



DATE: January 30, 2024

TO: Mayor and City Council

FROM: Assistant City Manager

SUBJECT: Adopt a Resolution Declaring a State of Emergency on Homelessness, Temporarily Suspending Applicable Local Planning and Zoning Requirements for Publicly Owned Property and Specified Private Property to Enable Flexible Responses to the Homelessness Crisis, and Determining that the Common Sense CEQA Exemption Applies

RECOMMENDATION

That the City Council adopts a resolution that 1) declares a State of Emergency on homelessness, 2) temporarily suspends applicable local planning and zoning requirements for publicly owned sites and specified private property to enable flexible responses to the homelessness crisis, and 3) determines that the common sense CEQA exemption applies (Attachment II).

SUMMARY

There is an ongoing homelessness crisis in Hayward and across the state. Hayward City Council has prioritized responding to this crisis through multiple policies and programs over the last several years, which contributed to a 22% reduction in homelessness in Hayward from 2019 to 2022. However, continued efforts are required to maintain this response and continue to support the individuals and families at risk of and currently experiencing homelessness. In Hayward, continued response to the homelessness crisis includes ensuring that the City and its non-profit partners are able to quickly establish shelters and other service locations for individuals experiencing or at risk of experiencing homelessness. Existing shelters and other service providers experienced increased demand during the pandemic as health and safety precautions required reducing capacity, finding innovative ways to prevent the spread of COVID-19 at shelters, and adapting service delivery models to continue providing essential supports while navigating COVID-19 risks. Increased demand and continued health and safety precautions require more immediate efforts to support existing shelters and service providers as they serve individuals and families experiencing or at risk of experiencing homelessness in Hayward.

As allowed by state law, Council used emergency shelter crisis declarations to increase the local shelter capacity on publicly owned land in 2018, 2019, and 2021. Under the previous shelter crisis declarations, provisions of any housing, health, habitability, planning and zoning procedures or laws are temporarily suspended for homeless shelters to the extent that strict compliance poses a hindrance to mitigating the shelter crisis. State law enables local jurisdictions to adopt interim health and safety standards that are consistent with ensuring minimal public health and safety standards. Since this law only applies to shelters located on public property/facilities, Council adopted a resolution in 2023 to temporarily suspend planning and zoning requirements for existing homeless shelters located on specified private property.¹ These temporary actions align with the City's most recently updated Housing Element of the General Plan, which includes action items to explore innovative and alternate housing options that provide greater flexibility, support services, and programs that are part of the local homeless system Continuum of Care, and to explore funding and feasibility for safe parking and safe camping programs for individuals and families experiencing homelessness.²

On September 19, 2023, the Alameda County Board of Supervisors (BOS) adopted a countywide state of emergency on homelessness.³ The BOS declaration of a state of emergency on homelessness is intended to provide the County with additional tools to accelerate and expand its response to homelessness, as outlined in its Home Together Plan, and in collaboration with the County's city and non-profit partners. The BOS directed staff from the Health Care Services Agency Office of Homeless Care and Coordination (OHCC) to return with recommendations for implementing this response. One of the OHCC recommendations was for the County to work with cities to adopt a local state of emergency specific to individual jurisdictions.

Staff recommend that Council adopt a resolution that: 1) declares a State of Emergency on homelessness in alignment with the County declaration and 2) temporarily suspends applicable local planning and zoning requirements for city-owned property and specified private property to enable flexible responses to the homelessness crisis. The City Council has the authority to temporarily suspend these requirements under its police power pursuant to Article XI, Section 7 of the California Constitution, and authority over municipal affairs pursuant to Article XI, Section 5 of the California Constitution, and Section 200 of the City Charter. Suspension of the requirements would not occur in instances where the health and safety of residents or the surrounding community are at risk.

BACKGROUND

There is an ongoing local and state-wide homelessness crisis, leading to a continued need for emergency shelter and services for individuals and families experiencing or at risk of

¹ February 7, 2023, City Council Staff Report and Materials:
<https://hayward.legistar.com/LegislationDetail.aspx?ID=6016044&GUID=969B2045-A073-4043-90BB-1659E2882811&Options=&Search=>

² City of Hayward 2023-2031 Housing Element https://www.hayward-ca.gov/sites/default/files/City_of_Hayward_2023_2031_Housing%20Element_Certified.pdf

³ September 19, 2023, Alameda County Board of Supervisors Staff Report and Materials:
https://www.acgov.org/board/bos_calendar/documents/DocsAgendaReg_09_19_23/GENERAL%20ADMINISTRATION/Set%20Matter%20Calendar/President%20Miley_356939.pdf

experiencing homelessness. In recognition of this crisis, the Alameda County BOS adopted a resolution declaring a state of emergency on homelessness in September 2023 and County staff requested that cities adopt comparable local declarations.

Every two years, the US Department of Housing and Urban Development (HUD) requires communities to conduct a Point-in-Time (PIT) Count of individuals, youth, and families experiencing homelessness and provide accompanying data. The PIT count provides a “snapshot” of homelessness (both sheltered and unsheltered) in the community and nationally. Alameda County held the most recent PIT Count on February 23, 2022, which was the first count since January 2019 due to the COVID-19 pandemic. The next PIT Count is scheduled for January 25, 2024.

According to 2022 PIT Count data, there was a 22% increase in homelessness across Alameda County, with 9,747 total individuals experiencing homelessness in 2022 compared to 8,022 individuals in 2019. Unlike the Countywide trend, there was a 22% decrease in homelessness in Hayward, with 381 individuals experiencing homelessness in 2022 compared to 487 total individuals in 2019.⁴ Over the past several years, Council has prioritized responding to the affordable housing and homelessness crisis in several ways:

- **October 2018:** Council adopted a resolution declaring a shelter crisis in Hayward in 2018. At the time, there were only 63 shelter beds in Hayward, with over 300 individuals experiencing unsheltered homelessness.⁵ Council extended the shelter crisis declaration in 2019 for implementation of the Housing Navigation Center and again in 2021 to allow construction of an emergency shelter for transitional-age youth.^{6,7}
- **January 2020:** Council adopted the Strategic Roadmap. The Strategic Roadmap’s Preserve, Protect, and Produce Housing for All priority area includes implementing a homelessness reduction strategic plan, as well as projects related to incentivizing housing production for all.⁸

⁴ For a detailed discussion of the PIT Count findings and methodology, see the staff report from the June 28, 2022, Council meeting: <https://hayward.legistar.com/LegislationDetail.aspx?ID=5709698&GUID=55CE1563-86DB-4F2F-8D3E-F5ADBBB68E84&Options=&Search=>

⁵ October 2, 2018, City Council Staff Report and Materials: <https://hayward.legistar.com/LegislationDetail.aspx?ID=3690554&GUID=A8DF0FBF-2F19-4648-8632-2BFE62A97107&Options=&Search=>

⁶ January 22, 2019, City Council Staff Report and Materials: <https://hayward.legistar.com/LegislationDetail.aspx?ID=3838800&GUID=89EC3945-8050-428A-881C-6180A91CBA9A&Options=&Search=>

⁷ February 23, 2021, City Council Staff Report and Materials: <https://hayward.legistar.com/LegislationDetail.aspx?ID=4803667&GUID=7C811874-F8C6-4590-9385-736AD8D65638&Options=&Search=>

⁸ April 26, 2022, City Council Staff Report and Materials: <https://hayward.legistar.com/LegislationDetail.aspx?ID=5565349&GUID=459912E5-E1C0-4580-BE80-3DFEFBC33C72&Options=&Search=>

- **March 2020:** Council adopted the Workplan to Incentivize Housing Production, which included a mid-term strategy of expanding locations where emergency shelters are allowed as a permitted use with a conditional or other discretionary use permit.⁹
- **July 2021:** Council adopted the Let's House Hayward! (LHH) Strategic Plan, which highlighted the need for additional emergency shelters in the City and included strategies for expanding housing-focused shelter capacity and developing crisis response services to protect the dignity and health of unsheltered individuals and families in Hayward.¹⁰
- **February 2023:** Council adopted a Resolution to temporarily suspend applicable local planning and zoning requirements for homeless shelters located on specified private property, enabling existing shelters operated by local non-profit organizations to respond to capacity constraints created by the COVID-19 pandemic.
- **Housing Element:** The Housing Element is an Element of the Hayward 2040 General Plan and must be updated every eight years in accordance with State Law. The City Council adopted the updated Housing Element on February 7, 2023, which was certified by the State Department of Housing and Community Development on July 27, 2023. The 2023-2031 Housing Element contains specific Goals, Programs, Policies, and Actions to support housing opportunities for special needs groups, which include individuals experiencing homelessness (Program H-13: Variety of Housing Types).

On September 19, 2023, the Alameda County Board of Supervisors (BOS) adopted a countywide state of emergency on homelessness.¹¹ The BOS declaration of a state of emergency on homelessness is intended to provide the County with additional tools to accelerate and expand its response to homelessness, as outlined in its Home Together Plan, and in collaboration with the County's city and non-profit partners. The BOS directed staff from the Health Care Services Agency Office of Homeless Care and Coordination (OHCC) to return with recommendations for implementing this response. One of the OHCC recommendations was for the County to work with cities to adopt a local state of emergency specific to individual jurisdictions and another is to explore innovative land use options to support increases in housing, shelter, and services to support those experiencing homelessness.

DISCUSSION

As discussed in local and regional plans to respond to and prevent homelessness, as well as in the BOS emergency declaration, flexibility to support emergency shelters and service providers that support homeless individuals and families and those at risk of becoming homeless are key

⁹ March 3, 2020, City Council Staff Report and Materials:

<https://hayward.legistar.com/LegislationDetail.aspx?ID=4345462&GUID=5E3353DD-0839-4361-AED3-B7EB4102CBE3&Options=ID%7CText%7C&Search=Housing+Production>

¹⁰ July 13, 2021, City Council Staff Report and Materials:

<https://hayward.legistar.com/LegislationDetail.aspx?ID=5028014&GUID=E5369F11-C504-413E-B317-E2797DF45328&Options=&Search=>

¹¹ September 19, 2023, Alameda County Board of Supervisors Staff Report and Materials:

https://www.acgov.org/board/bos_calendar/documents/DocsAgendaReg_09_19_23/GENERAL%20ADMINISTRATION/Set%20Matter%20Calendar/President%20Miley_356939.pdf

components in homelessness response and prevention.¹² Council has established its commitment to supporting these efforts through prior shelter crisis declarations and temporary suspension of zoning and planning requirements for shelters operated on privately owned land by local non-profit and faith-based providers, which enabled existing shelter providers to respond to increased demand for shelter as providers continued to adapt and respond to the COVID-19 pandemic. In doing so, Council acknowledged that increased demand for emergency shelter coupled with the need to ensure basic health and safety means that more immediate efforts are required to support existing emergency shelters.

In addition to needing flexibility for existing shelter providers, the BOS emergency declaration identified the need to streamline and expedite the expansion of services, creation of housing, and land use to support service providers doing work that responds to and prevents homelessness. While the City has already addressed issues for existing shelter providers on private land, the prior shelter crisis declaration has expired. Additionally, there is currently no mechanism in place for increasing efficiency and flexibility for other services that support those experiencing or at risk of experiencing homelessness.

Staff recommends Council adopt a resolution declaring a state of emergency on homelessness and temporarily suspending applicable local planning and zoning requirements on publicly owned land and specified private property. Doing so would accomplish the following key steps in addressing the homelessness crisis in Hayward and Alameda County:

- **Temporarily implement activities proposed as Zoning Text Amendments in the Housing Element**, which will be permanently implemented by January 2025. These activities include Actions 13.1 through 13.7 to allow innovative and alternative housing options with wraparound services on land owned by the City, churches, and non-profits; to develop objective standards for such uses; and to expand the opportunities for group housing and housing for individuals with disabilities and those experiencing homelessness.
- **Create flexibility for the City and its partners to increase shelter and service capacity.** In addition to shelter flexibility, this resolution will allow the City and partners to more efficiently stand up programs to support those experiencing homelessness, such as mental health and substance use programs.
- **Allow Council to maintain minimum health and safety standards as well as oversight of operators on privately owned land while enabling efficient service provision.** By adopting this proposed resolution, Council would authorize the City Manager or her designee to develop requirements to ensure minimum compliance with health and safety standards. It would further authorize the City Manager or her designee to reserve the right to revoke use allowances occurring on privately owned land if operations cease or fail to meet the City's expectations for effective, safe, and ethical service provision.

As this resolution is broader in scope, it would supersede Resolution 23-028 and would take precedence to the extent that Resolution 23-028 may be in conflict. The City Council has the

¹² For more information on regional plans to respond to and prevent homelessness, visit <https://homelessness.acgov.org/reports.page> and <https://www.allhomeca.org/>

authority to temporarily suspend these requirements pursuant to its police power under Article XI, Section 7 of the California Constitution, and authority over municipal affairs pursuant to Article XI, Section 5 of the California Constitution, and Section 200 of the City Charter. Temporary suspension of these will not occur in instances where the health and safety of residents or the surrounding community are at risk.

Staff recommends that this temporary suspension remain in place until December 31, 2026, during which time staff will work with community stakeholders to develop permanent local regulations to meet Council's strategic goals as described in the Strategic Roadmap, Incentives to Housing Production Workplan, and LHH Strategic Plan.

Adoption of this resolution is subject to the "common sense" exemption contained in section 15061 of the CEQA Guidelines, in that it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment. However, individual shelter projects may still require CEQA review.

STRATEGIC ROADMAP

This agenda item supports the Strategic Priority of Preserve, Protect & Produce Housing. Specifically, this item relates to the implementation of the following projects:

- Project H2: Implement Let's House Hayward: the Homelessness Reduction Strategic Plan
- Project H4: Implement housing incentives and production work plan in accordance to state housing limits

ECONOMIC IMPACT

Temporarily suspending certain planning and zoning requirements increases flexibility and efficiency for shelter and service providers to serve individuals and families experiencing homelessness, while ensuring that minimum health and safety standards are met. This has a positive economic impact by helping to lower the unsheltered population in Hayward, reducing the economic strain on emergency and maintenance services. It can also have a positive economic impact on local businesses in the Downtown and other commercial areas of Hayward through continuing to provide services to the unsheltered population and reducing homelessness.

FISCAL IMPACT

This item is an administrative action with no fiscal impact on the City's General Fund.

PUBLIC CONTACT

Each of the strategic documents referenced in the Background section of this report had extensive public contact, including focus groups, interviews, and public hearings. Staff will do

additional public outreach over the next several months as part of the implementation of activities specified in the Housing Element.

NEXT STEPS

This resolution addresses urgent needs of homeless shelter and service providers. Following the adoption of this emergency resolution, City staff will initiate Zoning Text Amendments as outlined in Program H-13 of the Housing Element.

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