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OAKLAND
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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

DATE: December 3, 2015

City Administrator Approval

Date:

[Signature]
12/3/15

RECOMMENDATION

STAFF RECOMMENDS THAT THE CITY COUNCIL ADOPT AN ORDINANCE 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 SUSPENDING PLANNING, ZONING, AND OTHER PERMIT REQUIREMENTS

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. By declaring such a crisis, the City Council would authorize 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 and land use 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 a minimum of one year.

BACKGROUND / LEGISLATIVE HISTORY

Homelessness in Oakland and the Bay Area is an incessant problem, and has been more apparent given the upward pressure on rents during the past two years. The number of homelessness persons in Oakland as of the most recent 2015 count is approximately 2190. On any given night there is an estimated 1,384 persons who are unsheltered. With approximately 350 shelter beds plus 60 beds during the winter months, a majority of homelessness persons are unable to find shelter. The homelessness problem affects Oakland's population disproportionately: a majority of the homeless are African American and Latino. Often

Item: _____
City Council
December 8, 2015

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: crime, lack of sanitation and debris collection facilities, weather exposure, traffic hazards and other risks.

During the past four months, the City Administration has established an interdepartmental task force to look at other, more sustainable and effective approaches for housing the homeless. The underlying principle is simple: the substantial annual City resources used for public safety, health, and clean up could be applied differently to house and assist the homeless in a different way. Other cities have established sanctioned shelters with more extensive support services and storage so that underlying problems can be addressed.

ANALYSIS AND POLICY ALTERNATIVES

The proposed declaration of a shelter crisis is an outgrowth of these recent efforts. Although potential sites or facilities have not been identified, the authority under the ordinance would enable a more flexible interpretation of standard building and planning requirements, resulting in review of 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. As proposed, the City Council would be required to review and approve projects that used this approach prior to implementation.

The ordinance would be effective for a one year period.

Alternative 1: Choose to adopt the ordinance and return directly to the City Council before moving forward with implementation on publicly owned land.

Pro: Would provide the City Council a more tangible proposal with which to evaluate the approach. Allow staff to begin to seek emergency funding resources and begin implementation and allow for Council discretion on public land.

Con: May make process cumbersome if items need to move quickly for processing.

Alternative 2: Choose not to take action at this time.

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 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 suspending planning, zoning, and other permit requirements.

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

Respectfully submitted,



Claudia Cappio
Assistant City Administrator

Item: _____
City Council
December 8, 2015

2015 DEC -4 AM 9:05

DRAFT
CITY ATTORNEY'S OFFICE

OAKLAND CITY COUNCIL

ORDINANCE NO. _____ C.M.S.

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 SUSPENDING PLANNING, ZONING, AND OTHER PERMIT REQUIREMENTS

WHEREAS, the number of homeless persons in the City of Oakland continues to increase, with the latest 2015 point-in-time count of over 2,100, and this number is likely to increase given the substantial upward pressure on 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 have 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 are increasing across parts of Oakland within the public right of way, thus exposing homeless individuals to traffic hazards, 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, analysis and evidence have 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, this shelter crisis is not unique to Oakland, but is evident throughout the Bay Area, California and the United States, causing other municipalities such as Los Angeles, Portland, Oregon and Seattle, Washington to also take more immediate actions to address these conditions; and

WHEREAS, given the extent of the shelter crisis, the City Council of the City of Oakland finds that more immediate 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; 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, 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. This Ordinance shall remain in place for a period of one year from the date of passage.

SECTION 3. 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. The Council therefore hereby declares a shelter crisis in the City of Oakland under the authority set forth in Government Code Section 8698, et seq.

SECTION 4. 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 5. For the term of this Ordinance, no planning, zoning, building, or other permit requirements for the interim establishment of shelters for the homeless at facilities owned, operated, leased or maintained by the City shall be required to the extent that strict compliance would in any way prevent, hinder, or delay the mitigation of the effects of the shelter crisis. At the City Administrator's discretion and with approval by the City Council, interim municipal health and safety provisions and land use controls may be applied to facilities ensuring minimal public health and safety standards. These interim standards shall only apply to additional public facilities open to the homeless.

SECTION 6. Homelessness housing projects that apply the authority provided for under this ordinance shall be reviewed and approved by the City Council prior to implementation, and shall include detailed plans for the project and the standards and requirements being applied to the facility and its operation.

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

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 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 SUSPENDING PLANNING, ZONING, AND OTHER PERMIT REQUIREMENTS

This ordinance would declare a shelter crisis in the City of Oakland pursuant to California Government Code section 8698 et. seq. and suspend planning, zoning, building, and other permit requirements for the interim establishment of shelters for the homeless at facilities owned, operated, leased or maintained by the City to the extent that strict compliance with those requirements would in any way prevent, hinder, or delay the mitigation of the effects of the shelter crisis. Homelessness housing projects that apply the authority provided for under this ordinance shall be reviewed and approved by the City Council prior to implementation, and shall include detailed plans for the project and the standards and requirements being applied to the facility and its operation.

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2015 DEC -4 AM 9:05