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CITY ATTORNEY'S OFFICE

OAKLAND CITY COUNCIL  
ORDINANCE NO. 18456 C.M.S.

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**ORDINANCE DECLARING A SHELTER CRISIS IN THE CITY OF OAKLAND; MAKING FINDINGS THAT A SIGNIFICANT NUMBER OF PERSONS ARE WITHOUT THE ABILITY TO OBTAIN SHELTER, AND THAT THE SITUATION HAS RESULTED IN A THREAT TO THE HEALTH AND SAFETY OF THOSE PERSONS; AND AUTHORIZING THE CITY ADMINISTRATOR TO SUSPEND PROVISIONS OF STATE OR LOCAL REGULATORY STATUTES, REGULATIONS, AND ORDINANCES PRESCRIBING STANDARDS OF HOUSING, HEALTH, OR SAFETY FOR ADDITIONAL SHELTER FACILITIES IF NEEDED**

**WHEREAS**, the number of homeless persons in the City of Oakland continues to increase, with the latest 2017 point-in-time count of over 2,700, and this number is likely to increase given the substantial upward pressure of residential rents; and

**WHEREAS**, this shelter crisis affects Oakland's citizens disproportionately with more African American, Latino and elderly individuals experiencing homelessness; and

**WHEREAS**, the long term and recent decreases in Federal and State funding for housing programs has resulted in an erosion of shelter options for the most vulnerable populations including the elderly, youth, victims of domestic violence, sexually exploited minors and persons suffering from mental illness, HIV/AIDS, substance abuse and disabilities; and

**WHEREAS**, the current number of homeless individuals in Oakland far outpaces the number of existing shelter beds, transitional housing or permanent supportive housing units available; and

**WHEREAS**, unauthorized homelessness encampments have increased substantially across Oakland, within the public right of way, thus exposing homeless individuals to traffic hazards, increased vulnerability to crime, risk of death and injury, exposure to weather, lack of adequate sanitation and debris services and other conditions that are detrimental to their health and safety; and

**WHEREAS**, Oakland residents are being affected by the increasing number of unsheltered individuals with regard to traffic and pedestrian safety, lack of sanitation and debris services; and

**WHEREAS**, analysis and evidence has demonstrated that providing decent, safe and stable housing combined with crucial support services are two primary components of successful transition from homelessness to a safer and healthier way of living; and

**WHEREAS**, the City Council has committed more resources to addressing this homelessness crisis in the adopted FY 2017-19 City Budget and both the City of Oakland and Alameda County voters passed capital bonds devoted to housing, including providing more permanent supportive housing and transitional housing to serve the unsheltered population; and

**WHEREAS**, the City Council finds that urgent and expeditious efforts are necessary to develop additional shelter solutions that are safe and meet basic habitability standards, and that flexibility and broad-based approaches are essential to increase capacity, particularly given the funding and staff resources that have been committed; and

**WHEREAS**, California Government Code Section 8698, et seq., allows the governing body of a city to declare a shelter crisis when a significant number of persons are without the ability to obtain shelter, resulting in a threat to their health and safety; and

**WHEREAS**, California Government Code Section 8698.1 provides that, upon a declaration of a shelter crisis, the provisions of any state or local regulatory statute, regulation or ordinance prescribing standards of housing, health, or safety, as applied to public facilities, shall be suspended to the extent that strict compliance would in any way prevent, hinder, or delay the mitigation of the effects of the shelter crisis; and

**WHEREAS**, the City Council finds that the suspension of local regulatory statutes within the meaning of California Government Code Section 8698.1 may include suspension of provisions in Oakland Municipal Code ("OMC") Chapter 8.22 related to residential rent adjustments and evictions, in order to provide appropriate shelter without establishing tenancy; and

**WHEREAS**, California Government Code Section 8698.2 provides that, upon a declaration of a shelter crisis, a city may allow persons unable to obtain housing to occupy designated public facilities (including facilities leased by the city) during the duration of the crisis;

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

**SECTION 1.** The City Council finds and determines the foregoing recitals to be true and correct and hereby makes them a part of this Ordinance.

**SECTION 2.** The City Council hereby finds that a significant number of persons in Oakland are without the ability to obtain shelter, and that this situation has resulted in a threat to the health and safety of these persons, for the reasons set forth above and in the staff report accompanying this Ordinance. The Council therefore hereby declares a shelter crisis in the City of Oakland under the authority set forth in California Government Code Section 8698, et seq.

**SECTION 3.** The Council hereby authorizes the City Administrator or her designee to allow persons unable to obtain housing to occupy designated City facilities or facilities leased by the City as shelters during the period of this crisis.

**SECTION 4.** For the term of this Ordinance, the City Administrator is hereby authorized in her discretion to suspend the provisions of state and local regulatory statutes, regulations, or ordinances prescribing standards of housing, health, or safety as needed for the interim establishment of shelters for the homeless to the extent that strict compliance would in any way prevent, hinder, or delay the mitigation of the effects of the shelter crisis.

**SECTION 5.** The City Administrator is further authorized in her discretion to apply interim municipal health and safety provisions, land use controls and other housing requirements to interim shelter facilities in order to ensure minimal public health and safety standards.

**SECTION 6.** The suspension of provisions of state and local regulatory statutes, regulations, or ordinances prescribing standards of housing, health, or safety, and the interim standards established pursuant to this Ordinance shall only apply to additional public facilities open to the homeless.

**SECTION 7.** To the extent this Ordinance is inconsistent with any other provisions of the Oakland Municipal Code or the Oakland Planning Code, this Ordinance shall apply. This Ordinance suspends contrary regulations in the Oakland Municipal Code or Planning Code or requirements of the General Plan or implementing regulations.

**SECTION 8.** This Ordinance is enacted pursuant to the City of Oakland's general police powers, Section 106 of the Charter of the City of Oakland, and Article XI of the California Constitution, as well as the other provisions of state and local law otherwise cited herein.

**SECTION 9.** This Ordinance shall remain in place for a period of two years from the date of passage.

**SECTION 10.** If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the Chapter. The City Council hereby declares that it would have passed this Ordinance and each section, subsection, clause or phrase thereof irrespective of the fact that one or more other sections, subsections, clauses or phrases may be declared invalid or unconstitutional.

**SECTION 11.** This Ordinance shall become effective immediately on final adoption if it receives six or more affirmative votes; otherwise it shall become effective upon the seventh day after final adoption.

**Introduction Date**

SEP 19 2017

IN COUNCIL, OAKLAND, CALIFORNIA,

PASSED BY THE FOLLOWING VOTE:

OCT 03 2017

AYES - BROOKS, CAMPBELL-WASHINGTON, GALLO, GIBSON MCELHANEY, GUILLEN, KALB, KAPLAN, AND PRESIDENT REID - 8

NOES - 0

ABSENT - 0

ABSTENTION - 0

ATTEST:



LATONDA SIMMONS  
City Clerk and Clerk of the Council  
of the City of Oakland, California

Date of Attestation: October 6, 2017

## NOTICE AND DIGEST

**ORDINANCE DECLARING A SHELTER CRISIS IN THE CITY OF OAKLAND; MAKING FINDINGS THAT A SIGNIFICANT NUMBER OF PERSONS ARE WITHOUT THE ABILITY TO OBTAIN SHELTER, AND THAT THE SITUATION HAS RESULTED IN A THREAT TO THE HEALTH AND SAFETY OF THOSE PERSONS; AND AUTHORIZING THE CITY ADMINISTRATOR TO SUSPEND PROVISIONS OF STATE OR LOCAL REGULATORY STATUTES, REGULATIONS, AND ORDINANCES PRESCRIBING STANDARDS OF HOUSING, HEALTH, OR SAFETY FOR ADDITIONAL SHELTER FACILITIES IF NEEDED**

This ordinance would declare a shelter crisis in the City of Oakland pursuant to California Government Code section 8698 et seq. and authorize the City Administrator in her discretion to suspend provisions of state or local regulatory statutes, regulations, and ordinances prescribing standards of housing, health, or safety for additional public shelter facilities to the extent that strict compliance would prevent, hinder, or delay the mitigation of the effects of the shelter crisis. This ordinance would allow the City Administrator in her discretion to establish interim health and safety standards to ensure minimal public health and safety. This ordinance would also authorize the City Administrator in her discretion to allow persons unable to obtain housing to occupy designated public facilities, including facilities leased by the City, during the shelter crisis.