

**MOORPARK CITY COUNCIL  
AGENDA REPORT**

**TO:** Honorable City Council

**FROM:** David A. Bobardt, Community Development Director  
Prepared By: Joseph R. Vacca, Principal Planner



**DATE:** July 31, 2012 (CC Meeting of 9/19/12)

**SUBJECT:** Consider an Ordinance Approving Zoning Ordinance Amendment 2010-01 to Amend Chapter 17.08 (Definitions), 17.20 (Uses by Zone) to Address the Religious Land Use and Institutionalized Persons Act, and Add Section 17.28.060 Standards Relating to Emergency Shelters, and Single Room Occupancy Units of the Moorpark Municipal Code to Ensure Compliance with the Adopted Housing Element, and Consistency with Changes in Federal and State Law

**BACKGROUND/DISCUSSION**

Under state law, the City was required to prepare a Housing Element update for the 2008-2014 planning period. A Draft Housing Element was prepared and reviewed by the City Council on October 6, 2010. Following review by the City Council, the Draft Housing Element was submitted to the California Department of Housing and Community Development (HCD) for review. After a series of discussions between City staff and HCD and revisions to the draft element, on January 31, 2012 a letter was received from HCD stating that the draft element addresses statutory requirements. The Planning Commission reviewed the Draft Housing Element for the 2008-2014 planning period on March 27, 2012, and adopted PC Resolution No. 568, recommending its adoption to the City Council. The City Council held a public hearing on May 16, 2012, to review the Draft Housing Element Update 2008-2014 and approved Resolution No. 2012-3105, adopting the Housing Element Update 2008-2014 as one of the mandatory elements of the City's General Plan.

On September 1, 2010, the City Council adopted Resolution No. 2010-2954 which directed staff and Planning Commission to study, hold a public hearing and provide a recommendation to City Council on a Zoning Ordinance Amendment that would amend Chapters 17.20 of the Moorpark Municipal Code to ensure that regulations related to emergency shelters, supportive and transitional housing and single room occupancy units are consistent with State law, the City's General Plan and other provisions of the City's Zoning Ordinance.

On December 7, 2011, the City Council adopted Resolution No. 2011-3075 directing staff and the Planning Commission study, hold a public hearing and provide a recommendation to City Council on a Zoning Ordinance Amendment that would amend Chapters 17.20 of the Moorpark Municipal Code to ensure that religious land uses are consistent with Federal and State law, the City's General Plan and other provisions of the City's Zoning Ordinance.

On June 26, 2012 the Planning Commission considered and recommended to the City Council approval of the proposed Zoning Ordinance Amendment No. 2010-01. The attached Planning Commission staff report contains a more detailed description of the proposed amendments. Upon consideration and review of the proposed Zoning Ordinance Amendment, the Planning Commission directed staff to eliminate any requirements that a proposed Single Room Occupancy Unit project be required to provide a minimum or maximum of 15 single room occupancy units; and to remove the requirement that a minimum of 250 square feet be provided for a two-person occupancy unit. These changes were recommended by the Planning Commission to allow more flexibility in designing a single room occupancy development which is already required to comply with underlying zoning development standards, such as floor area ratio limitations, setback criteria, parking requirements, etc. These recommended changes are reflected in legislative format in Exhibit D of the proposed ordinance.

For clarification, Exhibit B of the proposed Ordinance: Section B. Residential Uses, 2.d. was updated to state that - Transitional and supportive housing when conducted in an existing housing unit (\*subject to same zoning requirements and procedures as other residential uses of the same type in the same zoning district), is allowed in all residential zoning districts with no zoning clearance required.

The City Attorney's office has reviewed the draft Ordinance for Zoning Ordinance Amendment No. 2010-01, (Attachment 2) and has determined that it does not conflict with Federal or State Law.

### **PROCESSING TIME LIMITS**

Since this ordinance amendment was initiated by the City, the processing time limits under the Permit Streamlining Act (Government Code Title 7, Division 1, Chapter 4.5), the Subdivision Map Act (Government Code Title 7, Division 2), and the California Environmental Quality Act Statutes and Guidelines (Public Resources Code Division 13, and California Code of Regulations, Title 14, Chapter 3) are not applicable.

### **ENVIRONMENTAL DETERMINATION**

In accordance with the City's environmental review procedures adopted by resolution, the Community Development Director determines the level of review necessary for a project to comply with the California Environmental Quality Act (CEQA). Some projects may be exempt from review based upon a specific category listed in CEQA. Other projects may be exempt under a general rule that environmental review is not necessary where it can be determined that there would be no possibility of significant effect upon the environment.

A project which does not qualify for an exemption requires the preparation of an Initial Study to assess the level of potential environmental impacts.

Based upon the results of an Initial Study, the Director may determine that a project will not have a significant effect upon the environment. In such a case, a Notice of Intent to Adopt a Negative Declaration or a Mitigated Negative Declaration is prepared. For many projects, a Negative Declaration or Mitigated Negative Declaration will prove to be sufficient environmental documentation. If the Director determines that a project has the potential for significant adverse impacts and adequate mitigation cannot be readily identified, an Environmental Impact Report (EIR) is prepared.

The Director has reviewed this project and found it to qualify for a General Rule Exemption in accordance with Section 15061 of California Code of Regulations (CEQA Guidelines). No further environmental documentation is required.

#### **FISCAL IMPACT**

None

#### **STAFF RECOMMENDATION**

1. Open the public hearing, accept public testimony and close the public hearing.
2. Introduce Ordinance No. \_\_\_\_\_ approving Zoning Ordinance Amendment 2010-01, for first reading, waive full reading, and schedule second reading and adoption for October 3, 2012.

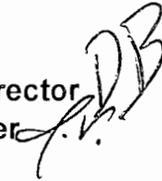
#### **ATTACHMENTS:**

1. June 26, 2012 Planning Commission Agenda Report (Without Attachments)
2. Ordinance No. \_\_\_\_\_, which contains the following:
  - Exhibit A - Section 17.08.010 Application of definitions
  - Exhibit B - Table 17.20.050 et seq. in legislative format
  - Exhibit C - Table 17.20.060 et seq. in legislative format
  - Exhibit D - Section 17.28.060.A Standards relating to Emergency Shelters, and Section 17.28.060.B Standards relating to Single Room Occupancy unit
3. Religious Land Use and Institutionalized Personnas Act (RLUIPA)
4. Zoning Map (11" x 17" copy) – Under Separate Cover

**MOORPARK PLANNING COMMISSION  
AGENDA REPORT**

**TO:** Honorable Planning Commission

**FROM:** David A. Bobardt, Community Development Director  
Prepared by Joseph R. Vacca, Principal Planner



**DATE:** April 11, 2012, (Meeting of 06/26/12)

**SUBJECT:** Consider the Approval of Zoning Ordinance Amendment 2010-01 to Amend Chapter 17.08 (Definitions), 17.20 (Uses by Zone) to Address the Religious Land Use and Institutionalized Persons Act, and Add Section 17.28.060 Standards Relating to Emergency Shelters, and Single Room Occupancy Units of the Moorpark Municipal Code to Ensure Compliance with the Adopted Housing Element, and Consistency With Changes in Federal and State Law.

**BACKGROUND/ DISCUSSION**

Under state law, the City is required to prepare a Housing Element update for the 2008-2014 planning period. A Draft Housing Element was prepared and reviewed by the City Council on October 6, 2010. Following review by the City Council, the Draft Housing Element was submitted to the California Department of Housing and Community Development (HCD) for review. After a series of discussions between City staff and HCD and revisions to the draft element, on January 31, 2012 a letter was received from HCD stating that the draft element addresses statutory requirements. The Planning Commission reviewed the Draft Housing Element for the 2008-2014 planning period on March 27, 2012, and adopted PC Resolution No. 568, recommending its adoption to the City Council. The City Council held a public hearing on May 16, 2012, to review the Draft Housing Element Update 2008-2014 and approved Resolution No. 2012-3105, adopting the Housing Element Update 2008-2014 as one of the mandatory elements of the City's General Plan.

On September 1, 2010, the City Council adopted Resolution No. 2010-2954 which directed staff and Planning Commission to study, hold a public hearing and provide a recommendation to City Council on a Zoning Ordinance Amendment that would amend Chapters 17.20 of the Moorpark Municipal Code to ensure that regulations related to emergency shelters, supportive and transitional housing and single room occupancy units are consistent with State law, the City's General Plan and other provisions of the City's Zoning Ordinance.

On December 7, 2011, the City Council adopted Resolution No. 2011-3075 directing staff and the Planning Commission study, hold a public hearing and provide a recommendation to City Council on a Zoning Ordinance Amendment that would amend Chapters 17.20 of the Moorpark Municipal Code to ensure that religious land uses are consistent with Federal and State law, the City's General Plan and other provisions of the City's Zoning Ordinance. The City Council will be considering the Planning Commission recommendation on this Zoning Ordinance Amendment to address Chapter 17.20.

## **ANALYSIS**

The proposed zoning ordinance amendment primarily includes the following four updates:

- It adds definitions to Chapter 17.08; and
- It amends the Use Matrix Table 17.20.050 and 17.20.060 to address RLUIPA
- It adds 17.28.060.A Standards relating to Emergency Shelters; and
- It adds 17.28.060.B Standards relating to Single Room Occupancy unit; and

### **❖ Definition of Family**

This Zoning Code Amendment No. 2010-01 includes amendment to Title 17 (Zoning) of the Moorpark Municipal Code amending Section 17.08.010, to add the definition of Family. This is a change that the City committed to do in Program 20 of the 2008-2014 Housing Element Update.

Court cases have expanded the application of a broad definition of family to other aspects of law, including zoning and California housing laws. In particular, the California Supreme Court, in *City of Santa Barbara v. Adamson* (1980), struck down the definition of family in the Santa Barbara Municipal Code which made a distinction between related and unrelated persons in setting occupancy limits for single family homes. The Santa Barbara Municipal Code defined family as: Either 1) an individual or two or more persons related by blood, marriage, or adoption living together as a single housekeeping unit, or 2) a group of not to exceed five persons, excluding servants. The Court ruled that this definition violated an individual's constitutionally guaranteed right to privacy by infringing on the right to choose with whom one lives. There is currently no definition of family in the Moorpark Municipal Code.

**The proposed definition of "Family" is:** "Family" means one or more persons living together in a dwelling unit, with common access to, and common use of all living, kitchen, and eating areas within the dwelling unit.

The proposed change in the definition of family is consistent with the California Supreme Court decision. The new definition is designed to expand the definition to avoid conflict with State law. The proposed change to the Zoning Ordinance should not conflict with the provisions of the City's adopted General Plan. The proposed definition advances program 20 of the Housing Element of the General Plan.

At this time, staff also recommends amending the definition of boarding house in the municipal code to be consistent with the opinion on the definition of boarding house that has been provided by the California Attorney General.

**Therefore the proposed definition of “Boarding house” is:** “Boarding house” means a residence or dwelling, other than a hotel, wherein three (3) or more rooms, with or without individual or group cooking facilities, are rented to individuals under separate rental agreements or leases, either written or oral, whether or not an owner, agent, or rental manager is in residence.

❖ **Religious Land Use and Institutionalized Persons Act (RLUIPA)**

Moorpark Municipal Code Chapter 17.20 establishes the uses by zone in the City. On September 22, 2000, following unanimous approval by Congress, President Clinton signed into law the Religious Land Use and Institutionalized Persons Act (RLUIPA), (Attachment 2), which is a civil rights law that protects individuals and religious institutions from discriminatory and unduly burdensome land use regulations. RLUIPA is not a blanket exemption from zoning laws; it provides regulations for local governments regarding local zoning laws, as follows:

- zoning must not substantially burden religious exercise;
- zoning must not treat religious uses less favorably than non-religious assemblies or institutions;
- zoning must not discriminate based on religion or religious denomination; and
- zoning must not totally or unreasonably restrict religious uses.

Essentially, RLUIPA requires the city to apply zoning uniformly and not impose an unjustified substantial burden on religious exercise. Traditional zoning concerns, such as regulations addressing traffic, hours of operation, parking, maximum capacity, intensity of use, setbacks and frontage requirements, may be implemented so long as these regulations are applied to other assembly uses in the same way as applied to religious land uses. A number of court cases over recent years have helped frame the application of RLUIPA.

To ensure consistency with Federal law, staff recommends deleting the municipal code’s existing definition for church, which is: -“Church” means a building in which a body or organization of religious believers may assemble for worship. Staff recommends providing a new definition to replace the word “church” with a new definition for a “place of religious assembly” in the definitions chapter 17.08 of the municipal code to be consistent with the opinion that has been provided by the Federal Department of Justice on the definition of place of religious assembly in relation to the land use provisions of the Religious Land Use and Institutionalized Persons Act.

**Therefore the proposed definition of “Place of religious assembly” is:** “Place of religious assembly” means a place of assembly primarily used for the purpose of religious worship, study, teaching, and related activities including, but not limited to, space for churches, classrooms, fellowship halls, meeting rooms, libraries, mosques, offices, sanctuaries, synagogues, and temples, and may include space for social services and similar functions.

In order to ensure that places of religious assembly are treated in the same or in a more permissive manner than other assembly uses, staff is recommending the following amendments to the Use Matrices of Tables 17.20.050 and 17.20.060 of the Municipal Code:

Tables 17.20.050 and 17.20.060 (Use Matrices):

Table 17.20.050 was not changed in relation to RLUIPA because it is already as permissive or more permissive comparatively for a place of religious assembly with or without schools and/or social services, including emergency shelters, with the allowance of other assembly uses citywide. The only changes to ensure consistency with places of religious assembly with other assembly uses in residential zones was the proposed prohibition of Places of religious assembly as a conditionally permitted use in the A-E zone and the proposed prohibition of Governmental uses as conditionally permitted uses in the A-E and TPD zones. The amendment also includes the proposed prohibition of Recreational facilities, non-profit or for profit uses, as conditionally permitted uses in the A-E zones.

In Table 17.20.060, under Section 17.20.060.A.16.: Psychics, fortunetelling, and spiritual advisors when in compliance with Title 5 of the Moorpark Municipal Code, was added as a conditionally permitted use in the C-O and C-1 zone. In the CPD and C-2 zones, Psychics, fortunetelling, and spiritual advisors when in compliance with Title 5 of the Moorpark Municipal Code, is proposed to be allowed with an Administrative Permit, unless the subject property is within one hundred (100) feet of a residentially zoned property and then a conditional use permit would be required.

In Table 17.20.060, under Section 17.20.060.B.3.a.: B.3- Restaurants and similar establishments engaged primarily in the retail sale of prepared food for on-site or off-site consumption in accordance with the restrictions below: a.- With or without entertainment and with or without on-site consumption of beer and wine and other alcoholic beverages and with or without outdoor seating ((\*if within one hundred (100) feet of a residentially zoned property a conditional use permit is required). Changed from being an allowed use with an approved Administrative Permit to an allowed use with an approved Conditional Use Permit in the C-1 zone, to be consistent with the requirements for other assembly uses in the C-1 zone.

Table 17.20.060 would be modified so that Section 17.20.060.E.1.a. Public and Semi-Public Uses, Amusement and recreational facilities as defined in Chapter 17.08; a. Arcades (video and computer) and cyber cafés would be prohibited in the C-O zone. Also, Section 17.20.060.E.1.b. Public and Semi-Public Uses, Amusement and recreational

facilities as defined in Chapter 17.08; b. Health club/gymnasium/fitness center/spa would be prohibited in the C-O zone.

In Table 17.20.060, under Section 17.20.060.E.1.a. Public and Semi-Public Uses, Amusement and recreational facilities as defined in Chapter 17.08, subsection c. Auditoriums, community centers, dancehalls, and indoor motion picture theaters was added as a conditionally permitted use in the CPD, C-2, C-OT, M-1, M-2 and I zones.

In Table 17.20.060, under Section 17.20.060.E.1.a. Public and Semi-Public Uses, Amusement and recreational facilities as defined in Chapter 17.08, subsection d. Billiard and pool establishments, and bowling alleys, with or without alcohol was added as a conditionally permitted use in the CPD, C-2, and C-OT zones.

In Table 17.20.060, under Section 17.20.060.E.1.a. Public and Semi-Public Uses, Amusement and recreational facilities as defined in Chapter 17.08, subsection e. Golf driving ranges, golf putting greens and miniature golf, parks and playgrounds was added as a conditionally permitted use in the CPD, C-2, and M-1 zones.

Also, to ensure consistency with allowances for places of religious assembly with other assembly uses in other commercial zones there is a proposed amendment of the proposed Section 17.20.060.E.8. Public and Semi-Public Uses, Hospitals including urgent care, are to be amended from being allowed with an Administrative Permit in the C-O zone to being allowed as a conditionally permitted uses in this zone.

In Table 17.20.060, under proposed Section 17.20.060.E.9. Public and Semi-Public Uses, Places of religious worship was changed to Places of religious assembly, with or without schools and/or social services, including emergency shelters, and was added as a conditionally permitted use in the C-O and C-1 zone. In the CPD, C-2, C-OT, and M-1 zones a place of religious assembly, with or without schools and/or social services, including emergency shelters, is proposed to be allowed with an Administrative Permit, unless the subject property is within one hundred (100) feet of a residentially zoned property and then a conditional use permit would be required. A place of religious assembly is proposed to be allowed as a conditionally permitted use in the M-2 zone, where this was a prohibited use, and would remain to be allowed as a conditionally permitted use in the I zone.

Also, to ensure consistency with allowances for places of religious assembly with other assembly uses in other commercial zones there is a proposed amendment of the proposed Section 17.20.060.E.11. Public and Semi-Public Uses, Private training facilities including, but not limited to, professional and vocational schools, are to be amended from being allowed with an Administrative Permit in the C-O and C-1 zones to being allowed as a conditionally permitted uses in these zones.

Lastly, to ensure consistency with allowances for places of religious assembly with other assembly uses in other commercial zones there is a proposed amendment of the proposed

Section 17.20.060.E.12. Public and Semi-Public Uses, Recreational facilities (private) with/without food services, including but not limited to, bicycle and skate parks, golf courses, gymnasiums, fitness, health spas, martial arts, racquetball, yoga. Bicycles and skate parks shall be in compliance with Chapter 17.28 (\*if within one hundred (100) feet of a residentially zoned property a conditional use permit is required), are to be amended from being allowed with an Administrative Permit in the C-O zone to being prohibited in this zone.

These changes ensure that places of worship are allowed in a consistent way as compared with allowances of other assembly uses of other zones citywide.

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

Moorpark Municipal Code Chapter 17.20 establishes the uses by zone in the City. On January 1, 2008, California Senate Bill No. 2 was enacted, which requires every California city and county to engage in a more detailed analysis of emergency shelters and transitional and supportive housing in Housing Element updates and to regulate zoning for these facilities. SB 2 defines “emergency shelters” as housing for homeless persons intended for occupancy of less than six months, where no person is denied occupancy because of inability to pay. “Transitional housing” is rental housing for stays of at least six months, where the units are provided to another person after a set period. “Supportive housing” has no limit on the length of stay, provides supportive services, and is occupied by low-income persons with disabilities and certain other disabled persons. A state license is usually not required for supportive housing.

SB 2 requires that the City identify the need for emergency shelters in its Housing Element update and designate zoning districts adequate to accommodate the need. In those districts, emergency shelters must be allowed by right without a conditional use permit or any other discretionary permit and are exempt from review under the California Environmental Quality Act. The City may apply objective development and management standards, such as the number of beds and length of stay. If no zoning district exists that meets these standards, SB 2 requires the Housing Element update to include a program to rezone within one year after the adoption of the Housing Element.

The Housing Element update must also analyze the need for transitional and supportive housing and describe a program to reduce constraints on the development of this housing. Supportive and transitional housing must be treated as a residential use of property, subject only to the same restrictions that apply to other housing of the same type in that zone. For instance, supportive housing located in a single-family residence must be treated like any other single family home. SB 2 added emergency shelters and supportive and transitional housing to the types of housing protected by the Housing Accountability Act, (Government Code 65589.5 – formerly the Anti-NIMBY Law), which until now only covered affordable and farmworker housing. This statute strictly limits the grounds under which cities may deny certain types of housing, now including emergency shelters and supportive and transitional housing.

Current city regulations need to be updated for consistency with the adopted Housing Element and State law relative to zoning for emergency shelters, transitional and supportive housing. Therefore, the Zoning Ordinance Amendment to add Emergency Shelters, Transitional and Supportive Housing to the Allowed Uses of the Zoning Ordinance is proposed as follows:

❖ **Emergency Shelters**

Recent amendments to state housing law (SB 2 of 2007) require jurisdictions to designate at least one zone where year-round emergency shelters are allowed by-right (i.e., without a conditional use permit or other discretionary action). To comply with State law, and Program 7 in the adopted Housing Element, this Zoning Ordinance Amendment has been prepared for Planning Commission consideration for recommendation to City Council to add a definition of emergency shelter to the Chapter 17.08 of the zoning code and to permit emergency shelters “by-right” with issuance of a zoning clearance for the use in the C-2 zone as shown in the proposed amendment to Table 17.20.060, under Section 17.20.060.E.3.; (Attachment 1, Exhibit C), subject to objective development standards, and in conjunction with permitted places of worship, in residential and commercial zones.

**The proposed Emergency Shelter definition is as follows:** “Emergency shelter” means housing with minimal supportive services for homeless persons that is limited to occupancy of six (6) months or less by a homeless person, and where no individual or household may be denied emergency shelter because of an inability to pay.

Staff proposes adding Section 17.28.060.A. development standards (Attachment 1, Exhibit D), relating to Emergency Shelters, as allowed by right in the C-2 zone are generally outlined, as follows:

- One (1) Emergency shelter facility per lot is allowed, at least five hundred (500) feet from any other Emergency shelter, and located within one-half (½)-mile of a transit stop.
- Overnight occupancy shall be limited to one (1) bed per seventy (70) square feet of sleeping area with a maximum occupancy limited to thirty (30) beds.
- General Development Requirements shall comply with development requirements of the underlying zone.
- Lighting, parking, signage, shall comply with the provisions of the code.
- Services and Facilities shall be provided as follows:
  - A client intake and waiting area shall be provided and shall be adequately sized to accommodate waiting clients. The intake area must be indoors.
  - The facility shall provide a sleeping area and separate restrooms for males and females.
  - Other on-site services that are permitted include:
    - Showers
    - Laundry facilities
    - Kitchen, food preparation, and dining areas.

- Storage areas to secure client belongings.
- Private area or office for providing referral services to assist shelter clients.
- Other similar services for clients, as determined by the Community Development Director.
- Prior to occupancy, a written operational plan for the facility shall be submitted to the Community Development Director and Moorpark Police Chief that demonstrates compliance with all zoning requirements; with specific operational procedures including but not limited to the following:
  - An individual must vacate shelter between nine (9:00) a.m. and five (5:00) p.m. daily.
  - An individual shall not use the facility for more than one hundred eighty (180) days.
- Facilities shall be maintained in a neat, safe, and orderly manner.

#### ❖ **Transitional/Supportive Housing**

SB 2 also requires that transitional and supportive housing be treated as a residential use that is subject only to the same requirements and procedures as other residential uses of the same type in the same zone. To comply with State law, and Program 7 in the adopted Housing Element, this Zoning Ordinance Amendment has been prepared for Planning Commission consideration for recommendation to City Council to add definitions of supportive housing and transitional housing to the Chapter 17.08 of the zoning code and to permit Transitional and supportive housing by-right in all the residential zones.

**The proposed Supportive Housing definition is as follows: "Supportive Housing"** means housing with no limit on length of stay, that is occupied by the target population as defined in Health and safety Code section 50675.14, and that is linked to onsite or offsite services that assist the supportive housing resident in retaining the housing, improving his or her health status, and maximizing his or her ability to live and, when possible, work in the community.

**The proposed Transitional Housing definition is as follows: "Transitional Housing"** means rental housing operated under the funding program requirements that call for the termination of assistance and recirculation of the assisted unit to another eligible program recipient at some predetermined future point in time, which shall be no less than six (6) months.

Transitional and Supportive housing must be regulated in a manner that is consistent with other residential uses with the same standards and procedures as other "conventional" residential uses of the same type in the same zone. Therefore, proposed changes to Chapter 17.20, (Attachment 1, Exhibit B) include the addition of Transitional and supportive housing as permitted in the following residential zones: O-S, A-E, R-A, R-E, R-O, R-1, R-2 and RPD zones with no zoning clearance required; and no longer permitting transitional

housing facilities, (currently allowed as conditionally permitted) in the following commercial zones: C-O, C-1, CPD and C-2 zones. Transitional and supportive housing will only be permitted by right residential zones, and prohibited in commercial zones.

❖ **Single Room Occupancy (SROs)**

Recent amendments to state housing law (AB 2634) require jurisdictions to facilitate the development of housing for persons with extremely-low incomes (ELI). Single Room Occupancy (SRO) housing can help to address this need.

Program 8 in the adopted Housing Element includes a commitment to consider a Zoning Code Amendment to permit SROs by-right in the C-2 zones subject to objective development standards, to be consistent with State Law. To comply with State law, and Program 8 in the adopted Housing Element, this Zoning Ordinance Amendment has been prepared for Planning Commission consideration for recommendation to City Council to add a definition of single room occupancy (SRO) unit to the Chapter 17.08 of the zoning code and to permit single room occupancy (SRO) units by-right in the C-2 zones.

**The proposed Single Room Occupancy (SRO) Unit definition is as follows:** "Single Room Occupancy (SRO) unit" means a housing unit in a multiple-unit building or facility consisting of a single room, with private or shared bath facilities, and with private or shared cooking facilities.

Staff proposes adding Section 17.28.060.B., the proposed development standards relating to Single Room Occupancy (SRO) Unit Developments, (Attachment 1, Exhibit D), as allowed by right in the C-2 zone are generally outlined, as follows:

- One (1) Single Room Occupancy (SRO) unit development per lot is allowed, and shall be located at least five hundred (500) feet from any other SRO unit development, as measured from the closest property line. Facilities shall be provided for SRO unit developments as follows:
  - Minimum unit size of two hundred (200) square feet for single person occupancy and two hundred fifty (250) square feet for two (2) person occupancy.
  - Maximum unit size of four hundred (400) square feet.
  - Maximum of fifteen (15) SRO units per development.
  - Other on-site services that are permitted include:
    - Laundry facilities
    - Manager's office
    - Other similar services for clients, as determined by the Community Development Director.
- No Transient occupancy; units must be occupied as the primary residence of the client.
- Prior to occupancy, a written operational plan for the facility shall be submitted to the Community Development Director and Moorpark Police Chief that demonstrates compliance with all zoning requirements. The operational plan shall contain the

name, address, phone number and driver's license number of the owner, operator and facility manager.

- General Development Requirements shall comply with C-2 zone development requirements.
- Lighting, parking, and signage shall comply with the provisions of the code.
- Facilities shall be maintained in a neat, safe, and orderly manner.

The City Attorney's office has reviewed the draft PC Resolution for Zoning Ordinance Amendment No. 2010-01, (Attachment 1) and has determined that the changes are acceptable and do not conflict with Federal or State Law.

### **PROCESSING TIME LIMITS**

Since this is an action initiated by the City, the processing time limits under the Permit Streamlining Act (Government Code Title 7, Division 1, Chapter 4.5), the Subdivision Map Act (Government Code Title 7, Division 2), and the California Environmental Quality Act Statutes and Guidelines (Public Resources Code Division 13, and California Code of Regulations, Title 14, Chapter 3) are not applicable.

### **ENVIRONMENTAL DETERMINATION**

In accordance with the City's environmental review procedures adopted by resolution, the Community Development Director determines the level of review necessary for a project to comply with the California Environmental Quality Act (CEQA). Some projects may be exempt from review based upon a specific category listed in CEQA. Other projects may be exempt under a general rule that environmental review is not necessary where it can be determined that there would be no possibility of significant effect upon the environment. A project which does not qualify for an exemption requires the preparation of an Initial Study to assess the level of potential environmental impacts.

Based upon the results of an Initial Study, the Director may determine that a project will not have a significant effect upon the environment. In such a case, a Notice of Intent to Adopt a Negative Declaration or a Mitigated Negative Declaration is prepared. For many projects, a Negative Declaration or Mitigated Negative Declaration will prove to be sufficient environmental documentation. If the Director determines that a project has the potential for significant adverse impacts and adequate mitigation can not be readily identified, an Environmental Impact Report (EIR) is prepared.

The Director has reviewed this project and found it to qualify for a General Rule Exemption in accordance with Section 15061 of California Code of Regulations (CEQA Guidelines). No further environmental documentation is required.

**STAFF RECOMMENDATION**

1. Open the public hearing, accept public testimony and close the public hearing.
2. Adopt Resolution No. PC-2012-\_\_\_\_\_ recommending that the City Council approve Zoning Ordinance Amendment 2010-01.

**ATTACHMENTS:**

1. Draft PC Resolution which contains the following:
  - Exhibit A - Section 17.08.010 Application of definitions
  - Exhibit B - Table 17.20.050 et seq. in legislative format
  - Exhibit C - Table 17.20.060 et seq. in legislative format
  - Exhibit D - Section 17.28.060.A Standards relating to Emergency Shelters, and  
Section 17.28.060.B Standards relating to Single Room Occupancy unit
2. Religious Land Use and Institutionalized Personas Act (RLUIPA)
3. Zoning Map (11" x 17" copy) – Under Separate Cover

ORDINANCE NO. \_\_\_\_

AN ORDINANCE OF THE CITY OF MOORPARK, CALIFORNIA, APPROVING ZONING ORDINANCE AMENDMENT NO. 2010-01, AMENDING CHAPTER 17.08 (DEFINITIONS), 17.20 (USES BY ZONE) TO ADDRESS THE RELIGIOUS LAND USE AND INSTITUTIONALIZED PERSONS ACT, AND ADDING SECTION 17.28.060 STANDARDS RELATING TO EMERGENCY SHELTERS, AND SINGLE ROOM OCCUPANCY UNITS TO THE MOORPARK MUNICIPAL CODE TO ENSURE COMPLIANCE WITH THE ADOPTED HOUSING ELEMENT, AND CONSISTENCY WITH CHANGES IN FEDERAL AND STATE LAW

WHEREAS, at its meeting of September 1, 2010 the City Council adopted Resolution No. 2010-2954 directing the Planning Commission to consider a zoning ordinance amendment that would amend Chapter 17.20 of the Moorpark Municipal Code to ensure that regulations related to emergency shelters, supportive and transitional housing and single room occupancy units are consistent with State law, the City's General Plan and other provisions of the City's Zoning Ordinance; and

WHEREAS, at its meeting of December 7, 2011 the City Council adopted Resolution No. 2011-3075 directing the Planning Commission to consider a zoning ordinance amendment that would amend Chapter 17.20 of the Moorpark Municipal Code to ensure that religious land uses are consistent with Federal and State law, the City's General Plan and other provisions of the City's Zoning Ordinance; and

WHEREAS, at a duly noticed public hearing on June 26, 2012, the Planning Commission considered Zoning Ordinance Amendment No. 2010-01, to amend Chapter 17.08 (Definitions), 17.20 (Uses By Zone) and to add Chapter 17.28.060 (Development Standards Relating to Emergency Shelters and Single Occupancy (SRO) Units) of the Moorpark Municipal Code; and considered the agenda report and any supplements thereto and written public comments; opened the public hearing and took and considered public testimony both for and against the proposal; closed the hearing and recommended approval of Zoning Ordinance Amendment No. 2010-01 to the City Council; and

WHEREAS, at a duly noticed public hearing on September 19, 2012, the City Council considered Zoning Ordinance Amendment No. 2010-01, to amend Chapter 17.08 (Definitions), 17.20 (Uses By Zone) and to add Chapter 17.28.060 (Development Standards Relating to Emergency Shelters and Single Occupancy (SRO) Units) of the Moorpark Municipal Code; and considered the agenda report and any supplements thereto and written public comments; opened the public hearing and took and considered public testimony both for and against the proposal; closed the public hearing, and reached a decision on this matter; and

WHEREAS, the City Council concurs with the Community Development Director's determination that this project is exempt from the provisions of the California Environmental Quality Act by the general rule that CEQA only applies to projects that may have a significant effect on the environment.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MOORPARK DOES ORDAIN AS FOLLOWS:

SECTION 1. GENERAL PLAN AND SPECIFIC PLAN CONSISTENCY: The City Council finds Zoning Ordinance Amendment No. 2010-01 to be consistent with the City of Moorpark General Plan and all adopted Specific Plans.

SECTION 2. Zoning Ordinance Amendment No. 2010-01 amends Chapter 17.08, Definitions; 17.20 Uses by Zone and, adds Chapter 17.28.060 (Development Standards Relating to Emergency Shelters and Single Occupancy (SRO) Units); as shown as Exhibits A, B, C, and D attached.

SECTION 3. If any section, subsection, sentence, clause, phrase, part or portion of this Ordinance is for any reason held to be invalid or unconstitutional by any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council declares that it would have adopted this Ordinance and each section, subsection, sentence, clause, phrase, part or portion thereof, irrespective of the fact that any one or more section, subsections, sentences, clauses, phrases, parts or portions be declared invalid or unconstitutional.

SECTION 4. This Ordinance shall become effective thirty (30) days after its passage and adoption.

SECTION 5. The City Clerk shall certify to the passage and adoption of this ordinance; shall enter the same in the book of original ordinances of said City; shall make a minute of the passage and adoption thereof in the records of the proceedings of the City Council at which the same is passed and adopted; and shall publish notice of adoption in the manner required by law.

PASSED AND ADOPTED this \_\_\_\_ day of \_\_\_\_\_, 2012.

\_\_\_\_\_  
Janice S. Parvin, Mayor

ATTEST:

\_\_\_\_\_  
Maureen Benson, City Clerk

- Exhibit A - Section 17.08.010 Application of definitions
- Exhibit B - Table 17.20.050 et seq. in legislative format
- Exhibit C - Table 17.20.060 et seq. in legislative format
- Exhibit D - Section 17.28.060.A Standards relating to Emergency Shelters, and Section 17.28.060.B Standards relating to Single Room Occupancy unit (with recommended Planning Commission changes in legislative format)

## EXHIBIT A

### AMENDMENTS TO SECTION 17.08.010 APPLICATION OF DEFINITIONS OF CHAPTER 17.08 DEFINITIONS OF TITLE 17 ZONING OF THE MOORPARK MUNICIPAL CODE

Delete definitions of "Boardinghouse" and "Church" in their entirety and add definitions of "Boarding house", "Emergency Shelter", "Family", "Place of Religious Assembly", "Single Room Occupancy (SRO) Unit", "Supportive Housing", and "Transitional Housing" as follows:

#### 17.08.010 Application of definitions.

"Boarding house" means a residence or dwelling, other than a hotel, wherein three (3) or more rooms, with or without individual or group cooking facilities, are rented to individuals under separate rental agreements or leases, either written or oral, whether or not an owner, agent, or rental manager is in residence.

~~"Boardinghouse" means a dwelling unit with one (1) family in permanent residence, where all rooms have internal access to one another, and wherein two (2) to five (5) rooms are rented to residents, with or without daily meals.~~

~~"Church" means a building in which a body or organization of religious believers may assemble for worship.~~

"Emergency shelter" means housing with minimal supportive services for homeless persons that is limited to occupancy of six (6) months or less by a homeless person, and where no individual or household may be denied emergency shelter because of an inability to pay.

"Family" means one or more persons living together in a dwelling unit, with common access to, and common use of all living, kitchen, and eating areas within the dwelling unit.

"Place of religious assembly" means a place of assembly primarily used for the purpose of religious worship, study, teaching, and related activities including, but not limited to, space for churches, classrooms, fellowship halls, meeting rooms, libraries, mosques, offices, sanctuaries, synagogues, and temples, and may include space for social services and similar functions.

"Single Room Occupancy (SRO) unit" means a housing unit in a multiple-unit building or facility consisting of a single room, with private or shared bath facilities, and with private or shared cooking facilities.

"Supportive housing" means housing with no limit on length of stay, that is occupied by the target population as defined in Health and Safety Code Section 50675.14, and that is linked to onsite or offsite services that assist the supportive housing resident in retaining the housing, improving his or her health status, and maximizing his or her ability to live and, when possible, work in the community.

"Transitional housing" means rental housing operated under the funding program requirements that call for the termination of assistance and recirculation of the assisted unit to another eligible program recipient at some predetermined future point in time, which shall be no less than six (6) months.

**EXHIBIT B**

**AMENDMENTS TO SECTION 17.20.050 PERMITTED USES IN OPEN SPACE, AGRICULTURAL, RESIDENTIAL, AND SPECIAL PURPOSE ZONES OF CHAPTER 17.20 USES BY ZONE OF TITLE 17 ZONING OF THE MOORPARK MUNICIPAL CODE**

**Table 17.20.050**

**PERMITTED USES IN OPEN SPACE, AGRICULTURAL, RESIDENTIAL, AND SPECIAL PURPOSE ZONES**

[Blank] = Not permitted  
 AP = Administrative Permit  
 CUP = Conditional Use Permit  
 NZC = No Zoning Clearance required  
 TUP = Temporary Use Permit  
 ZC = Permitted by Zoning Clearance

Zones	O-S	A-E	R-A	R-E	R-O	R-1	R-2	RPD	TPD
<b>A. Agricultural Uses</b>									
1. Animal Husbandry as a primary use in accordance with Chapter 17.28									
a. Without Structures	ZC	ZC	ZC	ZC	ZC	ZC			
b. With structures of total gross floor areas per lot:									
- Less than 1,000 sq. ft.	ZC	ZC	ZC	ZC					
- 1,001—20,000 sq. ft.	AP	ZC	AP						
- 20,001—100,000 sq. ft.	CUP	AP							
- >100,000 sq. ft.	CUP								
2. Animal hospital, for large animals	CUP	CUP	CUP						
3. Apiculture in accordance with Chapter 17.28	ZC	ZC	AP						
4. Crop production where no structures are involved	ZC								
5. Greenhouse, hothouse and the like. Minimum property line setbacks shall be 20-feet. With a total gross floor area per lot:									
- Less than 1,000 sq. ft.	ZC	ZC	ZC	ZC	ZC	AP			ZC
- 1,001—20,000 sq. ft.	AP	AP	AP	AP	CUP				
- > 20,000 sq. ft.	CUP	CUP							

Zones	O-S	A-E	R-A	R-E	R-O	R-1	R-2	RPD	TPD
6. Kennels and catteries (domestic) see Chapter 17.28	CUP	CUP	CUP	CUP					
7. Wholesale nurseries, tree farms and ornamental plant farms including container plants. Retail sales shall be limited to the requirements of Chapter 17.28	AP								
8. Wildlife sanctuaries	CUP	CUP							
<b>B. Residential Uses</b>									
1. Boarding houses and bed and breakfast inns		CUP							
2. Family day care homes, and home schooling and transitional and supportive housing									
a. Small family day care homes serving up to eight (8) children within a single family residence when found consistent with Section 1597.44 of the Health and Safety Code	NZC								
b. Large family day care homes serving up to fourteen (14) children within a single family residence when found consistent with Section 1597.465 of the Health and Safety Code	ZC								
c. Home schooling, including home teaching, home independent study, and individual instruction as defined by the Education Code, only involving provision of such services to residents of the property	NZC								

Zones	O-S	A-E	R-A	R-E	R-O	R-1	R-2	RPD	TPD
d. <u>Transitional and supportive housing when conducted in an existing housing unit (*subject to same zoning requirements and procedures as other residential uses of the same type in the same zoning district)</u>	<u>NZC*</u>								
3. Dwellings, single family									
a. Standard construction, including manufactured housing consistent with Chapter 17.28 (for five (5) or more homes constructed in the R-A, R-O, R-E, and R-1 zones a planned development permit is required)	AP	AP							
b. Less than five (5) affordable or senior housing units when in compliance with Chapter 17.64						AP	AP	AP	
c. Second dwelling units when in compliance with Chapter 17.28		ZC	ZC	ZC	ZC	ZC		ZC	
4. Dwellings, two-family or two single family dwellings on one lot									
a. Less than five (5) dwelling units							AP	AP	
b. Less than five (5) affordable or senior housing units when in compliance with Chapter 17.64							AP	AP	
5. Dwellings, multiple family									
a. Less than five (5) dwelling units								AP	
b. Less than five (5) affordable or senior housing units when in compliance with Chapter 17.64								AP	

Zones	O-S	A-E	R-A	R-E	R-O	R-1	R-2	RPD	TPD
6. Mobilehome parks in compliance with the applicable standards of the zone in which it is located. It shall include recreation facilities with minimum distance between structures of ten (10) feet and minimum distances between accessory structures of six (6) feet			CUP						
7. Model homes, temporary office for the sale of homes or lots in a subdivision that are a part of an approved tentative map and when there is a model complex plan/temporary office plan approved by the community development director		AP							
<b>C. Public and Quasi-Public Uses</b>									
1. Places of religious <u>worship assembly</u> , with or without schools <u>and/or social services</u> , including <u>emergency shelters</u>		CUP							
2. Clubhouses with or without alcoholic beverage sales			CUP	CUP		CUP	CUP	CUP	
3. Colleges and universities				CUP					
4. Energy production from renewable resources	CUP	CUP	CUP						
5. Governmental uses including, but not limited to city offices, community rooms, fire stations, human service centers, libraries, police stations, public utility facilities	CUP								

Zones	O-S	A-E	R-A	R-E	R-O	R-1	R-2	RPD	TPD
6. Utility structures (electrical boxes, transformers and valve apparatus that have no covered floor area and are attached to the ground by poles, columns or pedestals shall not require a zoning clearance)	AP								
7. Wireless communication facilities in accordance with the requirements of Chapter 17.42									
a. Major wireless communications facilities	CUP								
b. Minor wireless communications facilities	AP								
c. Collocation wireless communications facilities (consistent with definition of "collocation facility" in Section 17.42.020)	ZC								
D. Accessory and Miscellaneous Uses									
1. Animal keeping as an accessory use when the primary use is residential in accordance with the requirements of Chapter 17.28									
a. Apiculture	ZC	ZC	ZC						
b. Aviaries	AP	AP	AP	AP					
c. Farm animals including horses and ponies subject to the requirements of Chapter 17.28	NZC								
d. Pet animals are allowed in all zones subject to the requirements of Chapter 17.28	NZC								
e. Wild animals subject to the requirements of Chapter 6.24	AP	AP	AP						
2. Accessory structures									
a. Balcony, deck, patio covers, room additions, or storage sheds	ZC								

Zones	O-S	A-E	R-A	R-E	R-O	R-1	R-2	RPD	TPD
b. Fences and walls less than six (6) feet and retaining walls less than three (3) feet in height, paving and decks when constructed lower than thirty (30) inches above the immediate surrounding natural grade	NZC								
c. Fences and walls greater than six (6) feet and retaining walls greater than three (3) feet in height, paving and decks when constructed higher than thirty (30) inches above the immediate surrounding natural grade	ZC								
d. Swimming, wading, ornamental pools, or spas where a building permit is required	ZC								
e. Swimming, wading, ornamental pools, or spas where a building permit is not required	NZC								
3. Antenna or flag pole, ground mounted, non-commercial									
a. <35 feet high	AP								
b. >35 feet high	CUP								
4. Dwelling, caretaker	AP								
5. Dwellings, farm labor	AP	AP	AP						
6. Home occupation when conducted in an existing single family home and consistent with the requirements of Chapter 17.28	NZC								
7. Maintenance and minor repair to buildings involving structural alterations	ZC								

Zones	O-S	A-E	R-A	R-E	R-O	R-1	R-2	RPD	TPD
8. Motion picture and television production and related activities and structures (activities of a maximum of forty-two (42) days in any one hundred eighty (180) day period are considered temporary and shall comply with the requirements of Chapter 17.28 and Title 5 of the Moorpark Municipal Code	TUP								
9. Mobilehomes or recreation vehicle as temporary dwelling on the site of an active building permit during construction	TUP								
10. Produce stands in compliance with the requirements of Chapter 17.28	ZC								
11. Recreational facilities, non-profit or for profit, including, but not limited to athletic fields, bicycle and skate parks, community centers, golf courses, gymnasiums, retreats, riding stables. Bicycle and skate parks shall be in compliance with Chapter 17.28 (Public park and recreation facilities are permitted in all zones and do not require a CUP or a ZC)	CUP								
12. Storage of building materials in accordance with the requirements of Chapter 17.28	ZC								
13. Storage, open consistent with Chapter 17.28	NZC								
14. Soil testing for wells, foundations, septic systems and similar construction	NZC								

Zones	O-S	A-E	R-A	R-E	R-O	R-1	R-2	RPD	TPD
15. Temporary uses including, but not limited to carnivals, Christmas tree sales, circuses, festivals, sidewalk sales, special events, outdoor sales, when in compliance with Chapter 17.44. Issuance of a temporary use permit shall take the place of a zoning clearance. Temporary uses lasting more than one hundred eighty (180) days require an AP.	TUP								

**EXHIBIT C**

**AMENDMENTS TO SECTION 17.20.060 PERMITTED USES IN COMMERCIAL AND INDUSTRIAL ZONES OF CHAPTER 17.20 USES BY ZONE OF TITLE 17 ZONING**

**OF THE MOORPARK MUNICIPAL CODE**

**Table 17.20.060**

**PERMITTED USES IN COMMERCIAL AND INDUSTRIAL ZONES**

- [Blank] = Not permitted
- AP = Administrative Permit
- CUP = Conditional Use Permit
- NZC = No Zoning Clearance required
- TUP = Temporary Use Permit
- ZC = Permitted by Zoning Clearance

Zones	C-O	C-1	CPD C-2	C-OT	M-1	M-2	I
<b>A. Retail and Service Uses</b>							
1. Adult businesses when in compliance with Sections 17.24.040(N), 17.78.050 and Chapter 5.18					ZC	ZC	
2. Alcoholic beverage sales for off-site consumption when in conjunction with another city-approved retail or service use other than automobile service station or liquor store							
a. Beer and/or wine (*if within one hundred (100) feet of a residentially zoned property a conditional use permit is required)		CUP	AP*	AP*	AP*	AP*	
b. Beer, wine and other alcoholic beverages		CUP	CUP	CUP	CUP	CUP	
<b>3. Automobile/light truck/motorcycle</b>							
a. Brakes, oil changes, tires and shock sales and installation, tune-ups and other light service and repair (with or without hydraulic lifts) (*if within one hundred (100) feet of a residentially zoned property a conditional use permit is required)		CUP	AP*		AP*	AP*	

Zones	C-O	C-1	CPD C-2	C-OT	M-1	M-2	I
b. Car washes, self-service or automatic with or without automotive services stations			CUP			CUP	
c. Engine rebuilding, transmission repair, steam cleaning, auto body, painting					CUP	CUP	
d. Parts and supplies		ZC	ZC		ZC	ZC	
e. Rental			AP		AP	AP	
f. Sales, with or without service and parts			CUP		CUP	CUP	
g. Service stations with or without mini-marts and with or without beer and wine sales for off-site consumption			CUP			CUP	
4. Body piercing and/or tattoo			CUP				
5. Building supplies (*if within one hundred (100) feet of a residentially zoned property a conditional use permit is required)			AP*	CUP		CUP	
6. Hay and feed sales				CUP		CUP	
7. Hotels, motels and bed-and-breakfast inns when in compliance with Chapter 5.44	CUP	CUP	CUP	CUP			
8. Kennels and catteries					CUP	CUP	
9. Liquor stores (when located no closer than one thousand (1,000) feet of any other liquor store or public or private school)		CUP	CUP	CUP			
10. Medical marijuana (cannabis and all parts of that plant) dispensaries including any site, facility, location, use, cooperative or business which distributes, sells, exchanges, processes, delivers, gives away, or cultivates marijuana for medical purposes to qualified patients, health care providers, patients' primary caregivers, or physicians pursuant to Proposition 215, Health and Safety Code Section 11362.5 <i>et seq.</i> , or any state regulations adopted in furtherance thereof							

Zones	C-O	C-1	CPD C-2	C-OT	M-1	M-2	I
11. Nurseries (retail) with or without container grown plants when all equipment and supplies kept in an enclosed area			AP				
12. Nurseries (wholesale and/or retail) with or without container grown plants when all equipment and supplies kept in an enclosed area						AP	
13. Pawnshops when in compliance with Chapter 5.32			AP				
14. Pest control services (*if within one hundred (100) feet of a residentially zoned property a conditional use permit is required)					AP*	AP*	
15. Private post offices, parcel services, copy centers	ZC	ZC	ZC	ZC			
16. Psychics, fortunetelling, and spiritual advisors when in compliance with Title 5 of the Moorpark Municipal Code (*if within one hundred (100) feet of a residentially zoned property a conditional use permit is required)	<u>CUP</u>	<u>CUP</u>	<u>CUP</u> <u>AP*</u>				
17. Recreational vehicle storage yards when not located on parcels adjacent to arterial roads or freeways as shown on the Moorpark Circulation Element Highway Network Map and with or without a caretaker dwelling						CUP	
18. Recycling centers			CUP		CUP	CUP	
19. Recycling drop-off bins when located in an area determined by the community development director not to be in conflict with parking, vehicle or pedestrian circulation	ZC	ZC	ZC	ZC	ZC	ZC	
20. Rental and leasing of large equipment with or without outdoor storage and repair (*if within one hundred (100) feet of a residentially zoned property a conditional use permit is required)					AP*	AP*	

Zones	C-O	C-1	CPD C-2	C-OT	M-1	M-2	I
<p>21. Retail shops and personal service establishments, except as otherwise indicated in this table, including, but not limited to, antiques, art and craft dealers and supplies, bakeries, barbers, beauty salons, bicycle sales/service, books and stationery, camera/photo stores including on-site processing, carpet and flooring sales/cleaning/installation, clothing and fabric stores, computer sales and service, department and variety stores, dry cleaners, electronic equipment sales and service, florists, food markets, gift and novelty stores, hardware and tool stores, home and office furniture and equipment sales, home appliance sales and service, housewares sales, jewelry stores, key and locksmiths, music stores (including recorded music and musical instrument sales, service, and lessons), newsstands, paint stores, party supply sales and rental, pet grooming, pet sales and supplies, pharmacies, photography studios, pool and spa sales and supplies, shoe stores, sporting goods and equestrian supplies, small equipment rental (no outdoor storage), toy and hobby stores, video/DVD/CD sales and rental, wireless sales/service, and uses which the community development director determines to be similar when in compliance with Section 17.20.030</p>		ZC	ZC	ZC			
<p>22. Retail sales combined with limited distribution and/or warehousing not exceeding forty percent (40%) of gross floor area of the building in which it is located (*if within one hundred (100) feet of a residentially zoned property a conditional use permit is required)</p>			AP*				

Zones	C-O	C-1	CPD C-2	C-OT	M-1	M-2	I
23. Retail sales in the M-1 and M-2 zone limited to a maximum of twenty percent (20%) of the gross floor area of the building in which it is located. In an industrial complex the twenty percent (20%) shall be computed on the basis of the cumulative total floor area of the industrial planned development (IPD)					AP	AP	
24. Retail sales (temporary) in the M-1 and M-2 zones. Issuance of a temporary use permit shall take the place of a zoning clearance					TUP	TUP	
25. Thrift stores, secondhand shops consignment stores when in compliance with Chapter 5.32			AP	AP			
26. Tobacco stores, including but not limited to cigarette, cigar, and smoking paraphernalia shops			CUP				
B. Eating and drinking places							
1. Bars with or without entertainment including, but not limited to cocktail lounges, cabarets			CUP	CUP	CUP	CUP	
2. Breweries, micro breweries, wineries/tasting rooms with or without restaurant and with or without outdoor seating and with or without entertainment			CUP	CUP	CUP	CUP	
3. Restaurants and similar establishments engaged primarily in the retail sale of prepared food for on-site or off-site consumption in accordance with the restrictions below:							
a. With or without entertainment and with or without on-site consumption of beer and wine and other alcoholic beverages and with or without outdoor seating (*if within one hundred (100) feet of a residentially zoned property a conditional use permit is required)		<u>AP*</u> <u>CUP</u>	AP*	AP*	AP*	AP*	

Zones	C-O	C-1	CPD C-2	C-OT	M-1	M-2	I
b. With drive-in or drive-through facilities (sale of alcoholic beverages from the drive-in or drive-through facilities is prohibited) with or without outdoor seating		CUP	CUP	CUP	CUP	CUP	
<b>C. Office and Professional Uses</b>							
1. Banks and other financial institutions	ZC	ZC	ZC	ZC	AP	AP	
2. Laboratories: research and scientific	AP				AP	AP	
3. Professional and administrative offices, including, but not limited to: accounting, advertising agencies, chiropractic, collection services; dental, direct mail marketing companies, employment agencies, engineering services insurance, investment, massage businesses or establishments in compliance with Chapter 5.48; medical, optical and related health services; planning services, real estate services; secretarial services, travel agencies, and uses which the community development director determines to be similar when in compliance with Section 17.20.030	ZC	ZC	ZC	ZC	ZC	ZC	
4. Veterinary offices and animal hospitals							
a. Without boarding (keeping of animals indoors and on-site for medical purposes shall not be considered boarding)	AP	AP	AP	AP	AP	AP	
b. With boarding indoors or outdoors			CUP		CUP	CUP	
<b>D. Manufacturing, Assembly, Distribution, and Warehousing Uses</b>							
1. Cement, concrete and plaster, and product fabrication						CUP	
2. Distribution and transportation facilities					CUP	CUP	
3. Heavy machinery repair, including trucks, tractors and buses						CUP	

Zones	C-O	C-1	CPD C-2	C-OT	M-1	M-2	I
4. Manufacturing and assembly including, but not limited to, appliances, cabinets, cleaners, clothing, computers, cosmetics, detergents, electronics, furniture, leather products, machinery, medical and scientific instruments, paper, perfumes, pharmaceuticals, photographic and optical goods, plastic products, signs and advertising displays, soap, textiles and other uses which the community development director determines to be similar when in compliance with Section 17.20.030 (*if within one hundred (100) feet of a residentially zoned property an administrative permit is required)					ZC*	ZC*	
5. Outdoor storage when in conjunction with a city approved use and when all storage is screened by an eight (8) foot high masonry wall architecturally matched to the structure. (*if within one hundred (100) feet of a residentially zoned property a conditional use permit is required)			CUP			AP*	
6. Self-storage or mini-storage when not located on parcels adjacent to arterial roads or freeways as shown on the Moorpark Circulation Element Highway Network Map and with or without a caretaker dwelling					CUP	CUP	
7. Warehousing					AP	AP	
8. Welding					AP	AP	
E. Public and Semi-Public Uses							
1. Amusement and recreational facilities as defined in Chapter 17.08							
a. Arcades (video and computer) and cyber cafés	CUP	CUP	CUP	CUP			
b. Health club/gymnasium/fitness center/spa (*if within one hundred (100) feet of a residentially zoned property a conditional use permit is required)	AP*	AP*	AP*	AP*	AP*		

Zones	C-O	C-1	CPD C-2	C-OT	M-1	M-2	I
<u>c. Auditoriums, community centers, dancehalls, and indoor motion picture theaters</u>			<u>CUP</u>	<u>CUP</u>	<u>CUP</u>	<u>CUP</u>	<u>CUP</u>
<u>d. Billiard and pool establishments, and bowling alleys, with or without alcohol</u>			<u>CUP</u>	<u>CUP</u>			
<u>e. Golf driving ranges, golf putting greens and miniature golf, parks and playgrounds</u>			<u>CUP</u>		<u>CUP</u>		
2. Care facilities, including adult day care facilities, Alzheimer's day care facilities, congregate living health facilities, child day care centers, community treatment facilities, foster family and adoption agencies, hospices, long-term health care facilities, residential care facilities for the elderly, residential care facilities for persons with chronic life-threatening illness, skilled nursing and intermediate care facilities, social rehabilitation facilities, <u>and</u> therapeutic day services facilities, <del>transitional housing placement facilities, and transitional shelter care facilities as defined in Division 2 of the Health and Safety Code</del>	CUP	CUP	CUP				
<u>3. Emergency shelters in compliance with the requirements of Chapter 17.28 (*allowed in C-2 zone only, not permitted in CPD zone; Emergency shelters are also allowed in conjunction with permitted Places of religious assembly)</u>			<u>ZC*</u>				
<u>4. Single Room Occupancy unit development in compliance with the requirements of Chapter 17.28 (*allowed in C-2 zone only, not permitted in CPD zone;</u>			<u>ZC*</u>				
<u>35. Clubhouses, social clubs, service clubs with or without alcohol</u>					CUP		CUP
<u>46. Energy production from renewable resources</u>						CUP	CUP

Zones	C-O	C-1	CPD C-2	C-OT	M-1	M-2	I
57. Governmental uses including, but not limited to, city offices, community rooms, fire stations, human service centers, libraries, police stations, public utility facilities	CUP	CUP	CUP	CUP	CUP	CUP	CUP
68. Hospitals including urgent care (*if within one hundred (100) feet of a residentially zoned property a conditional use permit is required)	<u>AP*</u> <u>CUP</u>		AP*		AP*		AP*
79. Places of religious worship <u>assembly, with or without schools and/or social services, including emergency shelters (*if within one hundred (100) feet of a residentially zoned property a conditional use permit is required)</u>	<u>CUP</u>	<u>CUP</u>	<u>AP*</u>	<u>AP*</u>	<u>CUP</u> <u>AP*</u>	<u>CUP</u>	CUP
810. Private education facilities including, but not limited to, colleges and universities, elementary, middle and high schools							CUP
911. Private training facilities including, but not limited to, professional and vocational schools, art and craft schools, music schools not part of a music store, and driver training schools (*if within one hundred (100) feet of a residentially zoned property a conditional use permit is required)	<u>AP*</u> <u>CUP</u>	<u>AP*</u> <u>CUP</u>	AP*	AP*	AP*		
1012. Recreational facilities (private) with/without food services, including but not limited to, bicycle and skate parks, golf courses, gymnasiums, fitness, health spas, martial arts, racquetball, yoga. Bicycles and skate parks shall be in compliance with Chapter 17.28 (*if within one hundred (100) feet of a residentially zoned property a conditional use permit is required)	<u>AP*</u>	AP*	AP*	AP*	AP*		CUP

Zones	C-O	C-1	CPD C-2	C-OT	M-1	M-2	I
4113. Utility structures (electrical boxes, transformers and valve apparatus that have no covered floor area and are attached to the ground by poles, columns or pedestals shall not require a zone clearance)	AP	AP	AP	AP	AP	AP	AP
4214. Wireless communications facilities, in accordance with the requirements of Chapter 17.42							
a. Major wireless communications facilities	CUP	CUP	CUP	CUP	CUP	CUP	CUP
b. Minor wireless communications facilities	AP	AP	AP	AP	AP	AP	AP
c. Collocation wireless communications facilities (consistent with definition of "collocation facility" in Section 17.42.020)	ZC	ZC	ZC	ZC	ZC	ZC	ZC
F. Accessory and Miscellaneous Uses							
1. Outdoor sales	CUP	CUP	CUP	CUP	CUP	CUP	
2. Retail shops and services as listed in Table 17.20.060(A)(21) when the uses are determined by the community development director to be ancillary to office use of the property	AP						
3. Motion picture and television production and related activities and structures (activities of a maximum of forty-two (42) days in any one hundred eighty (180) day period are considered temporary and shall comply with the requirements of Chapter 17.28 and Title 5 of the Moorpark Municipal Code)	TUP	TUP	TUP	TUP	TUP	TUP	TUP
4. Temporary uses including, but not limited to carnivals, Christmas tree sales, circuses, festivals, sidewalk sales, special events, outdoor sales, when in compliance with Chapter 17.44. Issuance of a temporary use permit shall take the place of a zoning clearance. Temporary uses lasting more than one hundred eighty (180) days require an AP	TUP	TUP	TUP	TUP	TUP	TUP	TUP

**EXHIBIT D**

**ADDING SECTION 17.28.060 EMERGENCY SHELTERS, AND SINGLE ROOM OCCUPANCY UNIT DEVELOPMENTS TO CHAPTER 17.28 STANDARDS FOR SPECIFIC USES TO TITLE 17 ZONING OF THE MOORPARK MUNICIPAL CODE**

**17.28.060 Emergency shelters, and single room occupancy unit developments.**

**A. Emergency Shelters.**

1. One (1) Emergency shelter facility per lot is allowed and shall be located at least five hundred (500) feet from any other Emergency shelter, as measured from the closest property line. Emergency shelters shall be located within one-half (½) mile of a transit stop.
2. Overnight occupancy shall be limited to one (1) bed per seventy (70) square feet of sleeping area and shall be in accordance with city Building Code requirements. Maximum occupancy per facility shall be limited to thirty (30) beds. For purposes of determining maximum occupancy, one (1) shelter client per bed is assumed.
3. General Development Requirements. Emergency shelters shall comply with development requirements of the underlying zone.
4. Lighting. Lighting shall comply with Chapter 17.30 of this code.
5. Parking. Parking shall comply with Chapter 17.32 of this code.
6. Signage. Signage shall comply with Chapter 17.40 of this code.
7. Services and Facilities shall be provided for Emergency shelters as follows:
  - a. A client intake and waiting area shall be provided and shall be adequately sized to accommodate waiting clients. The intake area must be indoors.
  - b. The facility shall provide a sleeping area and separate restrooms for males and females and shall comply with city Building Code requirements.
  - c. Other on-site services that are permitted include:
    - i. Showers
    - ii. Laundry facilities
    - iii. Kitchen, food preparation, and dining areas.
    - iv. Storage areas to secure client belongings.
    - v. Private area or office for providing referral services to assist shelter clients.
    - vi. Other similar services for clients, as determined by the Community Development Director.
8. Prior to issuance of a zoning clearance for occupancy, a written operational plan for the facility shall be submitted to the Community Development Director and Moorpark Police Chief that demonstrates compliance with all zoning requirements. The operational plan shall contain the name, address, phone number and driver's license number of the owner, operator and facility manager; and specific operational procedures including but not limited to the following:
  - a. An individual must vacate shelter between nine (9:00) a.m. and five (5:00) p.m. daily.
  - b. An individual shall not use the facility for more than one hundred eighty (180) days.
9. Maintenance. Facilities shall be maintained in a neat, safe, and orderly manner.

B. Single Room Occupancy (SRO) Unit Developments.

1. One (1) Single Room Occupancy (SRO) unit development per lot is allowed, and shall be located at least five hundred (500) feet from any other SRO unit development, as measured from the closest property line.
2. Facilities shall be provided for SRO unit developments as follows:
  - a. Minimum unit size of two hundred (200) square feet ~~for single person occupancy and two hundred fifty (250) square feet for two (2) person occupancy.~~
  - b. Maximum unit size of four hundred (400) square feet.
  - c. ~~Maximum of fifteen (15) SRO units per development.~~
  - d.        Other on-site services that are permitted include:
    - i. Laundry facilities
    - ii. Manager's office
    - iii. Other similar services for clients, as determined by the Community Development Director.
3. No Transient occupancy, units must be occupied as the primary residence of the client.
4. Prior to issuance of a zoning clearance for occupancy, a written operational plan for the facility shall be submitted to the Community Development Director and Moorpark Police Chief that demonstrates compliance with all zoning requirements. The operational plan shall contain the name, address, phone number and driver's license number of the owner, operator and facility manager.
5. General Development Requirements. SRO unit developments shall comply with C-2 zone development requirements.
6. Lighting. Lighting shall comply with Chapter 17.30 of this code.
7. Parking. Parking shall comply with Chapter 17.32 of this code.
8. Signage. Signage shall comply with Chapter 17.40 of this code.
9. Maintenance. Facilities shall be maintained in a neat, safe, and orderly manner.



### Statement of the Department of Justice on the Land-Use Provisions of the Religious Land Use and Institutionalized Persons Act (RLUIPA)

The Religious Land Use and Institutionalized Persons Act (RLUIPA), 42 U.S.C. § 2000cc et seq., is a civil rights law that protects individuals and religious institutions from discriminatory and unduly burdensome land use regulations.<sup>1</sup> After hearings in which Congress found that religious assemblies and institutions were disproportionately affected, and in fact often were actively discriminated against, in local land use decisions, Congress passed RLUIPA unanimously in 2000. President Clinton signed RLUIPA into law on September 22, 2000.

Congress found that zoning authorities were frequently placing excessive or unreasonable burdens on the ability of congregations and individuals to exercise their faith with little to no justification and in violation of the Constitution. Congress further found that religious institutions often faced both subtle and overt discrimination in zoning, particularly minority, newer, smaller, or unfamiliar religious groups and denominations.<sup>2</sup>

Congress also found that, as a whole, religious institutions were treated worse than comparable secular institutions by zoning codes and zoning authorities. As RLUIPA's Senate sponsors, Senator Hatch and the late Senator Kennedy, said in their joint statement issued upon the bill's passage: "Zoning codes frequently exclude churches in places where they permit theaters, meetings halls, and other places where large groups of people assemble for secular purposes. . . . Churches have been denied the right to meet in rented storefronts, in abandoned schools, in converted funeral homes, theaters, and skating rinks—in all sorts of buildings that were permitted when they generated traffic for secular purposes."<sup>3</sup>

Congress further found that zoning authorities frequently were placing excessive burdens on the ability of congregations and individuals to exercise their faiths without sufficient justification, in violation of the Constitution.

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<sup>1</sup> This Statement deals with RLUIPA's land use provisions. Another section of RLUIPA protects the religious freedom of persons confined to prisons and certain other institutions.

<sup>2</sup> 146 CONG. REC. S7774 (daily ed. July 27, 2000) (joint statement of Senators Hatch and Kennedy).

<sup>3</sup> *Id.* at S7774-75.

RLUIPA provides a number of important protections for the religious freedom of persons, places of worship, religious schools, and other religious assemblies and institutions, including:

- *Protection against substantial burdens on religious exercise:* Section 2(a) of RLUIPA prohibits the implementation of any land use regulation that imposes a “substantial burden” on the religious exercise of a person or institution except where justified by a “compelling governmental interest” that the government pursues in the least restrictive way possible.
- *Protection against unequal treatment for religious assemblies and institutions:* Section 2(b)(1) of RLUIPA provides that religious assemblies and institutions must be treated at least as well as nonreligious assemblies and institutions.
- *Protection against religious or denominational discrimination:* Section 2(b)(2) of RLUIPA prohibits discrimination “against any assembly or institution on the basis of religion or religious denomination.”
- *Protection against total exclusion of religious assemblies:* Section 2(b)(3)(A) of RLUIPA provides that governments must not totally exclude religious assemblies from a jurisdiction.
- *Protection against unreasonable limitation of religious assemblies:* Section 2(b)(3)(B) of RLUIPA provides that government must not unreasonably limit “religious assemblies, institutions, or structures within a jurisdiction.”

RLUIPA’s protections can be enforced by the Department of Justice or by private lawsuits. In the ten years since its passage, RLUIPA has been applied in a wide variety of contexts and has been the subject of substantial litigation in the courts. It is a complex statute, with five separate provisions that protect religious exercise in different but sometimes overlapping ways. In order to assist persons and institutions in understanding their rights under RLUIPA, and to assist municipalities and other government entities in meeting the requirements imposed on them by RLUIPA, the Department of Justice has created this summary and accompanying questions and answers.

Date: September 22, 2010

## Questions and Answers on the Land-Use Provisions of RLUIPA

### 1. Who is protected and what types of activities are covered by RLUIPA?

RLUIPA protects the religious exercise of “persons,” defined to include religious assemblies and institutions in addition to individuals. RLUIPA has been used, for

example, to protect houses of worship, individuals holding prayer meetings in their homes, religious schools, religious retreat centers, faith-based homeless shelters, soup kitchens, group homes, and other social services.

## **2. What does “religious exercise” include?**

RLUIPA provides in Section 8 that “religious exercise” includes any exercise of religion, “whether or not compelled by, or central to, a system of religious belief.” Thus a county or municipality cannot avoid the force of RLUIPA by asserting that a particular religious activity is something that a religious group merely wants to do rather than something that it must do. For example, a town could not claim that Wednesday prayer meetings are not religious exercise because they are less central to a church’s beliefs or less compulsory than Sunday worship services.

RLUIPA also specifies in Section 8 that “[t]he use, building, or conversion of real property for the purpose of religious exercise shall be considered to be religious exercise . . .” This provision makes clear that construction or expansion of places of worship and other properties used for religious exercise purposes is religious exercise under RLUIPA.

Religious exercise covers a wide range of activities, including operation of homeless shelters, soup kitchens, and other social services; accessory uses such as fellowship halls, parish halls and similar buildings or rooms used for meetings, religious education, and similar functions; operation of a religious retreat center in a house; religious gatherings in homes; and construction or expansion of schools, even where the facilities would be used for both secular and religious educational activities.

## **3. Who is bound by RLUIPA’s requirements?**

RLUIPA applies to states (including state departments and agencies) and their subdivisions such as counties, municipalities, villages, towns, cities, city councils, planning boards, zoning boards and zoning appeals boards. RLUIPA does not cover the actions of private citizens unless acting under color of state law, such as government employees. RLUIPA does not apply to the federal government, though another similar law, the Religious Freedom Restoration Act, 42 U.S.C. § 2000bb, does.

## **4. Does RLUIPA exempt religious assemblies and institutions from local zoning laws?**

No. RLUIPA is not a blanket exemption from zoning laws. As a general matter, religious institutions must apply for the same permits, follow the same requirements, and go through the same land-use processes as other land users. RLUIPA does not pre-empt or replace the normal zoning code. Rather, it imposes a number of safeguards and

requirements on local governments regarding zoning that impact religious uses by requiring that:

- the zoning law or its application not substantially burden religious exercise without compelling justification pursued through the least restrictive means,
- the zoning law not treat religious uses less favorably than nonreligious assemblies and institutions,
- the law not discriminate based on religion or religious denomination, and
- the jurisdiction not totally or unreasonably restrict religious uses.

When there is a conflict between RLUIPA and the zoning code or how it is applied, RLUIPA, as a federal civil rights law, takes precedence and the zoning law must give way.

So long as a municipality applies its codes uniformly and does not impose an unjustified substantial burden on religious exercise, it may apply traditional zoning concerns – such as regulations addressing traffic, hours of use, parking, maximum capacity, intensity of use, setbacks, frontage – to religious uses just as they are applied to any other land uses.

#### **5. Are there occasions when a religious assembly or institution does not have to apply for zoning approval, and appeal any denial, before it has recourse to RLUIPA?**

As a practical matter, applying for a zoning permit, special use permit, conditional use permit, special exception, variance, rezoning, or other zoning procedure, and appealing within that system in case of denials, is often the fastest and most efficient way to obtain ultimate approval. Religious institutions and local governments are encouraged to attempt to resolve disputes through established zoning processes.

In some circumstances courts have held that religious institutions need not make an application or appeal before filing a RLUIPA lawsuit. These include settings where further application or appeal would be futile under the circumstances, or there would be excessive delay, uncertainty or expense, or if the application requirements are discriminatory on their face.

#### **6. RLUIPA applies to any “land use regulation.” What does that mean?**

RLUIPA defines land use regulation as a “zoning or landmarking law . . . that limits or restricts a claimant’s use or development of land.” Zoning law encompasses laws, ordinances or codes that determine what type of building or land use can be located in what areas and under what conditions. Landmark preservation laws are restrictions that municipalities place on specific buildings or sites to preserve those that are deemed significant for historical, architectural, or cultural reasons. RLUIPA’s definition of land use regulation, however, does not extend to every type of law involving land, such as fire

codes, ordinances requiring use of municipal sewer connections, laws regarding property taxes, most landlord-tenant laws, laws governing trespass, and others.

#### **7. Does RLUIPA apply to local governments using eminent domain to take property owned by religious institutions?**

“Eminent domain” refers to government taking of private property for public use with just compensation. As a general matter, it is not a zoning or landmarking law, and thus RLUIPA will not apply. However, where municipalities have tried to use eminent domain to short-circuit the zoning process for places of worship that have applied for zoning approval, courts have found that such actions may be covered by RLUIPA.

#### **8. Can places of worship still be landmarked?**

Yes, places of worship can be landmarked. However, like any other land-use regulation, landmarking designations that impose a substantial burden on religious exercise must be justified by compelling government interests and pursued in the least restrictive means. Also, landmarking regulations must not be applied discriminatorily.

#### **9. What kinds of burdens on religious exercise are “substantial burdens” under RLUIPA?**

The substantial burden inquiry is fact-intensive, and looks at the degree to which a zoning or landmarking restriction is likely to impair the ability of a person or group to engage in the religious exercise in question. Whether a particular restriction or set of restrictions will be a substantial burden on a complainant’s religious exercise will vary based on context, such as the size and resources of the burdened party, the actual religious needs of an individual or religious congregation, the level of current or imminent space constraints, whether alternative properties are reasonably available, the history of a complainant’s efforts to locate within a community, the absence of good faith by the zoning authorities, and many other factors.

Generally, when a municipality takes one of the following types of actions, it may constitute a substantial burden on religious exercise under RLUIPA:

- effectively barring the use of a particular property for religious activity;
- imposing a significantly great restriction on religious use of a property; or
- creating significant delay, uncertainty, or expense in constructing or expanding a place of worship, religious school, or other religious facility.

Courts have, for example, found substantial burdens on religious exercise in a denial of a church construction permit due to onerous off-street parking requirements imposed by a city, a permit condition requiring a religious retreat center to operate as a bed-and-breakfast, a denial of construction of a parish center, a denial of expansion plans for a religious school, and a denial of the ability to convert a building’s storage space to religious use.

Conversely, courts have found no substantial burden violation when a church was denied the amount of off-street parking it would have preferred when there were reasonable parking alternatives available, when a religious high school was denied the ability to operate a commercial fitness center and dance studio out of a portion of its building, and when a church was barred from demolishing an adjacent landmarked building it had purchased in order to construct a family life center, as there was other space on the church's campus that would be suitable.

**10. RLUIPA contains a complicated description about when the “substantial burden” section will apply. Just when does the “substantial burden” test apply in a particular case?**

RLUIPA applies the substantial burden test to zoning or landmarking laws that have procedures in place under which the government makes “individualized assessments of the proposed uses for the property involved.” By their nature, zoning or landmarking decisions typically involve such “individualized assessments.” Individualized assessments are present when the government looks at and considers the particular details of a proposed land use in deciding whether to permit or deny the use. It thus will cover most applications for variances, special use permits, special exceptions, rezoning requests, conditional use permits, zoning appeals, and similar applications for relief, since these all ordinarily involve the government reviewing the facts and making discretionary determinations whether to grant or reject an application. A denial of a building or occupancy permit based *solely* on a mechanical, objective basis with no discretion on the part of the decision maker would not be an individualized assessment and thus would not require the application of the substantial burden test. Practically, however, such purely “ministerial” situations are extremely rare in zoning disputes.

Even if a zoning or landmarking case did not involve an individualized assessment, the substantial burden test still applies if the use at issue impacts interstate commerce, such as construction or expansion projects, or if there is federal funding involved.

**11. What are examples of compelling interests that will permit local governments to impose substantial burdens on religious exercise?**

A government cannot impose a substantial burden on religious exercise *unless* it has a compelling governmental interest for doing so that is pursued through means that are the least restrictive of religious freedom possible. “Compelling interest” is a legal term meaning interests “of the highest order.” Government interests that are merely reasonably or even significantly important are insufficient. Courts have ruled that municipal interests in revenue generation, economic development or eliminating congestion, are not compelling. The burden of proving that an interest is compelling lies squarely on the local government.

Examples of interests that may be compelling are those related to preserving public health and safety. For example, safety concerns relating to traffic can be compelling.

However, a county or municipality cannot simply point to an interest in traffic safety in the abstract as a compelling interest justifying a substantial burden on religious exercise. Rather, the government must show that it has a compelling interest in achieving that interest through the particular restriction at issue, such as safety interests in regulating traffic flow on the particular street at issue.

Even where an interest is compelling, it must be pursued through the least restrictive means. If there is another way that the government could achieve the same compelling interest that would impose a lesser burden on religious exercise, it must choose that way rather than the more burdensome way.

## **12. What does RLUIPA require of government with regard to the treatment of religious assemblies and institutions as well as nonreligious assemblies and institutions?**

Section 2(b)(1) of RLUIPA contains a provision, known as the “equal terms provision.” It provides that “[n]o government shall impose or implement a land use regulation in a manner that treats a religious assembly or institution on less than equal terms with a nonreligious assembly or institution.” This section extends to ordinances that on their face treat religious assemblies or institutions on less than equal terms, as well as ordinances that, although facially neutral, are applied in a manner that treat religious assemblies or institutions on less than equal terms than nonreligious assemblies or institutions.

Congress enacted this provision to address the problem of zoning codes, either facially or in application, excluding places of worship where secular assemblies are permitted. The legislative history points to the problem of houses of worship being excluded where theaters, meeting halls, private clubs, and other secular assembly places are permitted.

Determining if a religious assembly is treated on “less than equal terms” than a secular assembly or institution requires a comparison of how the two types of entities are treated in a zoning code. Courts have differed regarding how such a comparison is made, and thus the precise legal test for determining when this section is violated will vary depending on the judicial circuit in which the case arises.

Courts have found the equal terms section violated in situations where places of worship were forbidden but private clubs were permitted, where religious assemblies were forbidden but auditoriums, assembly halls, community centers, senior citizen centers, civic clubs, day care centers, and other assemblies were permitted, and where places of worship were forbidden but community centers, fraternal associations, and political clubs were permitted.

Regardless of the legal test employed in a particular jurisdiction, however, local governments can avoid violating this section of RLUIPA by ensuring that their regulations focus on external factors such as size, impact on traffic and parking, intensity

of use, hours of operation, noise, and similar objective criteria in regulating land uses, rather than focusing on the content of the speech and assembly activities being regulated.

**13. What constitutes discrimination based on religion or religious denomination under RLUIPA?**

Section 2(b)(2) of RLUIPA bars implementation of a land use regulation that discriminates on the basis of religion or religious denomination. This bar applies to application of land use regulations that facially discriminate, as well as applications of land use regulation that are facially neutral but which in fact discriminate based on religion or religious denomination. Thus if a zoning permit is denied because town officials do not like members of a particular religious group, or if for any other reason an applicant is denied a zoning permit that would have been given to it had it been part of a different religion or religious denomination, Section 2(b)(2) has been violated. Because this section applies to discrimination based on either religion *or religious denomination*, it can apply to situations where a city may not be discriminating against all members of a religion, but merely a particular sub-group or sect.

**14. What does it mean for a local government to totally exclude religious uses from a jurisdiction?**

Section 2(b)(3)(A) prohibits local governments from “totally exclud[ing] religious assemblies from a jurisdiction.” If a city, town or county had no location where religious uses are permitted, that would be a facial violation of Section 2(b)(3).

**15. What does it mean for a local government to impose unreasonable limitations on a religious assembly, institution, or structure?**

Section 2(b)(3)(B) prohibits land use regulations that “unreasonably limit[ ]” religious assemblies, institutions, or structures within a jurisdiction. This provision is violated if a municipality’s land use laws, or their application, deprive religious institutions and assemblies of reasonable opportunities to use and construct structures within that jurisdiction. A determination of reasonableness depends on a review of all of the facts in a particular jurisdiction, including the availability of land and the economics of religious organizations. Courts have found unreasonable limitations where regulations effectively left few sites for construction of houses of worship, such as through excessive frontage and spacing requirements, or have imposed steep and questionable expenses on applicants.

**16. When must someone file suit under RLUIPA?**

RLUIPA lawsuits brought by private plaintiffs must be filed in state or federal court within four years of the alleged RLUIPA violation.

### **17. What can a local government do to avoid liability under RLUIPA?**

RLUIPA contains a “safe harbor” provision that protects a local government from application of RLUIPA’s enforcement provisions if it takes steps to ameliorate the violation. Section 4(e) provides that a local government can avoid the force of RLUIPA’s provisions by:

- changing the policy or practice that results in a substantial burden on religious exercise;
- retaining the policy or practice and exempting the substantially burdened religious exercise;
- providing exemptions from the policy or practice for applications that substantially burden religious exercise; or
- any other means that eliminates the substantial burden.

### **18. What is the Department of Justice’s role in enforcing RLUIPA?**

The Department of Justice is authorized to file a lawsuit under RLUIPA for declaratory or injunctive relief, but not for damages. For example, the Department may bring suit seeking an order from a court requiring a municipality that has violated RLUIPA to amend its discriminatory zoning codes or grant specific zoning permits to a place of worship, religious school, or other religious use. However, the Department may not seek monetary awards on behalf of persons or institutions that have been injured. Those who have suffered monetary damages from RLUIPA violations must file individual suits.

The Housing and Civil Enforcement Section of the Civil Rights Division has the delegated authority within the Department to investigate and bring RLUIPA lawsuits, both on its own and in conjunction with United States Attorney’s offices around the country. If you believe you have a potential RLUIPA violation case, you should bring it to the attention of the Department of Justice as soon as possible to allow adequate time for review.

The Department receives many complaints from individuals and groups whose rights under RLUIPA may have been violated. While it cannot bring suit in all cases, the Department may take a number of actions in addition to filing suit to resolve RLUIPA matters. The Department may involve the Community Relations Service (CRS) to address community unrest or discord. It may contact the municipality to educate it regarding its obligations under RLUIPA. It may file an amicus brief to weigh in on an important point of law. In deciding whether to file suit, the Department considers a number of factors including whether a case involves important or recurring issues, particularly serious violations of law, or if it is a case that will set precedent for future cases. Many of the Department’s cases have been resolved by negotiating consent decrees that lay out a municipality’s specific obligations to comply with the law. Aggrieved individuals and institutions are encouraged to seek private counsel to protect their rights, in addition to contacting the Department of Justice.

**19. How can someone contact the Department of Justice about a RLUIPA matter?**

The Civil Rights Division's Housing and Civil Enforcement Section may be reached by phone at:

(202) 514-4713  
(800) 514-1116  
(202) 305-1882 (TTY)  
(202) 514-1116 (fax).

The mailing address is:

U.S. Department of Justice  
Civil Rights Division  
950 Pennsylvania Avenue, N.W.  
Housing and Civil Enforcement Section, NWB  
Washington, D.C. 20530

**PROJECT EXHIBIT**

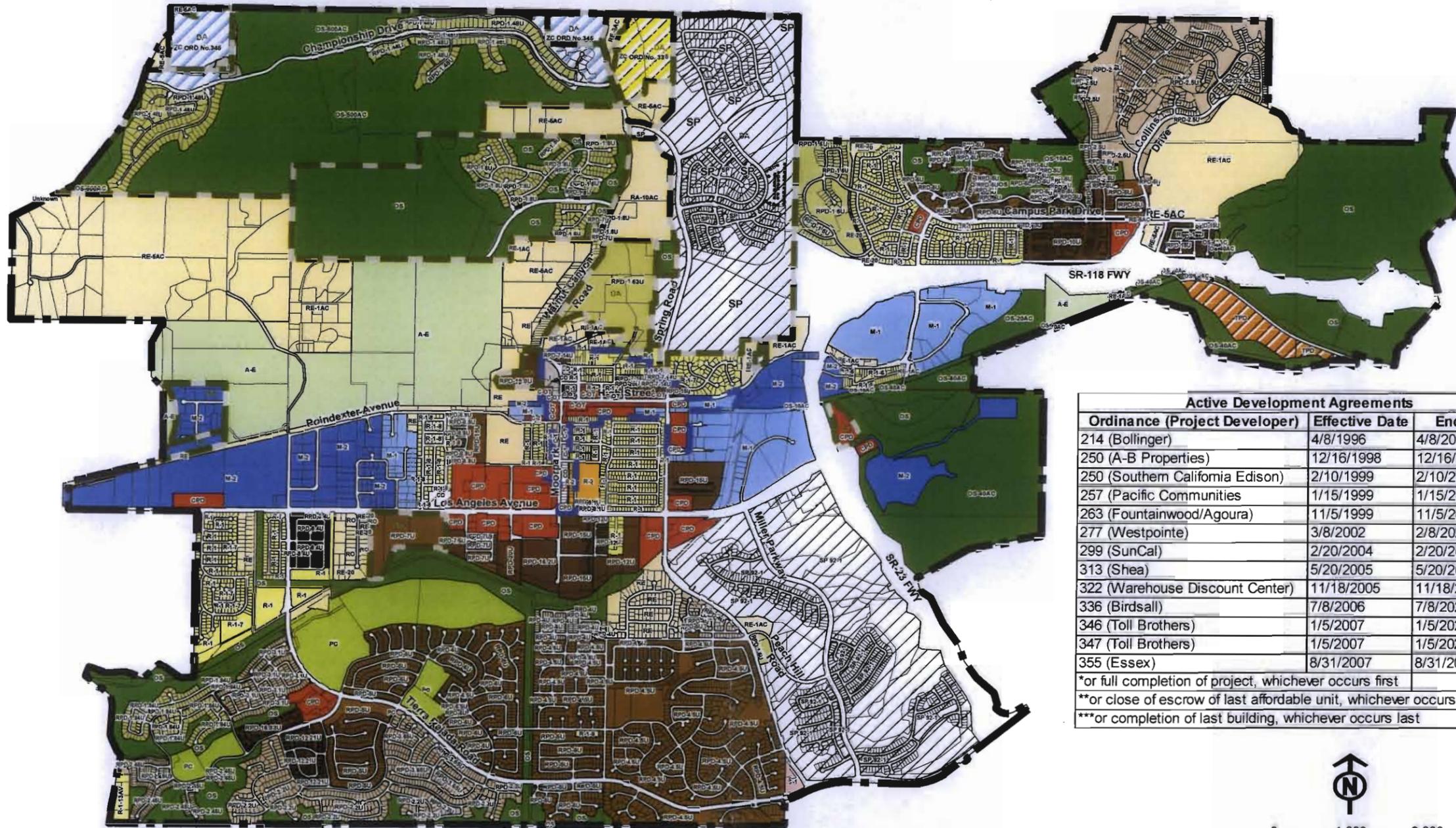
**A. ZONING MAP (11" X 17")**

**(UNDER SEPARATE COVER)**

**COPIES OF THE EXHIBIT ARE AVAILABLE  
UPON REQUEST OF THE PROJECT PLANNER**

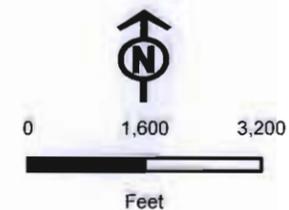


# City of Moorpark - Zoning Map



Active Development Agreements		
Ordinance (Project Developer)	Effective Date	End Date
214 (Bollinger)	4/8/1996	4/8/2016*
250 (A-B Properties)	12/16/1998	12/16/2018
250 (Southern California Edison)	2/10/1999	2/10/2019
257 (Pacific Communities)	1/15/1999	1/15/2019*
263 (Fountainwood/Agoura)	11/5/1999	11/5/2019**
277 (Westpointe)	3/8/2002	2/8/2022**
299 (SunCal)	2/20/2004	2/20/2024**
313 (Shea)	5/20/2005	5/20/2025**
322 (Warehouse Discount Center)	11/18/2005	11/18/2025
336 (Birdsall)	7/8/2006	7/8/2026**
346 (Toll Brothers)	1/5/2007	1/5/2027**
347 (Toll Brothers)	1/5/2007	1/5/2027**
355 (Essex)	8/31/2007	8/31/2014***

\*or full completion of project, whichever occurs first  
 \*\*or close of escrow of last affordable unit, whichever occurs last  
 \*\*\*or completion of last building, whichever occurs last



ZONING DESIGNATIONS											
A-E	R-1	RE	RPD-1.6U	RPD-3.1U	RPD-6.5U	RPD-10U	RPD-20U	M-2	Downtown Specific Plan	DA (Development Agreement Applicable)	Parcel Boundary
PC	R-1-6	RE-1AC	RPD-1.63U	RPD-3.65U	RPD-7U	RPD-12U	CO	I	City of Moorpark		
OS	R-1-7	RE-5AC	RPD-1.8U	RPD-4U	RPD-7-14U	RPD-12.21U	C-1	SP			
OS-10AC	R-1-8	RE-20	RPD-1.84U	RPD-4.5U	RPD-7.5U	RPD-15U	C-2	SP 92-1	ZC ORD No. 335		
OS-20AC	R-1-9	RO	RPD-2.2U	RPD-4.6U	RPD-8.4U	RPD-16.2U	CPD	ZC ORD No. 345			
OS-40AC	R-1-13AV	R-2	RPD-2.45U	RPD-5U	RPD-8.9U	RPD-16.83U	C-OT	TPD			
OS-500AC	RA-10AC	RPD-1.48U	RPD-2.5U	RPD-6U	RPD-9.1U	RPD-19.0U	M-1				

Approved by / Date	Revision
City of Moorpark September 17, 2008	

A larger and/or more detailed version of the City's General Plan and Zoning Maps is available for download at <http://www.ci.moorpark.ca.us> or for purchase at Moorpark City Hall, 799 Moorpark Avenue, Moorpark, CA 93021

Source: City of Moorpark, September 2008  
County of Ventura, GIS data, July 2008