
CITY ATTORNEY'S OFFICE

OAKLAND CITY COUNCIL

ORDINANCE NO. _____ C.M.S.

EMERGENCY ORDINANCE:

- 1. DECLARING A SHELTER CRISIS IN THE CITY OF OAKLAND PURSUANT TO CALIFORNIA GOVERNMENT CODE SECTION 8698 AND 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;**
- 2. FOR THE DURATION OF THE SHELTER CRISIS, AUTHORIZING THE CITY ADMINISTRATOR TO:**
 - (A) SUSPEND PROVISIONS OF STATE OR LOCAL REGULATORY STATUTES, REGULATIONS, AND ORDINANCES PRESCRIBING STANDARDS OR PROCEDURES RELATING TO HOUSING, HEALTH, OR SAFETY FOR SHELTER FACILITIES;**
 - (B) ENTER INTO BELOW MARKET LEASES OR LICENSES WITH HOMELESS SERVICE PROVIDERS ON LAND OWNED OR LEASED BY THE CITY FOR THE PURPOSE OF PROVIDING EMERGENCY SHELTER OR TRANSITIONAL HOUSING; AND**
 - (C) RENEW EXISTING PROFESSIONAL SERVICES AND/OR GRANT AGREEMENTS WITH HOMELESS SERVICE PROVIDERS IN AMOUNTS NOT TO EXCEED \$250,000 ABOVE PREVIOUS YEAR, IF PROVIDERS MEET PERFORMANCE OUTCOMES IN PREVIOUS YEAR; AND**
- 3. MAKING CALIFORNIA ENVIRONMENTAL QUALITY ACT EXEMPTION FINDINGS**

WHEREAS, the City acknowledges that it is facing a serious affordable housing crisis with thousands of residents living in unhoused or in substandard housing conditions; and

WHEREAS, the number of homeless persons in the City of Oakland continues to increase, with the latest 2024 point-in-time count of 5,485 individuals experiencing homelessness in Oakland, an increase of 2,724 individuals from 2017, with the largest growth in people living in their RVs and cars, and this number is likely to increase given the substantial upward pressure of residential rents; and

WHEREAS, the shelter crisis exposes houseless and often disabled elders, individuals, and families to the risk of death, illness and injury due to disease, physical threats, exposure to weather and rodents, lack of adequate sanitation and debris services, as well as regular involuntary removal and disposal of personal belonging, forced migration to other parts of the City or outside of the City, and extreme emotional trauma and other conditions that are detrimental to their health and safety; 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 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. (State Shelter Crisis Statute), and specifically section 8698.4, allows the governing body of the City of Oakland 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, since October 3, 2017, and most recently on September 19, 2023 in Ordinance No. 13759, the City Council has declared a shelter crisis within the City of Oakland and has renewed such declaration every two years pursuant to the State Shelter Crisis Statute; and

WHEREAS, previously the State Shelter Crisis Statute had sunset unless extended, but the State Shelter Crisis Statute was recently amended to extend through January 1, 2036, thereby authorizing longer terms for a declared shelter crisis Ordinance; and

WHEREAS, the State Shelter Crisis Statute 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; and

WHEREAS, California Government Code Section 8698.4(a)(2)(A)(ii) provides that during the period in which the City of Oakland has adopted a shelter crisis, and provided that the City has adopted and complies with such health and safety standards and procedures approved by HCD consistent with ensuring minimal public health and safety, the provisions of any housing, health, habitability, planning and zoning, or safety standards, procedures, or laws shall be suspended for homeless shelters, and landlord tenant laws providing a cause of action for habitability or tenantability shall be suspended for homeless shelters; and

WHEREAS, California Government Code Section 8698.4 provides that during a declaration of a shelter crisis, the local and state law requirements for homeless shelters to be consistent with local land use plans and the General Plan shall be suspended; and

WHEREAS, Statewide building standards for emergency housing were incorporated into the 2022 California Building Code through Appendix P, and the 2022 California Residential Code through Appendix AZ, and on December 20, 2022, the City Council passed Ordinance No. 13717 adopting the Emergency Housing appendices, including local amendments that had been previously approved by HCD; and

WHEREAS, Oakland Planning Code Section 17.07.060.A, adopted on June 4, 2019, allows "Emergency Shelter Residential Activities" and "Emergency Housing Facilities," including recreational vehicles and other emergency housing, on property designated by the City Administrator and owned or leased by the City during the duration of a declared shelter crisis; and

WHEREAS, the City Council finds that the suspension of local laws within the meaning of California Government Code Section 8698.4 includes 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, other laws or procedures, such as requirements for issuance of building permits and/or certificates of occupancy for interim shelters and leasing requirements for City property have hindered or delayed the City's efforts to mitigate the effects of the shelter crisis; and

WHEREAS, per Section 219(6) of the Charter and Chapter 2.42 of the Oakland Municipal Code, all leases of City-owned real property must be authorized by an ordinance enacted by the City Council, which may establish general leasing or licensing parameters whereby the City Administrator may enter into leases and licenses without further City Council approval, and also

must be at a fair market rent unless the City Council makes findings that a below market rate would be in the best interests of the City; and

WHEREAS, during the declared shelter crisis, the City Administrator may designate land or facilities suitable for emergency shelter programs, but previous shelter crisis ordinances did not specifically authorize the City Administrator to enter into licenses with homeless service providers except as otherwise authorized by OMC Section 2.42.100.C; and

WHEREAS, the City does not typically charge a rental fee for programs funded by the City because the project budget and City costs would need to be increased to cover the rental fee and therefore the City would have less funding to devote to program operations; and

WHEREAS, this declaration of continued shelter crisis will allow the City Administrator to enter into leases and/or licenses with nonprofit organizations for emergency shelter or transitional housing programs at below market rents on City-owned or City-leased land or within City facilities that the City Administrator designates as suitable for emergency shelter activities at no additional cost to the service providers or the City; and

WHEREAS, OMC Section 2.04 requires that City Council approve professional services agreements and amendments over \$250,000, or \$500,000 during a Council recess, except that the City Administrator has existing authority to enter into emergency services contracts under OMC Section 2.04.020.F and 2.04.020.G, without bidding and in any amount using previously appropriated funds, in “a situation deemed by the City Administrator to be an emergency for the immediate preservation of the public peace, health or safety”; and

WHEREAS, the City Administrator has determined that the shelter crisis is an emergency within the meaning of OMC Section 2.04.020.F and 2.04.020.G and therefore the City Administrator may enter into contracts for goods or services including but not limited to, construction contracts to build shelters, professional services agreements for new shelter operators and supportive services such as healthcare services and workforce development contracts, when prior Council authorization would hinder or delay the mitigation of the shelter crisis; and

WHEREAS, existing professional services agreements and grant agreements with homeless service providers routinely lapse after the end of the fiscal year because of the administrative burden of the contracting process, and providers must choose between providing services without payment during the period of lapse or pausing services; and

WHEREAS, staff seeks City Administrator authority to renew professional services agreements and grant agreements with service providers that were originally approved by the City Council and that meet their performance outcomes in the previous fiscal year, in amounts not to exceed \$250,000 above the previous fiscal year amount; and

WHEREAS, such authority would alleviate staffing constraints and prevent lapses in service, and would provide a valuable incentive for providers to meet performance outcomes specified in the contracts; and

WHEREAS, City staff would seek Council approval for new homelessness contracts above administrative authority, but renewals of contracts with providers meeting performance

outcomes and not exceeding the amounts authorized herein would not need further City Council approval; and

WHEREAS, staff has determined that the actions authorized by this Emergency Ordinance are exempt from review under the California Environmental Quality Act (CEQA) and the CEQA Guidelines (Cal. Code Regs., title 14, section 15000 et seq.) under CEQA Guidelines Section 15303 (New Construction or Conversion of Small Structures), Section 15304 (Minor Alterations to Land), Section 15311 (Accessory Structures), Section 15332 (In Fill Development Projects), and/or under the statutory CEQA exemption embodied in Government Code section 8698.4(a)(4); and

WHEREAS, pursuant to section 213 of the Oakland City Charter, an ordinance declared by the Council to be necessary for preserving the public peace, health, or safety in an emergency, and containing a statement of the reasons constituting such necessity, may be introduced and adopted at the same meeting if passed by the affirmative vote of at least six members;

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 Emergency 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 City Council hereby authorizes the City Administrator to allow persons unable to obtain housing to occupy designated facilities or land owned or leased by the City a shelters during the period of this crisis.

SECTION 4. For the term of this Emergency Ordinance, the City Administrator is hereby authorized in their discretion to suspend provisions of state and local standards or laws prescribing standards or procedures relating to housing, health, or safety as needed for the establishment of emergency housing to the extent that strict compliance would in any way prevent, hinder, or delay the mitigation of the effects of the shelter crisis, provided that the City complies with the adopted health and safety standards approved by HCD.

SECTION 5. The City Council determines that the emergency provisions of Section 15.04.3.2095 of the Oakland Building Code, Section 15.04.3.25130 of the Oakland Residential Code, and Section 17.07.060 of the Oakland Planning Code apply for the duration of this declaration of shelter crisis, as appropriate for emergency housing activities and facilities.

SECTION 6. The City Council hereby finds that the use of City-owned or City-leased land for less than fair market rental value by non-profit service providers for homeless programs is in the best interest of the City.

SECTION 7. The Council hereby authorizes the City Administrator to designate sites appropriate for emergency housing activities and facilities, including for safe parking of recreational vehicles and/or passenger vehicles, on properties owned or leased by the City and to enter into licenses or leases of such properties with homeless service providers at below market rent and with no administrative fees, for terms extending through the duration of the declared shelter crisis, in order to facilitate the use of public land for emergency shelter operations and/or transitional housing.

SECTION 8. For the duration of this Emergency Ordinance, the City Council hereby authorizes the City Administrator to renew existing professional services agreements and/or grant agreements with homeless service providers that meet the performance outcomes specified in such agreements, in amounts not to exceed \$250,000 above the previous fiscal year amount, using funding sources appropriated for emergency shelter or transitional housing programs; and

SECTION 10. Prior to execution, all agreements and amendments shall be reviewed and approved as to form and legality and consistency with this Emergency Ordinance by the City Attorney and executed copies shall be filed with the City Clerk.

SECTION 11. The Council directs the City Administrator to report to the Senate Committee on Transportation and Housing and the Assembly Committee on Housing and Community Development the information required by California Government Code Section 8968.4(a)(6), including but not limited to the total number of residents in homeless shelters in the City of Oakland, the estimated number of permanent supportive housing units, the number of residents who have exited the system, and new actions the City is taking to better serve the homeless population.

SECTION 12. To the extent this Emergency 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 13. 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 CEQA and the CEQA Guidelines (Cal. Code Regs., title 14, section 15000 et seq.) under CEQA Guidelines Section 15303 (New Construction or Conversion of Small Structures), Section 15304 (Minor Alterations to Land), Section 15311 (Accessory Structures), Section 15332 (In Fill Development Projects), and/or 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 14. The Council hereby declares that this Emergency Ordinance is necessary for preserving the public health and safety for the reasons stated herein, and there is a necessity to immediately pass this Emergency Ordinance pursuant to the powers given to the City Council under Section 213 of the City Charter. This Ordinance shall be effective immediately upon its adoption by an affirmative vote of six members of the City Council pursuant to City Charter section 213.

SECTION 15. This Emergency 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 16. This Emergency Ordinance shall remain in place for a period of four years from the date of passage.

SECTION 17. If any section, subsection, sentence, clause or phrase of this Emergency 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 Emergency 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.

IN COUNCIL, OAKLAND, CALIFORNIA,

PASSED BY THE FOLLOWING VOTE:

AYES - BROWN, FIFE, GALLO, HOUSTON, RAMACHANDRAN, UNGER, WANG, AND
PRESIDENT JENKINS

NOES –

ABSENT –

ABSTENTION –

ATTEST: _____

ASHA REED
City Clerk and Clerk of the Council of the
City of Oakland, California

NOTICE AND DIGEST

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(2) FOR THE DURATION OF THE SHELTER CRISIS, AUTHORIZING THE CITY ADMINISTRATOR TO: (A) SUSPEND PROVISIONS OF STATE OR LOCAL REGULATORY STATUTES, REGULATIONS, AND ORDINANCES PRESCRIBING STANDARDS OR PROCEDURES RELATING TO HOUSING, HEALTH, OR SAFETY FOR SHELTER FACILITIES; (B) ENTER INTO BELOW MARKET LEASES OR LICENSES WITH HOMELESS SERVICE PROVIDERS ON LAND OWNED OR LEASED BY THE CITY FOR THE PURPOSE OF PROVIDING EMERGENCY SHELTER OR TRANSITIONAL HOUSING; AND (C) RENEW EXISTING PROFESSIONAL SERVICES AND/OR GRANT AGREEMENTS WITH HOMELESS SERVICE PROVIDERS IN AMOUNTS NOT TO EXCEED \$250,000 ABOVE PREVIOUS YEAR, IF PROVIDERS MEET PERFORMANCE OUTCOMES IN PREVIOUS YEAR; AND

(3) MAKING CALIFORNIA ENVIRONMENTAL QUALITY ACT EXEMPTION FINDINGS

This Emergency 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 their discretion to suspend provisions of state or local regulatory statutes, regulations, and ordinances prescribing standards or procedures relating to 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 Emergency Ordinance would authorize the City Administrator to designate sites for emergency shelter and/or allowable parking sites and authorize below market licenses with providers operating programs on City land. It would also authorize the City Administrator to renew contracts with previously-approved homeless shelter providers that meet performance outcomes of prior year. Finally, this Emergency Ordinance makes exemption findings under the California Environmental Quality Act. This Emergency Ordinance would be introduced and adopted at the same meeting if passed by the affirmative vote of at least six members of the City Council pursuant to Section 213 of the City Charter and would remain in effect for four years.