



CITY OF OAKLAND

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OFFICE OF THE CITY CLERK
OAKLAND

2019 MAY -2 PM 6: 25

AGENDA REPORT

TO: Sabrina B. Landreth
City Administrator

FROM: William Gilchrist
Director, PBD

SUBJECT: Emergency Shelter Activities and
Emergency Housing Facilities
Amendment to Planning Code

DATE: May 3, 2019

City Administrator Approval

Date:

5/2/19

RECOMMENDATION

Staff Recommends That The City Council Conduct A Public Hearing And Upon Conclusion 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.

EXECUTIVE SUMMARY

The City of Oakland is presently experiencing an increasing number of unsheltered individuals. The Oakland City Council declared a shelter crisis with Ordinance No. 13456 C.M.S. on October 3, 2017. Subsequent Resolutions of the City Council have acknowledged that additional emergency shelter sites and additional temporary emergency housing solutions, such as recreational vehicle parking areas, are needed to address the continued and increasing shelter crisis.

Adoption of 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.

BACKGROUND / LEGISLATIVE HISTORY

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, and authorized the City Administrator to suspend provisions of State or local regulatory statutes, regulations, and ordinances for the duration of the shelter crisis declaration period prescribing standards of

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housing, health or safety for additional shelter facilities. Ordinance No. 13456 C.M.S. will sunset on October 2, 2019, unless renewed by City Council Ordinance.

Previously, on July 15, 2014, the City Council adopted Ordinance No. 13248 C.M.S., permitting the approval of emergency shelters "by-right" in a limited number of sites throughout the City, subject to specific development standards codified in Planning Code Section 17.103.015(B). The Shelter Crisis Ordinance and subsequent Resolutions of the City Council have acknowledged that additional sites and additional solutions, such as recreational vehicle parking areas, are needed to address the continued and increasing shelter crisis.

The Shelter Crisis Ordinance was adopted pursuant to California Government Code Section 8698.1. Effective January 1, 2018, the State adopted Government Code Section 8698.4, prescribing a process by which the City of Oakland and six other cities and counties may declare a shelter crisis and adopt standards that deviate from building code and health and safety standards for emergency housing. The new section also suspends the requirement that emergency housing on City property be consistent with local land use plans, including the General Plan, if the City declares a shelter crisis under Government Code Section 8698.4 and reports certain information annually to the state.

Government Code Section 8698.4 also provides authority for the City to adopt local standards governing the site design, site development, and operation of homeless shelters during a declared shelter crisis, if those standards are reviewed and approved by the California Housing and Community Department (HCD). HCD has adopted voluntary emergency regulations applicable to emergency housing, which the City may adopt with local amendments that must be approved by HCD. Government Code Section 8698.4 does not require HCD to review and approve changes to the Planning Code with respect to the location and planning approval process for emergency housing.

As a companion to this Planning Code amendment proposed Ordinance, staff has also drafted an amendment to the 2016 Oakland Building Construction Code to adopt the voluntary building code standards. HCD has reviewed and approved that draft Ordinance. The Building Code amendments set out the minimum health and safety standards for emergency shelters. The Community and Economic Development Committee considered the proposed amendments to the 2016 Oakland Building Construction Code on April 23, 2019, and forwarded the amendments to the May 7, 2019, City Council meeting.

The Planning Commission reviewed this proposal on May 1, 2019 and recommended that the City Council approve the proposed Planning Code amendments related to approving temporary emergency housing on properties owned or leased by the City during a state of emergency, local emergency, or shelter crisis declared by the City Council.

ANALYSIS AND POLICY ALTERNATIVES

The City's Planning Code does not currently permit some of the proposed temporary solutions to the shelter crisis, such as recreational vehicle parking or the siting of emergency sleeping

cabins in most non-residential zones. The current Planning Code also limits the areas where Emergency Shelter Residential Activities are permitted without discretionary approvals and does not allow the City Administrator the flexibility to designate additional sites for emergency housing.

The proposed Planning Code amendment is necessary to permit the efficient siting of emergency housing on properties owned or leased by the City that have been designated by the City Administrator as temporary emergency housing sites during a shelter crisis, local emergency, or state of emergency declared by the City Council, but that are not currently zoned for Emergency Shelter Residential Activities and/or Emergency Housing Facilities. 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.

Policy alternatives include designating additional specific sites on which Emergency Shelter Residential Activities would be permitted "by-right," or continuing to require additional sites to go through time-consuming discretionary approvals such as Zoning District amendments, Conditional Use Permits, or Major Variances.

Adoption of the proposed Planning Code amendment is a critical part of the City's effort to address a homelessness crisis in the City. In addition to more efficient mitigation of the shelter crisis, this Planning Code amendment would allow flexibility to quickly site Emergency Shelter Residential Activities and to construct Emergency Housing Facilities during a local emergency or state of emergency such as an earthquake. Emergency Housing Facilities constructed under this Planning Code section would be required to meet basic habitability standards approved by HCD, to be codified in Oakland Building Code section 15.04.03.2400 prior to adoption of this Planning Code amendment.

Proposed Planning Code Amendments

The following section summarizes the proposed changes to the Planning Code (**Attachment A**). Proposed 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~~nonconforming Use regulations in Chapter 17.114, or as authorized under Section 17.138.015, the ~~D~~development Agreement 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. 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.

FISCAL IMPACT

Implementation of the proposed Planning Code amendment will not have a significant fiscal impact, as the amendment only applies to properties owned or leased by the City.

PUBLIC OUTREACH / INTEREST

Staff published a notice of the proposal in the East Bay Times on April 5, 2019, and again on May 3, 2019. Stakeholders concerned with sheltering the homeless will remain apprised of this action as a necessary step following the Declaration of a Shelter Crisis.

COORDINATION

Planning and Building staff worked with the Office of the City Administrator and the City Attorney's Office in reviewing this report and legislation.

SUSTAINABLE OPPORTUNITIES

Economic: The proposed amendment to the Oakland Planning Code is a critical part of the City's effort to address the current homelessness crisis in the City. This Planning Code amendment will also allow flexibility to quickly site Emergency Shelter Residential Activities and to construct Emergency Housing Facilities during a declared local emergency or state of emergency, such as a major earthquake or fire.

Environmental: Emergency Housing Facilities constructed under this proposed Planning Code section would be required to meet basic habitability standards approved by the California Housing and Community Department (HCD), to be codified in Oakland Building Code Section 15.04.03.2400 prior to adoption of this proposed Planning Code amendment.

Social Equity: The City of Oakland is presently experiencing an increasing number of unsheltered individuals. In 2017, the Alameda Co. Point-In-Time Count identified 2,761

homeless individuals in Oakland, which is a 26% increase since 2015. The 2017 survey found that 86% of Oakland's unsheltered individuals were living in Alameda Co. when they became homeless - more than half of them for a decade or longer. The 2017 survey also found that the city's homeless population is disproportionately black (68%). These Planning Code amendments enable a more flexible approach to siting emergency housing facilities to shelter homeless persons, thereby removing barriers and assisting a vulnerable population.

CEQA

Staff has made the determination that the proposed amendments to the Planning Code are exempt from the California Environmental Quality Act (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 are also exempt under the statutory CEQA exemption embodied in Government Code Section 8698.4(a)(4). Each of the foregoing provides a separate and independent basis for CEQA compliance and, when viewed collectively, provides an overall basis for CEQA compliance.

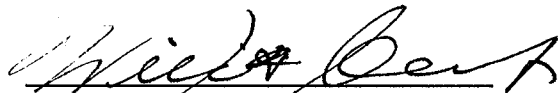
Moreover, the proposed amendments to the Planning Code would not result in any significant effect that has not already been analyzed in the previous set of applicable CEQA documents, including: the Coliseum Area Specific Plan (2105); Broadway Valdez Specific Plan (2014); West Oakland Specific Plan (2014); Central Estuary Area Plan EIR (2013); Land Use and Transportation Element of the General Plan (1998); the Oakland Estuary Policy Plan (1999); 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"). No further environmental review is required under CEQA Guidelines Sections 15162 and 15163.

ACTION REQUESTED OF THE CITY COUNCIL

Staff Recommends That The City Council Conduct A Public Hearing And Upon Conclusion 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

For questions regarding this report, please contact Ed Manasse, at (510) 238-7733.

Respectfully submitted,



WILLIAM GILCHRIST

Director, Planning and Building Department

Reviewed by:

Joe DeVries, Assistant to the City Administrator
City Administrator's Office

Prepared by:

Ed Manasse, Interim Deputy Director
Bureau of Planning

Attachments (4):

- A. Full text of the proposed Planning Code changes
- B. City Council adopted Ordinance No. 13456 C.M.S. (the "Shelter Crisis Ordinance")
- C. 5/1/19 Planning Commission Staff Report on the proposed Planning Code changes
- D. Draft Ordinance adding section 15.04.03.2400 to Oakland Building Code

ATTACHMENT A

PROPOSED PLANNING CODE TEXT AMENDMENTS

Proposed 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 Nonconforming Use regulations in Chapter 17.114, or as authorized under Section 17.138.015, the Development Agreement procedure in Chapter 17.138, or the 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. 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.



FILED
OFFICE OF THE CITY CLERK
OAKLAND
2017 SEP -7 PM 4:42

AGENDA REPORT

TO: Sabrina B. Landreth
City Administrator

FROM: Claudia Cappio
Assistant City Administrator

SUBJECT: An Ordinance Declaring a Shelter
Crisis in the City of Oakland (Re-
enactment)

DATE: August 30, 2017

City Administrator Approval

Date:

9/7/17

RECOMMENDATION

STAFF RECOMMENDS THAT THE CITY COUNCIL ADOPT AN 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.

EXECUTIVE SUMMARY

The California Government Code sections 8698, 8698.1, and 8698.2 allows a 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. In December, 2015, the City Council enacted such an ordinance and it was in effect for one year. With more resources now directed toward addressing homelessness for the 2017-19 budget year, along with the capital facilities financing from City Measure KK and County Measure A1, re-enacting this ordinance would provide additional tools and flexibility.

By declaring such a crisis, the City Council would authorize, without further Council action, the suspension of certain rules and regulations concerning housing, health and safety, as applied to specific public facilities, to the extent that strict compliance would hinder the mitigation of the shelter crisis, thus enabling a more flexible set of building, land use and other related requirements so a project could proceed in a more cost effective and expeditious manner. The proposed ordinance before the Council also allows the City to establish alternative minimum health and safety standards to such public facilities during the duration of the crisis. The authority under this ordinance only affects additional public facilities open to the homeless and needed to mitigate the shelter crisis. The declaration would be in effect for two years.

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ATTACHMENT B

BACKGROUND / LEGISLATIVE HISTORY

Homelessness in Oakland and the Bay Area is an incessant problem, and has reached crisis proportions due to displacement and extreme upward pressure on rents. The number of homeless persons in Oakland as of the most recent 2017 point-in-time-count is over 2,700. Of those, on any given night there are an estimated 1902 persons who are unsheltered and in living spaces unfit for human habitation. Throughout Oakland, there are approximately 350 emergency shelter beds available on any given night. Of those, nearly half are funded by the City. In addition, there are approximately 110 beds during the winter months. The majority of homelessness persons unable to find shelter creates the crisis. The homelessness problem affects Oakland's population disproportionately: a majority of the homeless are African American and Latino. Often homelessness is accompanied by other challenges such as mental health difficulties, chronic physical illness, victims of domestic violence, and substance abuse.

An outgrowth of these limited shelter options is the growing number of unauthorized homelessness encampments throughout the City. These encampments present public health and safety threats to the persons who live in them in multiple ways: increased vulnerability to crime, lack of sanitation and debris collection facilities, weather exposure, traffic hazards and other risks.

In December, 2015, the City Council adopted an ordinance declaring a shelter crisis and allowing flexibility or suspension of certain state and local regulations as they apply to City facilities to address the homelessness problem, to the extent that strict compliance would prevent, hinder, or delay efforts to mitigate the shelter crisis. Unfortunately, during the one year period the ordinance was in effect, specific public facilities could not be secured.

Since that time, the City Council and staff have taken substantial steps to coordinate homelessness services, provide additional budget resources and designate staff to lead more focused efforts. A sanctioned encampment pilot program operated in West Oakland for nearly 7 months in late 2016-early 2017, and many lessons were learned about how to operate these facilities and what provisions are necessary. The City Council has established specific performance objectives in the 2017-19 adopted budget including developing an additional Henry Robinson facility for permanent supportive housing and establishing a sanctioned facility for cleaner and safer encampments until more permanent housing can be found.

In addition to more 2017-19 budget funds, in November, 2016, the voters in Oakland and in Alameda County both passed capital bond measures which will enable a variety of approaches to increase the supply of affordable housing during the next few years. A key priority for this year is the acquisition of a facility for permanent supportive housing, similar to the Henry Robinson.

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ANALYSIS AND POLICY ALTERNATIVES

Proposed Re-enactment. The re-enactment of the shelter crisis declaration represents a set of tools that can be applied to a variety of facilities for the homelessness without further Council action. City staff is actively pursuing potential sites or facilities. The authority under the ordinance would enable a more flexible interpretation of standard building, planning and other requirements, potentially resulting in developing facilities that could not have been previously considered.

Minimum health, safety and habitability standards will be maintained through the use of this authority. It does not mean a total suspension of standards but rather the ability to more flexibly apply standards or to establish alternative standards that meet minimum requirements. Unlike the prior 2015 ordinance, the City Council would not review and approve projects that used this approach prior to implementation. Another difference in the re-enactment is that instead of a one year period, staff is recommending a two-year period. In this way, the effective period will be commensurate with the two year budget cycle.

Tenancy Provisions. State Government Code Section 8698, et seq. allows the governing body of a city to declare a shelter crisis and suspend the provisions of any state or local regulatory statute, regulation, or ordinance prescribing standards of housing, health, or safety to the extent that strict compliance would prevent or delay the mitigation of the shelter crisis, in order to address the problem more urgently and expeditiously. The suspension of local regulatory ordinances may include suspension of provisions in Oakland Municipal Code Chapter 8.22 related to residential rent adjustments and evictions, or other such codes, for public facilities used as shelters pursuant to the proposed Ordinance.

Alternative Council Actions:

Staff Recommendation: Enact the shelter crisis ordinance with the two-year time period, and no further Council approval required to implement project subject to the ordinance.

Option 1: Enact the shelter crisis ordinance for a one year period or a different time period, subject to review of the projects and implementation by City Council. Staff does not recommend this approach given the urgency and scale of the problem. Staff will work with the Building, Fire and other departments to assure safety and minimum standards are met.

Option 2: Enact the shelter crisis ordinance with the requirement to report out to Council how the ordinance has been applied, perhaps on a quarterly basis. In this way, there is no delay in implementation but Council is informed.

Option 3: Take no action at this time.

Options 1 and 2 would require revisions to the proposed Ordinance such that it would need to be re-introduced at a subsequent meeting.

FISCAL IMPACT

The adoption of this ordinance does not, in and of itself, create a fiscal impact. Future projects using the authority provided under the ordinance, may involve additional funding in order to proceed.

PUBLIC OUTREACH / INTEREST

There is growing public concern regarding the multiple, unauthorized homelessness encampments and a call for a more comprehensive and sustainable approach to assist this vulnerable population.

COORDINATION

Preparation of the ordinance and this staff report included review and comments by the Planning and Building Department, Human Services and the Office of the City Attorney.

SUSTAINABLE OPPORTUNITIES

Economic: This ordinance does not directly address economic opportunities.

Environmental: The authority under this ordinance would potentially result in cleaning up unauthorized homelessness encampments and provide facilities that more environmentally sustainable.

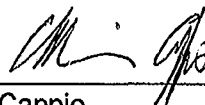
Social Equity: This ordinance enables a more flexible approach to be applied to potential public facilities to shelter homelessness persons, thereby removing barriers and assisting a vulnerable population.

ACTION REQUESTED OF THE CITY COUNCIL

To adopt an 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.

For questions regarding this report, please contact Claudia Cappio, Assistant City Administrator at (510) 238-6654.

Respectfully submitted,



Claudia Cappio
Assistant City Administrator

2017 SEP -7 PM 4:42


CITY ATTORNEY'S OFFICE

OAKLAND CITY COUNCIL

ORDINANCE NO. _____ C.M.S.

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.

IN COUNCIL, OAKLAND, CALIFORNIA,
PASSED BY THE FOLLOWING VOTE:

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

NOES -
ABSENT -
ABSTENTION -

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

Date of Attestation: _____

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.

Location:	Citywide
Proposal:	During a state of emergency, local emergency, or shelter crisis declared by the City Council, the proposed Planning Code amendments would authorize the City to allow 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), on any property owned or leased by the City with no discretionary Planning approvals, including design review.
Applicant:	City of Oakland
Case File Number:	ZA19014
General Plan:	Citywide
Zoning:	Citywide
Environmental Determination:	<p>The proposed Planning Code amendments are exempt from the California Environmental Quality Act 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), 15332 (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 are also exempt under the statutory CEQA exemption embodied in Government Code Section 8698.4(a)(4). Each of the foregoing provides a separate and independent basis for CEQA compliance and, when viewed collectively, provides an overall basis for CEQA compliance.</p> <p>Moreover, the proposed Planning Code amendments would not result in any significant effect that has not already been analyzed in the previous set of applicable California Environmental Quality Act (CEQA) documents, including: the Coliseum Area Specific Plan (2105); 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 (1999); 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"). No further environmental review is required under CEQA Guidelines Sections 15162 and 15163.</p>
Actions to be Taken:	To receive public comments; review and discuss the proposal.
Staff Recommendation	Recommendation of approval to the Oakland City Council
For Further Information:	Contact case planner Ed Manasse at (510) 238-7733 or emanasse@oaklandca.gov

SUMMARY

The City of Oakland is presently experiencing an increasing number of unsheltered individuals. In 2017, the Alameda Co. Point-In-Time Count identified 2,761 homeless individuals in Oakland, which is a 26% increase since 2015. The 2017 Point-In-Time survey found that 86% of the unsheltered individuals were living in Alameda Co. when they became homeless - more than half for a decade or longer. The 2017 survey also found that the city's homeless population includes over 300 children, and is disproportionately black (68%).

On October 3, 2017, Council adopted an ordinance declaring a shelter crisis in the City of Oakland, and authorized the City Administrator to suspend provisions of State or local regulatory statutes, regulations, and

ordinances for the duration of the shelter crisis declaration period prescribing standards of housing, health or safety for additional shelter facilities.

Adoption of the proposed Planning Code amendment will allow the City to continue to respond in a timely manner during the current shelter crisis, as well as during any future declared state of emergency, local emergency, or shelter crisis, by providing a streamlined process for approving temporary emergency housing on properties owned or leased by the City.

BACKGROUND

On October 3, 2017, Council adopted Ordinance No. 13456 C.M.S. (the "Shelter Crisis Ordinance") declaring a shelter crisis in the City of Oakland, and authorized the City Administrator to suspend provisions of State or local regulatory statutes, regulations, and ordinances for the duration of the shelter crisis declaration period prescribing standards of housing, health or safety for additional shelter facilities. Ordinance No. 13456 will sunset on October 2, 2019 unless renewed by Council Ordinance.

Previously, on July 15, 2014, Council adopted Ordinance No. 13248, permitting the approval of emergency shelters "by-right" in a limited number of sites throughout the City, subject to specific development standards codified in Planning Code Section 17.103.015(B). The Shelter Crisis Ordinance and subsequent Resolutions of the City Council have acknowledged that additional sites and additional solutions, such as recreational vehicle parking areas, are needed to address the continued and increasing shelter crisis.

The Shelter Crisis Ordinance was adopted pursuant to California Government Code Section 8698.1. Effective January 1, 2018, the State adopted Government Code Section 8698.4, prescribing a process by which the City of Oakland and six other cities and counties may declare a shelter crisis and adopt standards that deviate from building code and health and safety standards for emergency housing.

The new section also suspends the requirement that emergency housing on City property be consistent with local land use plans, including the General Plan, if the City declares a shelter crisis under Government Code Section 8698.4 and reports certain information annually to the state.

Government Code Section 8698.4 also provides authority for the City to adopt local standards governing the site design, site development, and operation of homeless shelters during a declared shelter crisis, if those standards are reviewed and approved by the California Housing and Community Department (HCD). HCD has adopted voluntary emergency regulations applicable to emergency housing, which the City may adopt with local amendments that must be approved by HCD. Government Code Section 8698.4 does not require HCD to review and approve changes to the Planning Code with respect to the location and planning approval process for emergency housing.

As a companion to this Planning Code amendment, Staff has also drafted an amendment to the 2016 Oakland Building Construction Code to adopt the voluntary building code standards. HCD has reviewed and approved that draft Ordinance. The Building Code amendments set out the minimum health and safety standards. The Community and Economic Development Committee considered the proposed amendments to the 2016 Oakland Building Construction Code on April 23, 2019 and forwarded the amendments to the May 7th Council meeting.

The Planning Code amendments are necessary to permit the siting of emergency housing on properties owned or leased by the City that have been designated by the City Administrator as temporary emergency housing sites during a state of emergency, local emergency, or shelter crisis declared by the City Council, but that are not currently zoned for Emergency Shelter Residential Activities and/or Emergency Housing Facilities.

PROPOSED CITYWIDE PLANNING CODE AMENDMENTS

The following section summarizes the proposed changes to the Planning Code (**Attachment A**). Proposed 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 Nonconforming Use regulations in Chapter 17.114, or as authorized under Section 17.138.015, the Development Agreement procedure in Chapter 17.138, or the 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 further 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. 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.

KEY ISSUES

On July 15, 2014, City Council adopted Ordinance No. 13248 (Planning Code Section 17.103.015), permitting the approval of Emergency Shelters “by-right” in the following limited number of areas throughout the City:

- That portion of Martin Luther King Jr. Way lying between the 51st Street and the City of Oakland City Limits.
- That portion of San Pablo Boulevard lying between 53rd Street and the City of Oakland City Limits.
- That portion of the area surrounding Webster Street bounded by 29th Street to the south, the I-580 overpass to the north and Elm Street to the west and Webster Street (parcels fronting Webster Street) to the east.
- That portion of San Pablo Boulevard lying between Grand Avenue and I-580.
- That area surrounding Third Street bounded by Martin Luther King Jr. Way to the east, Fifth Street to the north, Embarcadero West to the south and Union Street to the west.
- That portion of E. 12th Street between 14th Avenue and 23rd Avenue.
- That portion of Macarthur Boulevard between Fruitvale Avenue and High Street.
- That area of Coliseum Way bounded by San Leandro Street to the north, I-880 to the south, 66th Avenue to the east and High Street to the west.

The Shelter Crisis Ordinance adopted by City Council on October 3, 2017, and subsequent Resolutions of the Council, have acknowledged that additional emergency shelter sites and additional temporary emergency housing solutions, such as recreational vehicle (RV) parking areas, are needed to address the continued and increasing shelter crisis.

Adoption of 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. 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 (RV) parking, and other types of emergency housing facilities.

ENVIRONMENTAL REVIEW

Staff has made the determination that the proposed amendments to the Planning Code are exempt from the California Environmental Quality Act 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), 15332 (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 are also exempt under the statutory CEQA exemption embodied in Government Code Section 8698.4(a)(4). Each of the foregoing provides a separate and independent basis for CEQA compliance and, when viewed collectively, provides an overall basis for CEQA compliance.

Moreover, the proposed amendments to the Planning Code would not result in any significant effect that has not already been analyzed in the previous set of applicable California Environmental Quality Act (CEQA) documents, including: the Coliseum Area Specific Plan (2105); 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 (1999); 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"). No further environmental review is required under CEQA Guidelines Sections 15162 and 15163.

STAFF RECOMMENDATIONS

Staff recommends that the Planning Commission:

1. Affirm staff's environmental determination;
2. Find that the existing regulations being amended are inadequate, inconsistent or otherwise contrary to the public interest; and
3. Recommend that the City Council approve the proposed Planning Code amendments related to approval of temporary emergency housing on properties owned or leased by the City during a state of emergency, local emergency, or shelter crisis declared by the City Council.

Prepared by:

Edward Manasse
Interim Deputy Director
Bureau of Planning

Approved for forwarding to the
Oakland Planning Commission:

Edward Manasse
Interim Deputy Director
Bureau of Planning

ATTACHMENTS:

- A. Full text of the proposed Planning Code changes
- B. Council adopted Ordinance No. 13456 C.M.S. (the "Shelter Crisis Ordinance")

ATTACHMENT A
PROPOSED PLANNING CODE TEXT AMENDMENTS

Proposed 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~~nonconforming Use regulations in Chapter 17.114, or as authorized under Section 17.138.015, the ~~D~~development Agreement 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 further 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. 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.



FILED
OFFICE OF THE CITY CLERK
OAKLAND
2017 SEP -7 PM 4:42

AGENDA REPORT

TO: Sabrina B. Landreth
City Administrator

FROM: Claudia Cappio
Assistant City Administrator

SUBJECT: An Ordinance Declaring a Shelter
Crisis in the City of Oakland (Re-
enactment)

DATE: August 30, 2017

City Administrator Approval

Date:

9/7/17

RECOMMENDATION

STAFF RECOMMENDS THAT THE CITY COUNCIL ADOPT AN 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.

EXECUTIVE SUMMARY

The California Government Code sections 8698, 8698.1, and 8698.2 allows a 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. In December, 2015, the City Council enacted such an ordinance and it was in effect for one year. With more resources now directed toward addressing homelessness for the 2017-19 budget year, along with the capital facilities financing from City Measure KK and County Measure A1, re-enacting this ordinance would provide additional tools and flexibility.

By declaring such a crisis, the City Council would authorize, without further Council action, the suspension of certain rules and regulations concerning housing, health and safety, as applied to specific public facilities, to the extent that strict compliance would hinder the mitigation of the shelter crisis, thus enabling a more flexible set of building, land use and other related requirements so a project could proceed in a more cost effective and expeditious manner. The proposed ordinance before the Council also allows the City to establish alternative minimum health and safety standards to such public facilities during the duration of the crisis. The authority under this ordinance only affects additional public facilities open to the homeless and needed to mitigate the shelter crisis. The declaration would be in effect for two years.

Item: _____
City Council
September 19, 2017

BACKGROUND / LEGISLATIVE HISTORY

Homelessness in Oakland and the Bay Area is an incessant problem, and has reached crisis proportions due to displacement and extreme upward pressure on rents. The number of homeless persons in Oakland as of the most recent 2017 point-in-time-count is over 2,700. Of those, on any given night there are an estimated 1902 persons who are unsheltered and in living spaces unfit for human habitation. Throughout Oakland, there are approximately 350 emergency shelter beds available on any given night. Of those, nearly half are funded by the City. In addition, there are approximately 110 beds during the winter months. The majority of homelessness persons unable to find shelter creates the crisis. The homelessness problem affects Oakland's population disproportionately: a majority of the homeless are African American and Latino. Often homelessness is accompanied by other challenges such as mental health difficulties, chronic physical illness, victims of domestic violence, and substance abuse.

An outgrowth of these limited shelter options is the growing number of unauthorized homelessness encampments throughout the City. These encampments present public health and safety threats to the persons who live in them in multiple ways: increased vulnerability to crime, lack of sanitation and debris collection facilities, weather exposure, traffic hazards and other risks.

In December, 2015, the City Council adopted an ordinance declaring a shelter crisis and allowing flexibility or suspension of certain state and local regulations as they apply to City facilities to address the homelessness problem, to the extent that strict compliance would prevent, hinder, or delay efforts to mitigate the shelter crisis. Unfortunately, during the one year period the ordinance was in effect, specific public facilities could not be secured.

Since that time, the City Council and staff have taken substantial steps to coordinate homelessness services, provide additional budget resources and designate staff to lead more focused efforts. A sanctioned encampment pilot program operated in West Oakland for nearly 7 months in late 2016-early 2017, and many lessons were learned about how to operate these facilities and what provisions are necessary. The City Council has established specific performance objectives in the 2017-19 adopted budget including developing an additional Henry Robinson facility for permanent supportive housing and establishing a sanctioned facility for cleaner and safer encampments until more permanent housing can be found.

In addition to more 2017-19 budget funds, in November, 2016, the voters in Oakland and in Alameda County both passed capital bond measures which will enable a variety of approaches to increase the supply of affordable housing during the next few years. A key priority for this year is the acquisition of a facility for permanent supportive housing, similar to the Henry Robinson.

ANALYSIS AND POLICY ALTERNATIVES

Proposed Re-enactment. The re-enactment of the shelter crisis declaration represents a set of tools that can be applied to a variety of facilities for the homelessness without further Council action. City staff is actively pursuing potential sites or facilities. The authority under the ordinance would enable a more flexible interpretation of standard building, planning and other requirements, potentially resulting in developing facilities that could not have been previously considered.

Minimum health, safety and habitability standards will be maintained through the use of this authority. It does not mean a total suspension of standards but rather the ability to more flexibly apply standards or to establish alternative standards that meet minimum requirements. Unlike the prior 2015 ordinance, the City Council would not review and approve projects that used this approach prior to implementation. Another difference in the re-enactment is that instead of a one year period, staff is recommending a two-year period. In this way, the effective period will be commensurate with the two year budget cycle.

Tenancy Provisions. State Government Code Section 8698, et seq. allows the governing body of a city to declare a shelter crisis and suspend the provisions of any state or local regulatory statute, regulation, or ordinance prescribing standards of housing, health, or safety to the extent that strict compliance would prevent or delay the mitigation of the shelter crisis, in order to address the problem more urgently and expeditiously. The suspension of local regulatory ordinances may include suspension of provisions in Oakland Municipal Code Chapter 8.22 related to residential rent adjustments and evictions, or other such codes, for public facilities used as shelters pursuant to the proposed Ordinance.

Alternative Council Actions:

Staff Recommendation: Enact the shelter crisis ordinance with the two-year time period, and no further Council approval required to implement project subject to the ordinance.

Option 1: Enact the shelter crisis ordinance for a one year period or a different time period, subject to review of the projects and implementation by City Council. Staff does not recommend this approach given the urgency and scale of the problem. Staff will work with the Building, Fire and other departments to assure safety and minimum standards are met.

Option 2: Enact the shelter crisis ordinance with the requirement to report out to Council how the ordinance has been applied, perhaps on a quarterly basis. In this way, there is no delay in implementation but Council is informed.

Option 3: Take no action at this time.

Options 1 and 2 would require revisions to the proposed Ordinance such that it would need to be re-introduced at a subsequent meeting.

Item: _____
City Council
September 19, 2017

FISCAL IMPACT

The adoption of this ordinance does not, in and of itself, create a fiscal impact. Future projects using the authority provided under the ordinance, may involve additional funding in order to proceed.

PUBLIC OUTREACH / INTEREST

There is growing public concern regarding the multiple, unauthorized homelessness encampments and a call for a more comprehensive and sustainable approach to assist this vulnerable population.

COORDINATION

Preparation of the ordinance and this staff report included review and comments by the Planning and Building Department, Human Services and the Office of the City Attorney.

SUSTAINABLE OPPORTUNITIES

Economic: This ordinance does not directly address economic opportunities.

Environmental: The authority under this ordinance would potentially result in cleaning up unauthorized homelessness encampments and provide facilities that more environmentally sustainable.

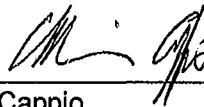
Social Equity: This ordinance enables a more flexible approach to be applied to potential public facilities to shelter homelessness persons, thereby removing barriers and assisting a vulnerable population.

ACTION REQUESTED OF THE CITY COUNCIL

To adopt an 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.

For questions regarding this report, please contact Claudia Cappio, Assistant City Administrator at (510) 238-6654.

Respectfully submitted,



Claudia Cappio
Assistant City Administrator

2017 SEP -7 PM 4:42


CITY ATTORNEY'S OFFICE

OAKLAND CITY COUNCIL

ORDINANCE NO. _____ C.M.S.

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.

IN COUNCIL, OAKLAND, CALIFORNIA,

PASSED BY THE FOLLOWING VOTE:

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

NOES -

ABSENT -

ABSTENTION -

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

Date of Attestation: _____

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.

INTRODUCED BY COUNCILMEMBER _____

CITY ATTORNEY'S OFFICE

OAKLAND CITY COUNCIL

ORDINANCE NO. _____ C.M.S.

ORDINANCE FOR EMERGENCY HOUSING STANDARDS AMENDMENTS TO THE 2016 CALIFORNIA BUILDING CODE ADDING SECTION 15.04.3.2400 TO THE OAKLAND MUNICIPAL CODE CHAPTER 15.04 (2016 OAKLAND BUILDING CONSTRUCTION CODE) TO INCORPORATE BUILDING STANDARDS AS RECENTLY ADOPTED BY THE STATE OF CALIFORNIA FOR EMERGENCY HOUSING BUILDINGS AND FACILITIES, WITH LOCAL MODIFICATIONS

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 certain state health and safety standards for emergency housing for homeless individuals; and

WHEREAS, the California Department of Housing and Community Development ("HCD") has adopted voluntary regulations applicable to emergency housing as Appendix N to the 2016 California Building Code, which the City may adopt by Ordinance to comply with Government Code Section 8698.4 with respect to state and local health and safety standards for homeless shelters and emergency housing; and

WHEREAS, pursuant to California Health and Safety Code sections 17958, 17958.5 and 17958.7 and California Government Code Section 8698.4, local jurisdictions are authorized to make local amendments to the building standards applying to residential occupancies in Title 24, including the voluntary regulations applicable to emergency housing in Appendix N, that are reasonably necessary because of local climatic, geological, or topographical conditions; and

WHEREAS, unlike the California Building Standards Law, there is no specific requirement in the State Housing Law that local amendments provide more restrictive building standards than those contained in Title 24. However, Title 24 provisions are

the minimum standards, thus local amendments must be equivalent or more restrictive, but not less restrictive; and

WHEREAS, there is a need to enforce the voluntary regulations in Appendix N, with local administrative and non-administrative amendments thereof, as recited herein for regulating and controlling the maintenance of emergency housing and facilities on properties owned or leased by the City of Oakland; and

WHEREAS, the adoption of these voluntary emergency regulations with local administrative and non-administrative amendments, to apply on City owned or leased properties during a shelter crisis, local emergency, or state of emergency, would provide minimum standards to safeguard life and limb, property, and public welfare; and

WHEREAS, the conditions described in the Shelter Crisis Ordinance persist in the City of Oakland, and strict compliance with state and local standards without the adoption of Appendix N with local amendments would prevent, hinder, and delay the mitigation of the effects of the shelter crisis; and

WHEREAS, based on all written and oral reports and presentations to Council, including the Agenda Report, the City Council finds and determines that the proposed local amendments to Appendix N of the California Building Code set forth herein are reasonably necessary because of local climatic, geological, and topographic conditions such as Oakland's diverse, urbanized geography and mild climate, as well as to maintain consistency with existing emergency housing structures in the City; and

WHEREAS, HCD has reviewed this proposed Ordinance and has approved the local amendments to Appendix N, in accordance with Government Code Section 8698.4; and

WHEREAS, adoption and immediate effectiveness of the code amendments is necessary for the increased preservation of public health and safety; now, therefore

THE 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 part of the Ordinance.

SECTION 2. Chapter 15.04, Article III, Part 2 of the 2016 Oakland Building Construction Code is amended to include adoption of HCD Appendix N with local amendments and to read as follows:

15.04.3.2400 – CBC Appendix N adopted with amendments.

Appendix N is hereby adopted with amendments and made a part of this Chapter as though fully set forth herein, subject to the modifications which are set forth below:

APPENDIX N EMERGENCY HOUSING

The provisions contained in this appendix are not mandatory unless referenced in the adopting ordinance.

SECTION N101 GENERAL

N101.1 Scope. This appendix shall be applicable to emergency housing and emergency housing facilities, as defined in Section N102. The provisions and standards set forth in the Appendix shall be applicable to emergency housing established pursuant to a declaration of state of emergency, local emergency, or shelter crisis as defined in Section N102, and located in or on designated City properties or properties leased by the City for emergency housing during the period of the declared state of emergency, local emergency, and/or shelter crisis.

SECTION N102 DEFINITIONS

N102.1 General. The following words and terms shall, for the purposes of this appendix, have the meanings shown herein. Refer to Chapter 2 of this code for general definitions.

DECLARATION OF SHELTER CRISIS. The duly proclaimed existence of a situation in which a significant number of persons are without the ability to obtain shelter, resulting in a threat to their health and safety. (See Government Code Section 8698.)

DEPENDENT UNIT. Emergency housing not equipped with a kitchen area, toilet, and sewage disposal system. Recreational vehicles that are not self-contained and without utility service connections shall be considered dependent units.

EMERGENCY HOUSING. Housing in a permanent or temporary structure(s), occupied during a declaration of state of emergency, local emergency, or shelter crisis. Emergency housing may include, but is not limited to, buildings and structures constructed in accordance with the California Building Standards Code; and emergency sleeping cabins, emergency transportable housing units, and tents constructed and/or assembled in accordance with this appendix.

EMERGENCY HOUSING FACILITIES. On-site common use facilities supporting emergency housing. Emergency housing facilities include, but are not limited to, kitchen areas, toilets, showers and bathrooms with running water. The use of emergency housing facilities is limited exclusively to the occupants of the emergency housing, personnel involved in operating the emergency housing, and other emergency personnel.

EMERGENCY HOUSING SITE. A site containing emergency housing and emergency housing facilities supporting the emergency housing.

EMERGENCY SLEEPING CABIN. Relocatable hard-sided structure constructed in accordance with this appendix, which that may be occupied only for emergency housing if allowed by the enforcing agency.

EMERGENCY TRANSPORTABLE HOUSING UNIT. A single or multiple section prefabricated structure that is transportable by a vehicle and that can be installed on a permanent or temporary site in response to a need for emergency housing. Emergency transportable housing units include, but are not limited to, manufactured homes, mobile homes, multifamily manufactured homes, recreational vehicles, and park trailers. For the purposes of this appendix, emergency transportable housing units may also include commercial modulars as defined in the Health and Safety Code Section 18001.8, if approved by the enforcing agency.

Emergency transportable housing units do not include factory-built housing as defined in the Health and Safety Code Section 19971.

LANDING PLATFORM. A landing provided as the top step of a stairway accessing a loft.

LOCAL EMERGENCY. Local Emergency as defined in the Government Code, Section 8558.

LOFT. A floor level located more than 30 inches (762 mm) above the main floor and open to it on at least one side with a ceiling height of less than 6 feet 8 inches (2032 mm), used as a living or sleeping space.

MANUFACTURED HOME. A structure designed to be used as a single-family dwelling, as defined in the Health and Safety Code, Section 18007.

MEMBRANE STRUCTURE. An air-inflated, air-supported, cable or frame-covered structure, not otherwise defined as a tent. (See Chapter 31 of this Code.)

MOBILEHOME. A structure designed to be used as a single-family dwelling, as defined in the Health and Safety Code, Section 18008.

MULTIFAMILY MANUFACTURED HOME. A structure designed to contain not less than two dwelling units, as defined in the Health and Safety Code, Section 18008.7.

PARK TRAILER. A trailer designed for human habitation that meets all requirements in the Health and Safety Code, Section 18009.3.

RECREATIONAL VEHICLE. A motor home, travel trailer, truck camper, or camping trailer, with or without motive power, designed for human habitation, that meets all requirements in the Health and Safety Code, Section 18010.

STATE OF EMERGENCY. State of Emergency as defined in the Government Code, Section 8558.

TENT. A structure, enclosure or shelter, with or without sidewalls or drops, constructed of fabric or pliable material supported by any manner except by air or the contents that it protects.

SECTION N103 EMERGENCY HOUSING

N103.1 General. Emergency sleeping cabins, emergency transportable housing units, membrane structures and tents constructed and/or assembled in accordance with this appendix, shall be occupied only during declaration of state of emergency, local emergency, or shelter crisis.

Buildings and structures constructed in accordance with the California Building Standards Code, used as emergency housing, shall be permitted to be permanently occupied.

N103.2 Existing buildings. Existing residential and nonresidential buildings or structures shall be permitted to be used as emergency housing and emergency housing facilities provided such buildings or structures comply with the building code provisions and/or other regulations in effect at the time of original construction and/or alteration. Existing buildings or structures used as emergency housing shall not become or continue to be substandard buildings, as determined by the enforcing agency.

N103.2.1 New additions, alterations, and change of occupancy. New additions, alterations, and change of occupancy to existing buildings shall comply with the requirements of the California Building Standards Code effective at the time of addition, alteration, or change of occupancy. The requirements shall apply only to and/or within the specific area of the addition, alteration, or change of occupancy.

Exceptions:

1. Existing buildings and structures used for emergency housing and emergency housing facilities may not be required to comply with the California Energy Code, as determined by the enforcing agency.
2. Change in occupancy shall not mandate conformance with new construction requirements set forth in the Oakland Building Construction Code, provided such change in occupancy meets the minimum standards set forth in this Appendix N.

N103.3 Occupant load. Except as otherwise stated in this appendix, the maximum occupant load allowed in buildings and structures used as emergency housing shall be determined by the enforcing agency, but the interior floor area shall not be less than 70 square feet (6.5 m²) for one occupant. Where more than one person occupies the building/structure, the required floor area shall be increased at the rate of 50 square feet (4.65 m²) for each occupant in excess of one.

Exceptions:

1. Tents.
2. Recreational vehicles and park trailers designed for human habitation that meet the requirements in the Health and Safety Code, Sections 18009.3 and 18010, as applicable.

N103.4 Fire and life safety requirements not addressed in this appendix. If not otherwise addressed in this appendix, fire and life safety measures, including, but not limited to, means of egress, fire separation, fire sprinklers, smoke alarms, and carbon monoxide alarms, shall be determined and enforced by the enforcing agency.

N103.5 Privacy. Emergency housing shall be provided with a privacy lock on each entrance door and all windows for use by the occupants.

N103.6 Heating. All sleeping areas shall be provided with adequate heating as determined by the enforcing agency.

SECTION N104 EMERGENCY SLEEPING CABINS

N104.1 General. Emergency sleeping cabins shall have an interior floor area of not less than 70 square feet (6.5 m²) for one occupant. Where more than one person occupies the cabin, the required floor area shall be increased at the rate of 50 square feet (4.65 m²) for each occupant in excess of one. The interior floor area shall not exceed 400 square feet (37 m²), excluding lofts.

N104.2 Live loads. Emergency sleeping cabins shall be designed to resist intrusion of wind, rain, and to support the following live loads:

1. Floor live loads not less than 40 pounds per square foot (1.92 kPa) of floor area.
2. Horizontal live loads not less than 15 pounds per square foot (718 Pa) of vertical wall and roof area.
3. Roof live loads not less than 20 pounds per square foot (958 Pa) of horizontal roof area.
4. In areas where snow loads are greater than 20 pounds per square foot (958 Pa), the roof shall be designed and constructed to resist these additional loads.

N104.3 Minimum ceiling height. Habitable space and hallways in emergency sleeping cabins shall have a ceiling height of not less than 80 inches (2032 mm). Bathrooms, toilet rooms, and kitchens, if provided, shall have a ceiling height of not less than 76 inches (1930 mm). Obstructions shall not extend below these minimum ceiling heights including beams, girders, ducts, lighting and other obstructions.

Exception: Ceiling heights in lofts constructed in accordance with Section N108 are permitted to be less than 80 inches (2032 mm).

N104.4 Means of egress. Emergency sleeping cabins shall be provided with at least two forms of egress placed remotely from each other. One form of egress may be an egress window complying with Section N104.4.1. When a loft is provided, one form of egress shall be an egress window complying with Section N104.4.1, provided in the loft space.

N104.4.1 Egress window. The bottom of the clear opening of the egress window shall not be more than 44 inches (1118 mm) above the floor. The egress window shall have a minimum net clear opening height of 24 inches (610 mm), and a minimum net clear opening width of 20 inches (508 mm). The egress window shall have a minimum net clear opening area of 5 square feet (0.465 m²).

N104.5 Plumbing and gas service. If an emergency sleeping cabin contains plumbing or gas service, it shall comply with all applicable requirements of the California Plumbing Code and the California Mechanical Code.

N104.6 Electrical. Emergency sleeping cabins shall be provided with all of the following installed in compliance with the California Electrical Code:

1. Continuous source of electricity at 115 volts alternating current or low voltage.

Exception: The source of electricity may be an emergency generator, if operated only until continuous power is restored or 72 hours, whichever is shorter, or renewable source of power such as solar or wind power.

2. At least one interior lighting fixture.

~~3. Electrical heating equipment listed for residential use, and a dedicated receptacle outlet for the electrical heating equipment.~~

~~**Exception:** Electrical heating equipment and a dedicated receptacle outlet for the electrical heating equipment are not required if a non-electrical source of heating is provided.~~

34. At least one GFCI-protected receptacle outlet for use by the occupant(s). Alternatively, cabins may be equipped with low voltage USB charging stations instead of Standard GFCI outlets.

N104.7 Ventilation. Emergency sleeping cabins shall be provided with means of ventilation (natural and/or mechanical) allowing for adequate air replacement, as determined by the enforcing agency.

N104.8 Smoke alarms. Emergency sleeping cabins shall be provided with at least one smoke alarm installed in accordance with the California Residential Code, Section R314.

N104.9 Carbon monoxide alarms. If an emergency sleeping cabin contains a fuel-burning appliance(s) or a fireplace(s), a carbon monoxide alarm shall be installed in accordance with the California Residential Code, Section R315.

SECTION N105 EMERGENCY TRANSPORTABLE HOUSING UNITS

N105.1 General. In addition to the requirements in this appendix, manufactured homes, mobilehomes, multifamily manufactured homes, commercial modulars, recreational vehicles, and park trailers used as emergency transportable housing, shall comply with all applicable requirements in the Health and Safety Code, Division 13, Part 2; and Title 25, Division 1, Chapter 3, Subchapter 2.

SECTION N106 TENTS AND MEMBRANE STRUCTURES

N106.1 General. Tents shall not be used to house occupants for more than 7 days unless such tents are maintained with tight wooden floors raised at least 4 inches (101.6 mm) above the ground level and are equipped with baseboards on all sides to a height of at least 6 inches (152.4 mm). Tents may be maintained with concrete slabs with the finished surface at least 4 inches (101.6 mm) above grade and equipped with curbs on all sides at least 6 inches (152.4 mm) high.

A tent shall not be considered a suitable sleeping place whenever it is found necessary to provide heating facilities in order to maintain a minimum temperature of 50 degrees Fahrenheit (10 degrees Celsius) within such tent during the period of occupancy.

Membrane structures installed and/or assembled in accordance with Chapter 31 of this code may be permitted to be used as emergency housing and emergency housing facilities, as determined by the enforcing agency.

SECTION N107 ACCESSIBILITY

N107.1 General. Emergency housing shall comply with the applicable requirements in Chapter 11B and/or the US Access Board Final Guidelines for Emergency Transportable Housing.

Note: The Architectural and Transportation Barriers Compliance Board (US Access Board) issued the Final Guidelines for Emergency Transportable Housing on May 7, 2014. The final guidelines amended the 2004 ADA Accessibility Guidelines (2004 ADAAG) and the 2004 Architectural Barriers Act (ABA) Accessibility Guidelines (2004 ABAAG) to specifically address emergency transportable housing units provided to disaster survivors by entities subject to the ADA or ABA. The final rule ensures that the emergency transportable housing units are readily accessible to and usable by disaster survivors with disabilities.

SECTION N108 LOFTS IN EMERGENCY HOUSING

N108.1 Minimum loft area and dimensions. Lofts used as a sleeping or living space shall meet the minimum area and dimension requirements of Sections N108.1.1 through N108.1.3.

N108.1.1 Minimum area. Lofts shall have a floor area of not less than 35 square feet (3.25 m²).

N108.1.2 Minimum dimensions. Lofts shall be not less than 5 feet (1524 mm) in any horizontal dimension.

N108.1.3 Height effect on loft area. Portions of a loft with a sloping ceiling measuring less than 3 feet (914 mm) from the finished floor to the finished ceiling shall not be considered as contributing to the minimum required area for the loft.

Exception: Under gable roofs with a minimum slope of 6:12, portions of a loft with a sloping ceiling measuring less than 16 inches (406 mm) from the finished floor to the finished ceiling shall not be considered as contributing to the minimum required area for the loft.

N108.2 Loft access. The access to and primary egress from lofts shall be any type described in Sections N108.2.1 through N108.2.4.

N108.2.1 Stairways. Stairways accessing lofts shall comply with the California Residential Code or with Sections N108.2.1.1 through N108.2.1.6.

N108.2.1.1 Width. Stairways accessing a loft shall not be less than 17 inches (432 mm) in clear width at or above the handrail. The minimum width below the handrail shall be not less than 20 inches (508 mm).

N108.2.1.2 Headroom. The headroom in stairways accessing a loft shall be not less than 74 inches (1880 mm), as measured vertically, from a sloped line connecting the tread or landing platform nosings in the middle of their width.

N108.2.1.3 Treads and risers. Risers for stairs accessing a loft shall be not less than 7 inches (178 mm) and not more than 12 inches (305 mm) in height. Tread depth and riser height shall be calculated in accordance with one of the following formulas:

1. The tread depth shall be 20 inches (508 mm) minus $\frac{4}{3}$ of the riser height, or
2. The riser height shall be 15 inches (381 mm) minus $\frac{3}{4}$ of the tread depth.

N108.2.1.4 Landing platforms. The top step of stairways accessing lofts shall be constructed as a landing platform where the loft ceiling height is less than 74 inches (1880 mm). The landing platform shall be 18 inches (457 mm) to 22 inches (559 mm) in depth measured from the nosing of the landing platform to the edge of the loft, and 16 inches (406 mm) to 18 inches (457 mm) in height measured from the landing platform to the loft floor.

N108.2.1.5 Handrails. Handrails shall comply with the California Residential Code, Section R311.7.8.

N108.2.1.6 Stairway guards. Guards at open sides of stairways shall comply with the California Residential Code, Section R312.1.

N108.2.2 Ladders. Ladders accessing lofts shall comply with Sections N108.2.2.1 and N108.2.2.2.

N108.2.2.1 Size and capacity. Ladders accessing lofts shall have a rung width of not less than 12 inches (305 mm), and 10 inches (254 mm) to 14 inches (356 mm) spacing between rungs. Ladders shall be capable of supporting a 200 pound (90.7 kg) load on any rung. Rung spacing shall be uniform within $\frac{3}{8}$ -inch (9.5 mm).

N108.2.2.2 Incline. Ladders shall be installed at 70 to 80 degrees from horizontal.

N108.2.3 Alternating tread devices. Alternating tread devices are acceptable as allowed by the enforcing agency.

N108.2.4 Loft guards. Loft guards shall be located along the open side of lofts. Loft guards shall not be less than 36 inches (914 mm) in height or one-half of the clear height to the ceiling, whichever is less. Loft guards shall not have openings from the walking surface to the required guard height that allow passage of a sphere 4 inches (102 mm) in diameter.

SECTION N109 LOCATION, MAINTENANCE AND IDENTIFICATION

N109.1 Maintenance. Emergency housing and emergency housing facilities shall be maintained in a safe and sanitary condition, and free from vermin, vectors and other matter of an infectious or contagious nature. The grounds within emergency housing sites shall be kept clean and free from accumulation of debris, filth, garbage and deleterious matter. Emergency housing and emergency housing facilities shall not be occupied if a substandard condition exists, as determined by the enforcing agency.

N109.1.1 Fire Hazards. Dangerous materials or materials that create a fire hazard, as determined by the enforcing agency, shall not be allowed on the grounds within emergency housing sites.

N109.2 Identification. Emergency housing shall be designated by address numbers, letters, or other suitable means of identification. The identification shall be in a conspicuous location facing the street or driveway fronting the building or structure. Each identification character shall be not less than 4 inches (102 mm) in height and not less than 0.5 inch (12.7 mm) in width, installed/painted on a contrasting background.

SECTION N110 EMERGENCY HOUSING FACILITIES SANITATION REQUIREMENTS

N110.1 Drinking water. Potable drinking water shall be provided for all occupants of emergency housing.

N110.2 Kitchens and food facilities. Where provided, kitchens and food facilities, as defined in Section 113789 of the California Health and Safety Code, which support emergency housing sites, shall comply with applicable food safety provisions of Sections 113980 – 114094.5 of the California Health and Safety Code.

Where occupants of dependent units are permitted or required to cook for themselves, a separate area shall be equipped and maintained as a common use kitchen. Refrigerated storage shall be provided for safe storage of food.

N110.3 Toilet and bathing facilities. When dependent units are used as emergency housing, the emergency housing site shall be provided with one toilet and one bathing facility for every 15 occupants of each gender. The enforcing agency may permit different types and ratios of toilet and bathing facilities. The approval shall be based upon a finding that the type and ratio of toilet and bathing facilities are sufficient to process the anticipated volume of sewage and waste water, while maintaining sanitary conditions for the occupants of the emergency housing.

Bathing facilities shall be provided with heating equipment which shall be capable of maintaining a temperature of 70 degrees F (21.0 degrees Celsius) within such facilities.

Lavatories with running water shall be installed and maintained in the toilet facilities or adjacent to the toilet facilities. This can include foot-pumped water at hand washing stations that are properly maintained.

N110.4 Garbage, waste and rubbish disposal. All garbage, kitchen waste and rubbish shall be deposited in approved covered receptacles, which shall be emptied when filled and the contents shall be disposed of in a sanitary manner acceptable to the enforcing agency.

SECTION N111
ALTERNATIVES AND MODIFICATIONS

N111.1 Alternatives and modifications. Alternative compliance and/or modifications that are reasonably equivalent to the requirements in this appendix may be granted by the enforcing agency in individual cases when dealing with buildings or structures used for emergency housing.

NOTE:

Authority Cited: Health and Safety Code Sections 17040, 17050, 17920.9, 17921, 17921.5, 17921.6, 17921.10, 17922, 17922.6, 17922.12, 17922.14, 17926, 17927, 17928, 18300, 18552, 18554, 18620, 18630, 18640, 18670, 18690, 18691, 18865, 18871.3, 18871.4, 18873, 18873.1 through 18873.5, 18938.3, 18944.11, and 19990; and Government Code Sections 8558, 8698.1 through 8698.4, and 12955.1.

Reference: Health and Safety Code Sections 17000 through 17062.5, 17910 through 17995.5, 18200 through 18700, 18860 through 18874, and 19960 through 19997; Civil Code Sections 1101.4, and 1101.5, and 1954.201; and Government Code Sections 12955.1 and 12955.1.1.

SECTION 3. That the City Council hereby finds and determines, after independent review and consideration, as supported by substantial evidence in the record and for the reasons set forth in this Ordinance, and, each as a separate and independent basis, that the actions authorized by this Ordinance are exempt from additional review and analysis under the California Environmental Quality Act of 1970 (Public Resources Code section 21000 et seq. "CEQA") and the CEQA Guidelines (Cal. Code Regs., title 14, section 15000 et seq. "CEQA Guidelines") under CEQA Guidelines section 15303, "New Construction or Conversion of Small Structures," which exempts the construction of limited numbers of new structures or facilities, and/or CEQA Guidelines section 15304, "Minor Alterations to Land," which exempts minor alterations in the condition of public land, including temporary uses, and/or CEQA Guidelines section 15311, "Accessory Structures," which exempts the construction of minor structures appurtenant to existing facilities, and/or CEQA Guidelines section 15332, "In Fill Development Projects," which exempts projects characterized as in fill development meeting certain specified criteria, and under the statutory CEQA exemption embodied in Government Code section 8698.4(a)(4). Each of the foregoing provides a separate and independent basis for CEQA compliance and, when viewed collectively, provides an overall basis for CEQA compliance.

SECTION 4. Severability. 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 5. Effective Date. 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.

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: _____

NOTICE AND DIGEST

**ORDINANCE FOR EMERGENCY HOUSING STANDARDS
AMENDMENTS TO THE 2016 CALIFORNIA BUILDING CODE ADDING
SECTION 15.04.3.2400 TO THE OAKLAND MUNICIPAL CODE
CHAPTER 15.04 (2016 OAKLAND BUILDING CONSTRUCTION CODE)
TO INCORPORATE BUILDING STANDARDS AS RECENTLY ADOPTED
BY THE STATE OF CALIFORNIA FOR EMERGENCY HOUSING
BUILDINGS AND FACILITIES, WITH LOCAL MODIFICATIONS**

This ordinance would amend the Oakland Municipal Code to add Section 15.04.3.2400 specifying minimum health and safety standards for the design, construction and occupancy of emergency housing and emergency housing facilities on properties owned or leased by the City of Oakland and designated by the City as emergency housing sites. These standards would apply during a duly declared state of emergency or local emergency as defined by Government Code section 8558, and/or during a shelter crisis declared under Government Code section 8698 *et seq.*

FILED
OFFICE OF THE CITY CLERK
OAKLAND

APPROVED AS TO FORM AND LEGALITY

INTRODUCED BY COUNCIL MEMBER _____

2019 MAY -2 PM 6:25


CITY ATTORNEY'S OFFICE

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);

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: _____

NOTICE AND DIGEST

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.

Notice of Publication

This Ordinance was introduced at the City Council meeting, Tuesday evening **May 21, 2019**, and passed to print **X Ayes, X noes, X Excused**. Final adoption has been scheduled for the City Council meeting Tuesday evening, **June 4, 2019, 5:30 p.m.**, at One Frank H. Ogawa Plaza, Council Chamber, 3rd floor, Oakland, California. Three full copies are available for use and examination by the public in the Office of the City Clerk at One Frank H. Ogawa Plaza, 1st floor, Oakland, California.

LATONDA SIMMONS, City Clerk

Publication Date: **(date), 2019**

(One Time)

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. 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.