



City Manager's Office

CONSENT CALENDAR

January 16, 2024

To: Honorable Mayor and Members of the City Council
 From: Dee Williams-Ridley, City Manager
 Submitted by: Peter Radu, Assistant to the City Manager
 Subject: Extension of Declaration of Homeless Shelter Crisis

RECOMMENDATION

Adopt a Resolution extending Resolution No. 70,179 – N.S., extending the declaration of a Homeless Shelter Crisis until January 17, 2029.

BACKGROUND

The entire State of California, which has roughly 13% of the nation's general population but half of the nation's unsheltered homeless population,¹ has been grappling with an affordable housing and shelter crisis. In response to the city's shelter crisis and severe shortage of beds, on January 19, 2016, the Berkeley City Council unanimously approved Resolution No. 67,357-N.S., Declaring a Shelter Crisis in Berkeley. Originally set to expire on January 19, 2017, the Resolution has been extended multiple times (most recently Resolution No. 70,179-N.S. on January 18, 2022, extending it to January 19, 2024).

Since the passage of the last shelter crisis declaration extension, there have been several important developments that justify yet another extension of this resolution. The latest federal Point-in-Time homeless count in Alameda County, conducted in January 2022, demonstrated important progress on solving homelessness in Berkeley, including an overall decrease in homelessness of 5%, and a 1% decrease in unsheltered homelessness in particular between January 2019 and January 2022. Nevertheless, the overall proportion of unsheltered homelessness amongst the homeless population in Berkeley increased from 73% to 76% over the same period of time—meaning that while fewer people are experiencing homelessness overall, a growing number of those that do become homeless are unable to access shelter. Since then, the city has returned its congregate shelter capacity—which suffered a capacity loss of roughly 50% during the pandemic to comply with CDC physical distancing guidelines—to pre-pandemic levels, but many of these beds are top bunks, which can be difficult to access for the 33% of the homeless population that reports a physical disability. In response to the overall declining interest in congregate shelter since the pandemic, city staff have capitalized on emerging state funding opportunities and have

¹ See: <https://www.ppic.org/blog/homeless-populations-are-rising-around-california/>

brought in close to \$10M in Encampment Resolution Funding grants to establish three new non-congregate shelters for encampments in the last 18 months. This is a noteworthy feat for a city that otherwise is considered too small to receive direct state homeless funding, even though the rate at which people are becoming unsheltered is outpacing the rate of our work to respond to it.

In July 2021, the City Council adopted the All Home Regional Action Plan, committing Berkeley to an ambitious 75% reduction in unsheltered homelessness over three years. Given the extensive remaining need on the street, and in order to meet the spirit of urgency reflected in the adoption of the Regional Action Plan, staff requests another extension of the shelter crisis declaration, which will allow the city to continue our efforts to respond to the crisis. To do so as quickly and efficiently as possible, the proposed resolution would continue the previous flexibilities and waivers (including non-voter approved purchasing and bid requirements). Based on recent experiences and administrative workload increases, it recommends granting the following two additional flexibilities:

- Waiving the City Manager's expenditure authority limit up to \$250,000 for the procurement of homeless services. The vast majority of homeless services contracts in the City exceed this threshold limit, but some flexibility for smaller contracts will increase staff's efficiency in acting quickly.
- Authorizing the City Manager to apply for and accept funding and grants from the County, State, and Federal governments for the provision of homeless services. As the city becomes increasingly competitive for these grant programs—which increasingly have short application windows—waiver of formal Council approval in seeking these funding opportunities will again increase staff's efficiency in acting quickly.

All changes from the current version of the shelter crisis resolution are redlined in Attachment 2, to clearly highlight recommended edits and additions.

FINANCIAL IMPLICATIONS

Continuing Berkeley's shelter crisis may have the effect of expediting access and use of new and future State homelessness resources. It may also reduce the burden on staff time by streamlining project approvals.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

Maintaining or increasing interim housing capacity will reduce the impacts of temporary encampments, which in turn helps mitigate the impacts of encampments and unsheltered homelessness on Berkeley's environment, notably its sensitive waterways and fire-prone areas.

CONTACT PERSON

Peter Radu, City Manager's Office 510-981-7045

Attachments:

1: Resolution

2: Resolution (with redline edits)

RESOLUTION NO. ##,###-N.S.

EXTENSION OF DECLARATION OF HOMELESS SHELTER
CRISIS

WHEREAS, on January 19, 2016, the City Council unanimously passed Resolution No. 67,357-N.S., Declaring a Homeless Shelter Crisis in Berkeley, which was set to expire on January 19, 2017; and

WHEREAS, on November 15, 2016, the City Council passed Resolution No. 67,746-N.S., extending the previous Resolution to January 19, 2018; and

WHEREAS, on October 31, 2017, the City Council passed Resolution No. 68,206-N.S., placing another extension until January 19, 2020; and

WHEREAS, on June 12, 2018, the City Council enacted Ordinance No. 7,613-N.S., setting forth reasonable local standards and procedures for the design, site development, and operation of homeless shelters and the structures and facilities therein; and

WHEREAS, on November 19, 2019, the City Council passed Resolution No. 69,189-N.S., extending the previous Resolution to January 2022; and

WHEREAS, on January 18, 2022, the City Council passed Resolution No. 70,179-N.S., extending the previous Resolution to January, 2024; and

WHEREAS, according to the last Alameda County Point-in-Time homeless count in January 2022, the homeless population decreased 5% from 2019 levels to 1,057 people, but over the same time period saw an increase of 70% in tent homelessness; and

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

WHEREAS, the COVID-19 pandemic limited shelter bed availability in Berkeley by forcing shelter providers to reduce bed capacity to maintain compliance with CDC physical distancing guidelines, from which the City has been slow to recover; and

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

WHEREAS, homelessness encampments have increased across parts of Berkeley 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 Berkeley, 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 Berkeley 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 Resolution 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; and

WHEREAS, California Government Code Section 8698.4 provides that, The City may adopt reasonable local standards for design, site development, and operation of emergency bridge housing communities, structures, and facilities, in lieu of compliance with state and local building, housing, health, habitability or safety standards and laws.

NOW THEREFORE, BE IT RESOLVED that the Council of the City of Berkeley:

1. Finds and determines the foregoing recitals to be true and correct and hereby makes them a part of this Resolution; and
2. This Resolution shall remain in place until January 17, 2029; and
3. Finds that a significant number of persons in Berkeley 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 Berkeley under the authority set forth in Government Code Section 8698, et seq.; and
4. Authorizes the City Manager 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; and

5. Authorizes for the term of this Resolution, an exception to planning, zoning, building, or other permit requirements and administrative processes for the interim establishment of shelters for the homeless to the extent that strict compliance with the aforementioned regulations would in any way prevent, hinder, or delay the mitigation of the effects of the shelter crisis. Capital projects supporting homeless shelters and other programs shall receive expedited permitting and waivers for expedited permit fees; and

6. Authorizes waiver of the City Manager's expenditure limit up to \$250,000 for the procurement of services that are directly related to providing temporary shelter and other related services for the people experiencing homelessness, and authorizes the City Manager to approve such contracts; and

7. Authorizes the City Manager to apply for and accept funding and grants from the County, State, and Federal governments for the provision of homeless services; and

8. Authorizes the City Manager to waive non-voter approved purchasing and bid requirements for the installation of facilities and services and approve contracts that are directly related to providing temporary shelter and other related services for the homeless. At the City Manager's discretion, the waiver of purchasing and bid requirements may apply to leased assets/equipment and other services that will be provided within or to support temporary shelter facilities and other related programs and services; and

9. Requires that permanent housing projects that apply the authority provided for under this resolution 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; and

10. Finds that if this Resolution is inconsistent with any other provisions of the Berkeley Municipal Code, this Resolution shall apply. This Resolution suspends contrary regulations in the Berkeley Municipal Code or requirements of the General Plan or implementing regulations; and

11. Recognizes that this Resolution is enacted pursuant to the City of Berkeley's general police powers, and Article XI of the California Constitution, as well as the other provisions of state and local law otherwise cited herein; and

12. Finds that if any section, subsection, sentence, clause or phrase of this Resolution 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 resolution. The City Council hereby declares that it would have passed this Resolution 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.

RESOLUTION NO. ##,###-N.S.

EXTENSION OF DECLARATION OF HOMELESS SHELTER
CRISIS

WHEREAS, on January 19, 2016, the City Council unanimously passed Resolution No. 67,357-N.S., Declaring a Homeless Shelter Crisis in Berkeley, which was set to expire on January 19, 2017; and

WHEREAS, on November 15, 2016, the City Council passed Resolution No. 67,746-N.S., extending the previous Resolution to January 19, 2018; and

WHEREAS, on October 31, 2017, the City Council passed Resolution No. 68,206-N.S., placing another extension until January 19, 2020; and

WHEREAS, on June 12, 2018, the City Council enacted Ordinance No. 7,613-N.S., setting forth reasonable local standards and procedures for the design, site development, and operation of homeless shelters and the structures and facilities therein; and

WHEREAS, on November 19, 2019, the City Council passed Resolution No. 69,189-N.S., extending the previous Resolution to January 2022; and

WHEREAS, on January 18, 2022, the City Council passed Resolution No. 70,179-N.S., extending the previous Resolution to January, 2024; and

WHEREAS, according to the last EveryOne Home Alameda County Point-in-Time homeless count in January 2019~~2022~~, the homeless population ~~has risen to 1,108~~ decreased 5% from 2019 levels to 1,057 people, but over the same time period saw an increase of 70% in tent homelessness; and

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

~~WHEREAS, the COVID-19 pandemic's economic toll has exacerbated income inequality and housing insecurity for the most marginally housed households across the region, increasing the risk of homelessness;~~

WHEREAS, the COVID-19 pandemic ~~has worsened shelter bed shortages limited shelter bed availability~~ in Berkeley by forcing shelter providers to reduce bed capacity to maintain compliance with CDC physical distancing guidelines, from which the City has been slow to recover; and

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

WHEREAS, homelessness encampments have increased across parts of Berkeley 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 Berkeley, 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 Berkeley 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 Resolution 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; ~~and-~~

WHEREAS, California Government Code Section 8698.4 provides that, The City may adopt reasonable local standards for design, site development, and operation of emergency bridge housing communities, structures, and facilities, in lieu of compliance with state and local building, housing, health, habitability or safety standards and laws.

NOW THEREFORE, BE IT RESOLVED that the Council of the City of Berkeley:

1. Finds and determines the foregoing recitals to be true and correct and hereby makes them a part of this Resolution; and
2. This Resolution shall remain in place until January 179, 20294; and
3. Finds that a significant number of persons in Berkeley 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 Berkeley under the authority set forth in Government Code Section 8698, et seq.; and

4. Authorizes the City Manager 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; and

5. Authorizes for the term of this Resolution, ~~no an exception to~~ planning, zoning, building, or other permit requirements and administrative processes for the interim establishment of shelters for the homeless ~~shall be required~~ to the extent that strict compliance with the aforementioned regulations would in any way prevent, hinder, or delay the mitigation of the effects of the shelter crisis. ~~At the City Manager'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 Capital projects supporting homeless shelters and other programs shall receive expedited permitting and waivers for expedited permit fees;~~ and

6. Authorizes waiver of the City Manager's expenditure limit up to \$250,000 for the procurement of services that are directly related to providing temporary shelter and other related services for the people experiencing homelessness, and authorizes the City Manager to approve such contracts; and

7. Authorizes the City Manager to apply for and accept funding and grants from the County, State, and Federal governments for the provision of homeless services; and

6.8. Authorizes the City Manager to waive non-voter approved purchasing and bid requirements for the installation of facilities and services and approve contracts that are directly related to providing temporary shelter and other related services for the homeless. At the City Manager's discretion, the waiver of purchasing and bid requirements may apply to leased assets/equipment and other services that will be provided within or to support temporary shelter facilities and other related programs and services; ~~and-~~

7.9. Authorizes homeless ~~Requires that permanent~~ housing projects that apply the authority provided for under this resolution 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; and

8.10. Finds that if this Resolution is inconsistent with any other provisions of the Berkeley Municipal Code, this Resolution shall apply. This Resolution suspends contrary regulations in the Berkeley Municipal Code or requirements of the General Plan or implementing regulations; and

9.11. Recognizes that this Resolution is enacted pursuant to the City of Berkeley's general police powers, and Article XI of the California Constitution, as well as the other provisions of state and local law otherwise cited herein; and

10.12. ~~Severability.Finds that~~ if any section, subsection, sentence, clause or phrase of this Resolution 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 ~~Chapterresolution~~. The City Council hereby declares that it would have passed this Resolution 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.

