

OAKLAND CITY COUNCIL

ORDINANCE NO. _____ C.M.S.

ADOPT AN ORDINANCE, AS RECOMMENDED BY THE CITY PLANNING COMMISSION, AMENDING OAKLAND PLANNING CODE SECTION 17.07.060 TO ALLOW EMERGENCY SHELTER RESIDENTIAL ACTIVITIES AND EMERGENCY HOUSING FACILITIES ON PROPERTY DESIGNATED BY THE CITY ADMINISTRATOR AND OWNED OR LEASED BY THE CITY WITH NO DISCRETIONARY PLANNING APPROVALS

WHEREAS, in 2017, the Alameda Co. Point-In-Time Count identified 2,761 homeless individuals in Oakland, which is a 26% increase since 2015; and

WHEREAS, on October 3, 2017, the City Council adopted Ordinance No. 13456 C.M.S. (the "Shelter Crisis 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

WHEREAS, the Shelter Crisis Ordinance was adopted pursuant to California Government Code Section 8698.1, et seq., and since its adoption, the State has adopted Government Code Section 8698.4 prescribing procedures that the City of Oakland must follow to suspend local planning code requirements and General Plan consistency during a shelter crisis; and

WHEREAS, the proposed Planning Code amendment will allow the City to more quickly and efficiently respond to this continued and increasing shelter crisis by providing a streamlined process for approving temporary emergency housing on properties owned or leased by the City during a declared shelter crisis, local emergency, or state of emergency. It will also allow for broader implementation of many of the temporary emergency housing solutions the City would like to pursue but are currently prohibited in most zoning districts, including emergency sleeping cabins, recreational vehicle parking, and other types of emergency housing facilities; and

WHEREAS, on May 1, 2019, the City Planning Commission conducted a public hearing to consider the proposed changes to Planning Code Section 17.07.060 to allow

Emergency Shelter Residential Activities and Emergency Housing and Emergency Housing Facilities on properties owned or leased by the City that have been designated by the City Administrator as temporary emergency housing sites during a declared shelter crisis, local emergency, or state of emergency, and voted to recommend the proposal to the City Council; and

WHEREAS, on May 7, 2019, the City Council will consider an Ordinance amending Section 15.04.03.2400 of the Oakland Building Code to incorporate emergency building standards for emergency housing buildings and facilities on City-owned or City-leased properties during a declared shelter crisis, local emergency, or state of emergency, which standards would be required for all Emergency Housing and Emergency Housing Facilities; and

WHEREAS, the proposed amendments to the Planning Code rely on the previous set of applicable California Environmental Quality Act (CEQA) determinations including previously certified Final Environmental Impact Reports for the Coliseum Area Specific Plan (2015); Broadway Valdez Specific Plan (2014); West Oakland Specific Plan (2014); Central Estuary Area Plan EIR (2013); Land Use and Transportation Element of the General Plan (1998); the Oakland Estuary Policy Plan (1998); the West Oakland, Central City East, Coliseum, and Oakland Army Base Redevelopment Areas; the 1998 Amendment to the Historic Preservation Element of the General Plan; the 2007-2014 Housing Element Final EIR (2010); and various Redevelopment Plan Final EIRs (collectively, "Previous CEQA Documents"), and no further environmental review is required under CEQA Guidelines Sections 15162 and 15163; and

WHEREAS, the Previous CEQA Documents provide analysis of the environmental impacts of the proposed amendments and support all levels of approval necessary to implement the Planning Code amendments; and

WHEREAS, the proposed amendments to the Planning Code would not result in any significant effect that has not already been analyzed in the Previous CEQA Documents, and there will be no significant environmental effects caused by the change that have not already been analyzed in the Previous CEQA Documents; and

WHEREAS, the City Council hereby finds and determines on the basis of substantial evidence in the record that none of the circumstances necessitating preparation of additional environmental review, as specified in CEQA and the CEQA Guidelines, including, without limitation, Public Resource Code Section 21166 and CEQA Guidelines Sections 15162 and 15163 are present in that (1) there are no substantial changes proposed in the project or the circumstances under which the project is undertaken that would require major revisions of the Previous CEQA Documents due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; and (2) there is no "new information of substantial importance," as defined in CEQA Guidelines Section 15162(a)(3); and

WHEREAS, each as a separate and independent basis, this action is exempt from CEQA pursuant to CEQA Guidelines Sections 15061(b)(3) (General Rule), 15301

(Existing Facilities), 15303 (New Construction or Conversion of Small Structures), 15304 (Minor Alterations of Land), 15311 (Accessory Structures), 15322 (In Fill Development Projects), 15183 (Projects Consistent with a Community Plan, General Plan, or Zoning), and that no exceptions to the categorical exemptions apply, and is also exempt under the statutory CEQA exemption embodied in Government Code Section 8698.4(a)(4); and

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 an integral part of the City Council's decision, and hereby adopts such recitals as findings.

SECTION 2. The City Council finds and determines the adoption of this Ordinance complies with CEQA, and relies on the Previous CEQA Documents. No further environmental review is required under CEQA Guidelines sections 15162 and 15163. Further, the Council finds the adoption of this Ordinance is exempt, pursuant to CEQA Guidelines sections 15061(b)(3) (General Rule), 15301 (Existing Facilities), 15303 (New Construction or Conversion of Small Structures), 15304 (Minor Alterations of Land), 15311 (Accessory Structures), 15322 (In Fill Development Projects), 15183 (Projects Consistent with a Community Plan, General Plan, or Zoning), and that no exceptions to the categorical exemptions apply, and is also exempt under Government Code section 8698.4(a)(4). Each of these provides a separate and independent basis for CEQA clearance and when viewed collectively provide an overall basis for CEQA clearance.

SECTION 3. Title 17 of the Oakland Municipal Code is hereby amended pursuant to **Exhibit A** attached hereto and incorporated by reference herein. Additions to Title 17 of the Oakland Municipal Code are shown as underline and omissions are shown as ~~strikethrough~~.

SECTION 4. This Ordinance serves the public interest and is necessary to protect the health, safety and/or general welfare of the citizens of Oakland, and 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, Sections 5 and 7 of the California Constitution, and California Government Code Sections 8698.1 *et seq.*

SECTION 5. 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 6. 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.

SECTION 7. The City Council hereby authorizes the City Administrator or designee to make non-substantive, technical conforming changes (essentially correction of typographical and clerical errors), prior to formal publication of the amendments in the Oakland Planning Code.

IN COUNCIL, OAKLAND, CALIFORNIA,

PASSED BY THE FOLLOWING VOTE:

AYES - FORTUNATO BAS, GALLO, GIBSON MCELHANEY, KALB, REID, TAYLOR, THAO AND
PRESIDENT KAPLAN

NOES -

ABSENT -

ABSTENTION -

ATTEST: _____
LATONDA SIMMONS
City Clerk and Clerk of the Council of the City of
Oakland, California

Date of Attestation: _____

EXHIBIT A

PLANNING CODE TEXT AMENDMENTS

Deletions to the Planning Code text are in ~~strikeout~~ and additions are underlined:

17.07.060 Conformity with zoning regulations required.

Except as otherwise allowed by Subsection A. below, by Section 17.114.030 and by the ~~N~~onconforming ~~U~~se regulations in Chapter 17.114, or as authorized under Section 17.138.015, the ~~D~~evelopment ~~A~~greement procedure in Chapter 17.138, or the ~~V~~variance procedure in Chapter 17.148, no activities or facilities shall be established, substituted, expanded, constructed, altered, moved, maintained, or otherwise changed, and no lot lines shall be created or changed, except in conformity to the zoning regulations.

A. Notwithstanding any contrary provisions in the zoning regulations or the Land Use and Transportation Element of the General Plan, for the duration of a state of emergency or local emergency (defined in California Government Code § 8558) or a shelter crisis (defined in Government Code §§ 8698.1 et seq.) declared by the City Council, Emergency Shelter Residential Activities, as defined in Section 17.10.118 of the Oakland Planning Code, and Emergency Housing and Emergency Housing Facilities, as defined in Section 15.04.3.2400 of the Oakland Building Code, shall be permitted by right with no discretionary approvals, including design review, on all properties owned or leased by the City that are designated by the City Administrator for use as temporary emergency housing sites. Facilities under this Subsection must meet the standards codified in Section 15.04.3.2400 of the Oakland Building Code, as may be amended. An informational report will be submitted to Planning Commission and City Council within ninety (90) days of the commencement of operation of each temporary emergency housing site authorized under this section. After the expiration of a declaration of a state of emergency, local emergency, or shelter crisis, all temporary uses permitted by this Section must be removed within ninety (90) days unless approved for continued use in conformity to the zoning regulations.

NOTICE AND DIGEST

ADOPT AN ORDINANCE, AS RECOMMENDED BY THE CITY PLANNING COMMISSION, AMENDING OAKLAND PLANNING CODE SECTION 17.07.060 TO ALLOW EMERGENCY SHELTER RESIDENTIAL ACTIVITIES AND EMERGENCY HOUSING FACILITIES ON PROPERTY DESIGNATED BY THE CITY ADMINISTRATOR AND OWNED OR LEASED BY THE CITY WITH NO DISCRETIONARY PLANNING APPROVALS

This Ordinance amends Oakland Planning Code Section 17.07.060 related to conformity with the Zoning Regulations to allow the City to approve temporary emergency housing with no discretionary approvals, including design review, during a declared shelter crisis, local emergency, or state of emergency, on properties owned or leased by the City that are designated by the City Administrator for use as temporary emergency housing sites.