

**ORDINANCE NO. 3771-C.S.**

**AN ORDINANCE AMENDING SECTIONS 10-2.125, 10-2.133, AND 10-2.194; ADDING SECTION 10-2.149.1, TO CHAPTER 2 (DEFINITIONS), ARTICLE 1 (DEFINITIONS) OF TITLE 10; AMENDING SECTION 10-3.205 OF CHAPTER 3 (LAND USE REGULATIONS), ARTICLE 2 (SPECIFIC LAND USE REGULATIONS); AND ADDING SECTION 10-3.208.1 TO CHAPTER 3 (LAND USE REGULATIONS), ARTICLE 2 (SPECIFIC LAND USE REGULATIONS) OF TITLE 10**

WHEREAS, housing production in State of California has not kept pace with demand, resulting in the lack of housing and in particular lack of affordable housing; and

WHEREAS, changes to state laws that became effective on January 1, 2020, and January 1, 2023, required cities to identify zoning designations where emergency shelters and low barrier navigation centers may be allowed without a discretionary permit and subject only to specific objective standards to ensure an adequate supply of temporary housing in the City; and

WHEREAS, this code amendment will update the City of Modesto's Zoning Regulations to be consistent with State law regarding emergency shelters and low barrier navigation centers; and

WHEREAS, this code amendment is necessary at this time as the city undertakes an update of both the General Plan and the Housing Element; and

WHEREAS, a public hearing was held by the Planning Commission on October 16, 2023, in the Chambers, 1010 Tenth Street, Modesto, California at which hearing evidence both oral and documentary were received and considered; and

WHEREAS, the proposed code amendment that addresses emergency shelters and low barrier navigation centers is not a project that would have a significant effect on the environment, therefore it is not subject to CEQA pursuant to Section 15061(b)(3) of the State CEQA Guidelines, the “commonsense exemption,” because CEQA applies only to projects which have the potential for causing a significant effect on the environment; and

WHEREAS, after a public hearing held on October 16, 2023, it was found and determined by the Planning Commission that the requested code amendment will not be detrimental to the public health, safety or welfare because providing more temporary housing will benefit the community’s unsheltered residents; and

WHEREAS, the requested code amendment will result in an orderly planned use of land because the amended regulations for emergency shelters and low barrier navigation centers will clarify where and how these temporary shelters may be built and operate; and

WHEREAS, the requested code amendment is in accordance with the community’s objectives as set forth in the General Plan and any applicable specific plan(s) because the proposed code amendment will provide for additional sites with zoning allowing for the development of emergency shelters (sufficient to meet the community’s need) and low barrier navigation centers consistent with the goals of the Housing Element, a portion of the General Plan; and

WHEREAS, by Resolution No. 2023-27 adopted on October 16, 2023, the Planning Commission recommended to the Council that the proposed amendments to Title 10 of the Modesto Municipal Code including the amendment of Chapter 2 (Definitions), Article 1 (Definitions), Sections 10-2.125, 10-2.133, and 10-2.194; the

addition of Section 10-2.149.1 to Chapter 2 (Definitions), Article 1 (Definitions); the amendment of Chapter 3 (Land Use Regulations), Article 2 (Specific Land Use Regulations), Section 10-3.205; and the addition of Section 10-3.208.1 to Chapter 3 (Land Use Regulations), Article 2 (Specific Land Use Regulations) to the Modesto Municipal Code, be approved; and

WHEREAS, this Code amendment was set for a public hearing on November 7, 2023, before the City Council, at which date and time said duly noticed public hearing of the Council was held for the purpose of receiving public comment on the proposed amendment of Chapter 2 (Definitions), Article 1 (Definitions), Sections 10-2.125, 10-2.133, and 10-2.194; the addition of Section 10-2.149.1 to Chapter 2 (Definitions), Article 1 (Definitions); the amendment of Chapter 3 (land use regulations), Article 2 (specific land use regulations), Section 10-3.205; and the addition of Section 10-3.208.1 to Chapter 3 (Land Use Regulations), Article 2 (Specific Land Use Regulations) of Title 10 of the Modesto Municipal Code; and

WHEREAS, evidence, both written and oral, was duly presented and considered by the City Council at the aforesaid public hearing; and

WHEREAS, all legal prerequisites to the adoption of this Ordinance have occurred; and

WHEREAS, after a public hearing held on November 7, 2023, in the Tenth Street Place Chambers located at 1010 10<sup>th</sup> Street, Modesto, California, this Council finds and determines as follows:

1. The requested change will not be detrimental to the public health, safety, or welfare because providing for the provision of emergency shelters,

including low barrier navigation centers, to house homeless persons in compliance with building standards, will benefit the community.

2. The requested change will result in an orderly planned use of land because the amended regulations for emergency shelters and low barrier navigation centers will clarify where and how these temporary shelters may be built and operate.
3. The requested change is in accordance with the community's objectives as set forth in the General Plan and any applicable specific plans because the proposed code amendments will provide for additional sites with appropriate zoning for the development of emergency shelters (sufficient to meet the community's need) and low barrier navigation centers consistent with the goals of the Housing Element, a portion of the General Plan.

NOW, THEREFORE, the Council of the City of Modesto does ordain as follows:

SECTION 1. AMENDMENT OF CODE. Title 10 of the Modesto Municipal Code, Chapter 2, "Definitions," Article 1, "Definitions," Sections 10-2.125, 10-2.133 and 10-2.194 are hereby amended to read as follows:

**10-2.125 – Emergency Shelter.**

Any structure or facility, the primary purpose of which is to provide housing or temporary shelter, with minimal supportive services for homeless persons that is limited to occupancy of six (6) months or less by homeless persons. No individual or household may be denied emergency shelter because of an inability to pay. This definition includes other interim interventions, including but not limited to a navigation center, bridge housing, and respite or recuperative care.

**10-2.133 - Homeless Shelter.**

A Homeless Shelter means any of the following:

- (a) any facility, the primary purpose of which is to provide a temporary shelter for the homeless in general or for specific populations of the homeless and which does not require occupants to sign leases or occupancy agreements; or
- (b) An Emergency Shelter as defined in Section 10-2.125; or

- (c) A Navigation Center is a Housing First, low-barrier, service-enriched shelter focused on moving homeless individuals and families into permanent housing that provides temporary living facilities while case managers connect individuals experiencing homelessness to income, public benefits, health services, shelter, and housing.

#### **10-2.194 - Transitional Housing.**

Housing that provides supportive services for up to two (2) years that is exclusively designated and targeted for recently homeless persons. Transitional housing includes self-sufficiency development services, with the ultimate goal of moving recently homeless persons to permanent housing as quickly as possible, and limits rents and service fees to an ability-to-pay formula reasonably consistent with the United States Department of Housing and Urban Development's requirements for subsidized housing for low- income persons. Rents and service fees paid for transitional housing may be reserved, in whole or in part, to assist residents in moving to permanent housing.

SECTION 2. ADDITION OF CODE. Title 10 of the Modesto Municipal Code, Chapter 2, "Definitions," Article 1, "Definitions," Sections 10-2.149.1 is hereby added to read as follows:

#### **10-2.149.1 – Low Barrier Navigation Center.**

A Housing First, low-barrier, service-enriched shelter focused on moving people into permanent housing that provides temporary living facilities while case managers connect individuals experiencing homelessness to income, public benefits, health services, shelter, and housing. "Low Barrier" means best practices to reduce barriers to entry, and may include, but is not limited to, the following:

- (1) The presence of partners if it is not a population-specific site, such as for survivors of domestic violence or sexual assault, women, or youth.
- (2) Pets.
- (3) The storage of possessions.

(4) Privacy, such as partitions around beds in a dormitory setting or in larger rooms containing more than two beds, or private rooms.

SECTION 3. AMENDMENT OF CODE. Title 10 of the Modesto Municipal Code, Chapter 3, “Land Use Regulations,” Article 1, “Permitted and Conditional Land Uses,”

Section 10-3.101, Table 3.1-1 “Permitted and Conditional Land Uses,” Commercial Section is hereby amended to read as follows:

Land Use		Zoning Districts												Notes
		R-1	R-2	R-3	MU-P	MU-H	P-O	C-1	C-2	C-3	C-M	M-1	M-2	
COMMERCIAL														
Communication														
Broadcasting Studio (radio or television)	-	-	-			-	-	P	P	P	P	P		
Radio or Television Transmitter	-	-	-			-	C	C	C	P	P	P		
Wireless Telecommunication Facilities													See Chapter 3, Article 4	
Entertainment														
Adult Entertainment Business	-	-	-			-	-	-	-	-	P	P	See Chapter 3, Article 3	
Carnival (entertainment permit required)	-	-	-			-	-	P	P	P	P	P	See Title 4, Chapter 1, Article 4	
Circus (entertainment permit required)	-	-	-			-	-	P	P	P	P	P	See Title 4, Chapter 1, Article 4	
Entertainment Establishment (entertainment permit required)	-	-	-			-	-	P	P	P	P	P	See Title 4, Chapter 1, Article 4	
Theater, Motion Picture (indoor)	-	-	-			-	-	P	P	P	P	P		
Commercial Cannabis Uses													See Chapter 3, Article 7	
Commercial Marijuana Activity	-	-				-	-	-	-	-	-	-	See Section 10-3.210	
Lodging														
Motel, Hotel	-	-	-			P	P	P	P	P	P	P		
Bed and Breakfast (2 rooms for lodging, owner resides on site)	P	P	P			-	-	-	-	-	-	-		
Office														
General	-	-	-			P	P	P	P	P	P	P	See Section 10-2.159	
Medical	-	-	-			P	P	P	P	P	P	P	See Section 10-2.160	
Outdoor Sales and Activities														
Auction Yard	-	-	-			-	-	-	-	-	P	P		
Commercial														
Certified Farmers' Market	-	-	-			-	P	P	P	P	P	P	See Section 10-3.212 a	
Food and Drink Stands	-	-	-			-	P	P	P	P	P	P	See Section 10-3.212 b	
Fund Raisers (nonprofit organizations)	P	P	P			P	P	P	P	P	P	P	See Section 10-3.212 c	

Outdoor Dining Areas	-	-	-			-	P	P	P	P	P	P	See Section 10-3.212 d
Outdoor Display, major	-	-	-			-	-	P	P	P	P	P	See Section 10-3.212 e (2)
Outdoor Display, minor	-	-	-			-	P	P	P	P	P	P	See Section 10-3.212 e (1)
Outdoor Sales (products customarily sold indoor)	-	-	-			-	P	P	P	P	P	P	See Section 10-3.212 f
Promotions	P	P	P			P	P	P	P	P	P	P	See Section 10-3.212 g
Seasonal Sales (fireworks, pumpkins, Christmas trees)	P	P	P			P	P	P	P	P	P	P	See Section 10-3.212 h
Mobile Food Facilities	-	-	-			-	P	P	P	P	P	P	See Sections 10-3.210 and 10-3.212 i
Flea Market - Indoor	-	-	-			-	-	P	P	P	P	P	
Flea Market - Outdoor	-	-	-			-	-	-	-	-	P	P	
Industrial	-	-	-			-	-	-	-	P	P	P	See Section 10-3.213
<b>Recreational</b>													
Campground, Recreation Vehicle Overnight Park	-	-	-			-	-	-	C	P	P	P	
Health Club	-	-	-			-	P	P	P	P	P	P	
Private Club, Lodge, Social Club, Cultural Center	-	-	-			-	P	P	P	P	P	P	
Recreation Facility - Indoor	-	-	-			-	C	P	P	P	P	P	See Section 10-2.165
Recreation Facility - Outdoor	-	-	-			-	-	C	C	P	P	P	See Section 10-2.166
<b>Recycling (Collection)</b>													
Recycling Facility, Large (more than 500 SF area)	-	-	-			-	-	C	C	P	P	P	
Recycling Facility, Small (500 SF max area)	-	-	-			-	P	P	P	P	P	P	See Section 10-3.215 b
Unattended Containers no more than 50 SF area (in residential zones w/ school, church, or government use)	P	P	P			-	-	-	-	-	-	-	See Section 10-3.215 a
Unattended Containers/Reverse Vending Machine no more than 50 SF area (w/ permitted or conditional use)	-	-	-			P	P	P	P	P	P	P	
<b>Restaurants</b>													
Banquet Hall	-	-	-			-	-	C/P	C/P	C/P	C/P	C/P	See Section 10-3.203
Bar, Cocktail Lounge, Tavern	-	-	-			-	-	C/P	C/P	C/P	C/P	C/P	See Section 10-3.203
Restaurants (w/ alcohol)	-	-	-			-	C/P	C/P	C/P	C/P	C/P	C/P	See Section 10-3.203
Restaurants (w/o alcohol)	-	-	-			-	P	P	P	P	P	P	
<b>Retail</b>													
General Retail	-	-	-			-	-	P	P	P	P	P	See Section 10-2.174
Neighborhood Retail	-	-	-			-	P	P	P	P	P	P	See Section 10-2.175
<b>Services</b>													
General Services													
Ambulance Service	-	-	-			-	-	P	P	P	P	P	
Armored Car Service	-	-	-			-	-	P	P	P	P	P	
Business Services	-	-	-			P	P	P	P	P	P	P	See Section 10-2.178
Car Wash	-	-	-			-	-	C/P	C/P	C/P	C/P	C/P	See Section 10-3.222
Equipment Rental (indoors)	-	-	-			-	-	P	P	P	P	P	
Exterminating Service	-	-	-			-	-	P	P	P	P	P	

Fortune Telling	-	-	-			-	-	P	P	P	P	P	
Funeral Home (includes cremation)	-	-	-			-	-	C	C	P	P	P	
Janitor Service	-	-	-			-	-	P	P	P	P	P	
Kennel	-	-	-			-	-	C	C	P	P	P	
Laboratory (research and testing)	-	-	-			-	-	P	P	P	P	P	
Package Delivery Service	-	-	-			-	-	-	C	P	P	P	
Personal Services	-	-	-			P	P	P	P	P	P	P	See Section 10-2.179
Security Company	-	-	-			-	-	P	P	P	P	P	
Self Storage	-	-	-			-	-	-	C	P	P	P	
Sign Painting Shop	-	-	-			-	-	P	P	P	P	P	
Stone Monument	-	-	-			-	C	C	C	P	P	P	
Taxicab Service	-	-	-			-	-	P	P	P	P	P	
Taxidermist Shop	-	-	-			-	-	P	P	P	P	P	
Towing Services (no impound yard)	-	-	-			-	-	P	P	P	P	P	
Trade Services	-	-	-			-	-	P	P	P	P	P	See Section 10-2.182
<b>Repair Services</b>													
Major Repair	-	-	-			-	-	P	P	P	P	P	See Section 10-2.180
Minor Repair	-	-	-			-	P	P	P	P	P	P	See Section 10-2.181
<b>Social Assistance Services</b>													
Assisted Living Facility	C	C	P			P	P	P	P	-	-	-	
Adult Day Care (3 or fewer clients, 1 unit per lot)	P	P	P			-	-	-	-	-	-	-	Residential dwelling. Clients plus family members
Adult Day Care (4 or more clients, 1 unit per lot)	C	C	C			-	-	-	-	-	-	-	
Adult Day Care (3 or fewer clients, 2 units per lot)	C	C	C			-	-	-	-	-	-	-	
Adult Day Care	C	C	C			C	P	P	P	P	P	P	Commercial facility
Day Care Home - Small Family (6 or fewer children)	P	P	P			-	-	-	-	-	-	-	See Section 10-3.204 a 1
Day Care Home - Large Family (7-14 children)	P	P	P			-	-	-	-	-	-	-	See Section 10-3.204 a 2
Child Day Care Home (15 or more children)	C	C	C			-	-	-	-	-	-	-	See Section 10-3.204 a 3
Child Day Care Center	C	C	C			C	P	P	P	P	P	P	See Section 10-3.204 b
Convalescent and Other Care Facility	C	C	C			C	P	P	P	P	P	P	Commercial facility
Emergency Shelter	-	-	-			-	C	C	P	C	C	C	See Section 10-3.205
Homeless Shelter	-	-	-			-	C	C	P	C	C	C	See Section 10-3.205
<u>Low Barrier Navigation Center</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>P*</u>	<u>P*</u>	<u>P*</u>	<u>P*</u>	<u>P*</u>	<u>P*</u>	<u>C</u>	<u>C</u>	<u>C</u>	See Sections 10-2.149.1 and 10-3.208.1
Residential Care Facility (6 or fewer persons)	P	P	P			-	-	-	-	-	-	-	
Residential Care Facility (7 or more persons)	C	C	C			-	-	-	-	-	-	-	
Residential Care Facility (2 or more care facilities)	C	C	C			-	-	-	-	-	-	-	See Section 10-3.216
Residential Service Facility (not State licensed)	C	C	C			-	-	-	-	-	-	-	
Supportive Housing	P	P	P			P	P	P	P	-	-	-	See Section 10-2.192



Transitional Housing	P	P	P			P	P	P	P	-	-	-	See Section 10-2.194
<b>Vehicle Related</b>													
Heavy Vehicles													See Section 10-2.198
Farm Equipment Sales, Rental, Repair, & Service	-	-	-			-	-	-	C	P	P	P	
Truck & Trailer Sales, Rental, Repair, & Service	-	-	-			-	-	-	C	P	P	P	
Light Vehicles													See Section 10-2.199
Minor Maintenance (minor tune up, smog check)	-	-	-			-	C/P	C/P	C/P	C/P	C/P	C/P	See Section 10-3.222
Parts Store	-	-	-			-	P	P	P	P	P	P	
Rental and Sales	-	-	-			-	-	P	P	P	P	P	
Repair and Service, Major	-	-	-			-	-	-	-	C/P	C/P	C/P	See Sections 10-2.199 a and 10-3.222
Repair and Service, Minor	-	-	-			-	-	C/P	C/P	C/P	C/P	C/P	See Sections 10-2.199 b and 10-3.222
Service Station	-	-	-			-	P	P	P	P	P	P	
Stereo Installation	-	-	-			-	-	C/P	C/P	C/P	C/P	C/P	See Section 10-3.222
<b>Legend</b>													
	P Permitted Use — Not Permitted C Conditional Use Note: A blank box means the land use is not applicable and/or refer to notes. P* Low Barrier Navigation Centers as a Permitted Use in the Mixed Use and Commercial Zones shall be repealed on January 1, 2027.												

SECTION 4. AMENDMENT OF CODE. Title 10 of the Modesto Municipal Code, Chapter 3, “Land Use Regulations,” Article 2, “Specific Land Use Regulations,” Section 10-3.205, “Emergency Shelters,” is hereby amended to read as follows:

10-3.205 – Emergency and Homeless Shelters.

- (a) Emergency and Homeless Shelters shall be allowed as a permitted use, subject to a ministerial development plan review process, in the C-3 (Highway Commercial) zone subject to the following standards:
- (1) Number of Beds. The maximum number of beds or persons permitted to be served nightly by an emergency or homeless shelter shall be determined and as allowed by Building and Fire Codes.
  - (2) Required Parking. An emergency or homeless shelter shall provide off-street parking at a ratio of one (1) space per employee.
  - (3) Waiting Area. An emergency or homeless shelter shall provide an on-site, client intake, waiting area to prevent queuing on public sidewalks.
  - (4) Onsite management. An emergency or homeless shelter shall have a manager on-site during operating hours.

- (5) Proximity. Emergency or homeless shelters shall not be less than 300-feet apart from other emergency or homeless shelters, as measured from the nearest property lines.
- (6) Length of Stay. The maximum length of stay at an emergency or homeless shelter shall be 180-days in a consecutive 365-day period, or not longer than the time frame established by the California Health and Safety Code for Emergency Shelters, whichever is greater.
- (7) Lighting. Sites with an emergency or homeless shelter shall provide lighting in all parking, pedestrian, and entry areas. Lighting shall be in compliance with Title 24, California Code of Regulations.
- (8) Security. Emergency or homeless shelters shall provide on-site security during hours that the emergency shelter is in operation.

No other development standards than the above standards shall be applied to emergency and homeless shelters.

SECTION 5. AMENDMENT OF CODE. Title 10 of the Modesto Municipal Code, Chapter 3, “Land Use Regulations,” Article 2, “Specific Land Use Regulations,” Section 10-3.208.1, “Low Barrier Navigation Center,” is hereby added to read as follows:

10-3.208.1– Low Barrier Navigation Centers.

(a) The provisions in this Section, related to Low Barrier Navigation Centers are repealed as of January 1, 2027, unless the provisions of Article 12 of Chapter 3 of Division 1 of Title 7 of the Government Code are extended by the State beyond that date. Subsequent to that day, unless the provisions are extended by the State, Low Barrier Navigation Centers shall be permitted with the approval of a Conditional Use Permit in the commercial and industrial zones.

(b) A Low Barrier Navigation Center shall be subject to the following requirements:

- (1) It offers services to connect people to permanent housing through a services plan that identifies services staffing; and,
- (2) It is linked to a coordinated entry system, so that staff in the interim facility or staff who co-locate in the facility may conduct assessments and provide services to connect people to permanent housing; and,
  - i. “Coordinated entry system” means a centralized or coordinated assessment system developed pursuant to Section 576.400(d) or Section 578.7(a)(8), as applicable, of Title 24 of the Code of Federal Regulations, as those sections

read on January 1, 2020, and any related requirements, designed to coordinate program participant intake, assessment, and referrals.

(3) It complies with Chapter 6.5 (commencing with Section 8255) of Division 8 of the Welfare and Institutions Code; and,

(4) It has a system for entering information regarding client stays, client demographics, client income, and exit destination through the local Homeless Management Information System as defined by Section 578.3 of Title 24 of the Code of Federal Regulations.

(c ) The City shall notify an applicant for a Low Barrier Navigation Center within 30 days of receipt of an application whether the application is complete. The City shall act on an application for a Low Barrier Navigation Center within 60 days of the receipt of a complete application.

#### SECTION 6. CALIFORNIA ENVIRONMENTAL QUALITY ACT (“CEQA”).

The proposed Ordinance is exempt from CEQA under the general rule in CEQA Guidelines section 15061(b)(3), that CEQA only applies to projects that have the potential for causing a significant effect on the environment.

#### SECTION 7. EFFECTIVE DATE.

This Ordinance shall go into effect and be in full force and operation from and after thirty (30) days following its final passage and adoption.

#### SECTION 8. PUBLICATION.

At least two (2) days prior to its final adoption, copies of this Ordinance shall be posted in at least three (3) prominent and distinct locations in the City; and a notice shall be published once in The Modesto Bee, the official newspaper of the City of Modesto, setting forth the title of this Ordinance, the date of its introduction and the places where this ordinance is posted.

The foregoing Ordinance was introduced at a regular meeting of the Council of the City of Modesto held on the 7<sup>th</sup> day of November, 2023, by Councilmember Wright, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Williams, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Alvarez, Bavaro, Escutia-Braaton, Ricci, Williams, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED: \_\_\_\_\_  
SUE ZWAHLEN, Mayor

ATTEST:

By: \_\_\_\_\_  
DIANE NAYERES-PEREZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: \_\_\_\_\_  
JOSE M. SANCHEZ, City Attorney

## FINAL ADOPTION CLAUSE

The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 14<sup>th</sup> day of November, 2023, Councilmember Wright who moved its final adoption, which motion being duly seconded by Councilmember Alvarez, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Alvarez, Bavaro, Escutia-Braaton, Ricci, Williams,  
Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED: \_\_\_\_\_  
SUE ZWAHLEN, MAYOR

ATTEST: \_\_\_\_\_  
DIANE NAYARES-PEREZ, City Clerk

Effective Date: December 14, 2023