sources*	Potentially Significant Impact	Less than Significant w/Mitigation Incorporated	Less Than Significant Impact	No Impact
*See Source References at the end of this Checklist.					
b) Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?	1, 3, 4, 5				X
c) Conflict with any applicable habitat conservation plan or natural community conservation plan?	1, 3, 4, 5				X

**11. MINERAL RESOURCES -- Would the project:**

a) Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?	1, 3, 4, 5				X
b) Result in the loss of availability of a locally-important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan?	1, 3, 4, 5				X

**12. NOISE -- Would the project result in:**

a) Exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?	1, 3, 4, 5				X
b) Exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels?	1, 3, 4, 5				X
c) A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?	1, 3, 4, 5				X
d) A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?	1, 3, 4, 5				X
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?	1, 3, 4, 5				X
f) For a project within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels?	1, 3, 4, 5				X

**13. POPULATION AND HOUSING -- Would the project:**

a) Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?	1, 3, 4, 5				X
b) Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere?	1, 3, 4, 5				X
c) Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere?	1, 3, 4, 5				X

IMPACT CATEGORY	Sources*	Potentially Significant Impact	Less than Significant w/Mitigation Incorporated	Less Than Significant Impact	No Impact
*See Source References at the end of this Checklist.					

**14. PUBLIC SERVICES:** Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:

Fire protection?	1, 3, 4, 5				X
Police protection?	1, 3, 4, 5				X
Schools?	1, 3, 4, 5				X
Parks?	1, 3, 4, 5				X
Other public facilities?	1, 3, 4, 5				X

**15. RECREATION:**

a) Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?	1, 3, 4, 5				X
b) Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?	1, 3, 4, 5				X

**15. TRANSPORTATION/TRAFFIC -- Would the project:**

a) Conflict with an applicable plan, ordinance or policy establishing measures of effectiveness for the performance of the circulation system, including mass transit and non-motorized travel and relevant components of the circulation system, including but not limited to intersections, streets, highways and freeways, pedestrian and bicycle paths, and mass transit?	1, 3, 4, 5				X
b) Conflict with an applicable congestion management program, including, but not limited to level of service standards and travel demand measures, or other standards established by the county congestion management agency for designated roads or highways?	1, 3, 4, 5				X
c) Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks?	1, 3, 4, 5				X
d) Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?	1, 3, 4, 5				X
e) Result in inadequate emergency access?	1, 3, 4, 5				X

IMPACT CATEGORY	Sources*	Potentially Significant Impact	Less than Significant w/Mitigation Incorporated	Less Than Significant Impact	No Impact
*See Source References at the end of this Checklist.					
f) Conflict with adopted policies, plans, or programs regarding public transit, bicycle, or pedestrian facilities, or otherwise decrease the performance or safety of such facilities?	1, 3, 4, 5				X
g) Conflict with adopted policies, plans, or programs supporting alternative transportation (e.g., bus turnouts, bicycle racks)?	1, 3, 4, 5				X

**17. UTILITIES AND SERVICE SYSTEMS -- Would the project:**

a) Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?	1, 3, 4, 5				X
b) Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	1, 3, 4, 5				X
c) Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	1, 3, 4, 5				X
d) Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed?	1, 3, 4, 5				X
e) Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?	1, 3, 4, 5				X
f) Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs?	1, 3, 4, 5				X
g) Comply with federal, state, and local statutes and regulations related to solid waste?	1, 3, 4, 5				X
h) Require or result in the implementation of a new or retrofitted storm water treatment control Best Management Practice (BMP), (e.g. a water quality treatment basin, constructed treatment wetland, storage vault), the operation of which could result in significant environmental effects (e.g. increased vectors or odors)?	1, 3, 4, 5				X
i) Would the project require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects, including a potential increase in pesticide use to control mosquitoes and other vectors?	1, 3, 4, 5				X

IMPACT CATEGORY	Sources*	Potentially Significant Impact	Less than Significant w/Mitigation Incorporated	Less Than Significant Impact	No Impact
*See Source References at the end of this Checklist.					

**18. MANDATORY FINDINGS OF SIGNIFICANCE:**

a) Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?	1-5				X
b) Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)?	1-5				X
c) Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?	1-5				X

**SOURCE REFERENCES:**

1.	<i>Centennial General Plan, City of San Clemente</i>
2.	<i>CEQA Air Quality Handbook, South Coast Air Quality Management District, April, 1993</i>
3.	<i>General Plan EIR, City of San Clemente, 2014</i>
4.	<i>Zoning Ordinance and Zoning Map, Title 17 of San Clemente Municipal Code, City of San Clemente</i>
5.	<i>Proposed amendments which are provided under:</i> <i>Exhibit A - Zoning Ordinance Amendment</i> <i>Exhibit B - Precise Zoning Map Amendments</i> <i>Exhibit C - General Plan Land Use Element Amendments</i> <i>Exhibit D - General Plan Land Use Map Amendments</i> <i>Exhibit E - Rancho San Clemente Specific Plan Amendments</i> <i>Exhibit F - West Pico Corridor Specific Plan Amendments</i>
Note: The preceding source documents are available for public review at the City of San Clemente Planning Division, 910 Calle Negocio, Suite 100, San Clemente, California.	

**B. EXPLANATIONS OF CHECKLIST RESPONSES:**1. *Aesthetics*

The proposed project would not result in any adverse aesthetic effects. There are no parcels located within scenic vistas or adjacent to scenic highways as defined in the City's General Plan. Security lighting would be a component of any shelter, but the facility would have to comply with California Building Code and the City's light and glare restrictions which prevents spillage and prohibits substantial light and glare. Emergency shelters will not degrade the existing visual character or quality of the site and its surrounding in that shelters will located in existing buildings that have already gone through a design review processes and have been approved, or would construct a new building that would also be subject to design review to ensure it complies with City's Design Guidelines. It is anticipated that there will be no impacts.

2. *Agricultural Resources*

The project will not affect agricultural resources, since there are no agricultural zones within the city. None of the subject parcels are identified as any type of farmland as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency. The parcels are not subject to the Williamson Act, or identified as forest land.

3. *Air Quality*

The project will not have any direct or indirect effects beyond existing regulation standards, therefore, it is anticipated that there will be no impacts.

4. *Biological Resources*

The project will not have any impacts on the City's biological resources since there are no changes to the Zoning Ordinance that modify land use boundaries or development standards affecting biological resources. The subject areas do not have sensitive habitat or any species identified as a candidate, sensitive, or special status species in local or regional plan or by the California Department of Fish and Game.

5. *Cultural Resources*

The project will most likely not have impacts on the City's cultural resources since there are no changes to the Zoning Ordinance that modify land use boundaries or development standards affecting a historic resource or archaeological resource pursuant to 15064.5. It is not anticipated will the proposed zone change will destroy a unique paleontological resource or site, unique geologic feature, or human remains. If development of a shelter uncovers resources, the City requires a qualified archeologist assess the find and develop a course of action plan to preserve the find.

6. *Geological and Soils*

The project will not have any negative impacts on the City's geological and soils, since there are no proposed changes to development standards pertaining to geological and soils review in conjunction with development within the City. Any new construction will require geotechnical/engineering soil studies to determine development feasibility and/or requirements.



### 7. *Greenhouse Emissions*

The proposed project would not generate additional greenhouse emissions as the project sites are located in developed areas. There is no conflict with adopted City or local plans for purposes of reducing emissions of greenhouse gases as there are no proposed changes to development standards pertaining to greenhouse emissions in conjunction with development within the City.

### 8. *Hazards and Hazardous Materials*

The project will not have any impacts on the City's hazards and hazardous materials, since the proposed amendments do not change regulations pertaining to hazards and hazardous materials review in conjunction with development within the City.

### 9. *Hydrology and Water Quality*

The project will not have any negative impacts on the City's hydrology and water quality, since the proposed amendments do not modify development standards or other requirements that affect water quality within the City or surrounding area.

### 10. *Land Use and Planning*

The project will not have any impacts on the City's land use and planning, since the proposed amendments are consistent with existing policies identified in applicable regulatory documents, such as the City's General Plan. And, the project does not modify development standards that are in place to prevent adverse impacts on the environment.

### 11. *Mineral Resources*

There are no significant (economically viable) mineral resources in the City. Therefore, the project will not affect mineral resources.

### 12. *Noise*

The project will not have any impacts on noise within the City, since the proposed amendments do not intensify development or change any regulations pertaining to noise standards, therefore, it is anticipated that there will be no impacts.

### 13. *Population and Housing*

The project will not have impacts on population and housing, since the proposed amendments do not change land use designations, land use boundaries, or development standards pertaining to density.

### 14. *Public Services*

The project will not affect public services, since the City would be able to maintain acceptable level of service.

### 15. *Recreation*

The project will not have any impacts on recreation within the City, since the proposed amendments do not change land use designations, land use boundaries, or density standards requiring additional demand for recreational services.

#### 16. *Transportation*

The project will not have any impacts on transportation, since the proposed amendments do not change the demand for more transportation facilities, decrease the availability for parking, or conflict with any existing plans for alternative transportation.

#### 17. *Utilities and Service Systems*

The project will not affect utilities and service systems, since adequate levels of service will be maintained.

#### 18. *Mandatory Findings of Significance*

The scope of the project will not have an adverse immediate or cumulative impact on the quality of the environment. The project amends land use regulations in Chapter 17 specific to emergency shelters to ensure Zoning Ordinance consistency with state legislation.

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