



DISCUSSION

City of San Bernardino Request for Council Action

Date: September 4, 2024

To: Honorable Mayor and City Council Members

From: Rochelle Clayton, Acting City Manager

Department: City Manager's Office

Subject: **Reaffirmation of Homelessness State of Emergency Declaration (All Wards)**

Recommendation:

It is recommended that the Mayor and City Council of the City of San Bernardino, California:

1. Adopt Resolution No. 2024-201, reaffirming the declaration of a Homelessness State of Emergency; and
2. Direct the City Manager or designee the ability to take certain administrative actions to streamline the provision of shelter to people experiencing homelessness, including the waiver of purchasing or bidding for physical shelter space.

Executive Summary

On February 1, 2023, the Mayor and City Council adopted Resolution No. 2023-028, which declared a State of Homelessness Emergency, for a period of one year. The sunset of the Proclamation of Emergency was on February 1, 2024. This resolution is to reaffirm the State of Homelessness Emergency, which shall sunset on December 31, 2025, subject to being renewed.

Since the declaration in February 2023, the City has faced numerous obstacles in battling the homeless crisis, including the Injunction against Homeless Encampment Removal, imposed by Judge Hatter in May 2023. Since that time, the City has exhibited an influx of Homeless Encampments in parks and open spaces. Due to the Injunction and prohibition to move the un-housed, the crisis has increased exponentially.

Background

Throughout the years, the City has maintained partnerships with several local homeless service agencies to provide shelter, housing, and resources to the homeless community, but despite best efforts, there has been little impact in mitigating homelessness. The source of this issue is connected to the City's shelter crisis. There is insufficient capacity to shelter everyone experiencing homelessness.

Actions Taken to Address Homelessness

On October 31, 2022, the City hired Homeless Services Coordinator, Ashley Esquivel, who is working closely with the Deputy Director of Housing & Homelessness, Cassandra Searcy to develop methodologies that are consistent with best practices, align with the County's Continuum of Care System, and strengthen community partnerships.

On December 7, 2022, Council approved over \$25 million in ARPA funds for the following homeless related initiatives:

- Public Health and Safety - FY 23 \$613,678 for the remainder of the year with an ongoing expense of approximately \$1,076,158 in FY 24. During the first quarter of FY 2023 the City added: 2 Lead Maintenance Workers, 2 Maintenance Supervisors, and 8 Maintenance Worker I (FLEX) Funding to assist with encampment clean-ups.
- Navigation Center - \$12.45 million: Development of a 200-bed, low-barrier, non-congregate facility that provides interim housing and onsite supportive services.
- Ongoing Operational Cost for Navigation Center - \$4.5 million: Provides \$1.5 million annually over the span of three (3) years.
- Homeless Outreach Team - \$1.5 million: Dedicated street outreach to provide City-wide comprehensive coverage to assist individuals experiencing homelessness.
- Mobile Shower Expansion - \$150,000: Partner with a non-profit organization to expand mobile shower services throughout the City by operating a 28-foot-long mobile shower trailer equipped with three (3) full-service restrooms and laundry facility.
- Lutheran Social Services (LSSSC) - \$5 million: The City is partnering with LSSSC on a Homekey Round 3 project to expand shelter capacity and develop a 140 bed, non-congregate interim housing and 20 permanent supportive housing units for men and men with children.

In planning to build the City's Navigation Center, The City's Navigation Center, called the San Bernardino Homeless Outreach, Prevention, and Education Campus ("HOPE Campus" or "Navigation Center"), serves as the cornerstone of the City's long-term

strategy towards addressing homelessness. The HOPE Campus will offer interim housing, recuperative care, and comprehensive onsite services that will connect the City's unsheltered population to a wide range of programs, social services, and housing.

In addition to the aforementioned, to fund the construction and operation of the Navigation Center, the Mayor and City Council have approved the following allocations:

- On December 7, 2022, the Mayor and City Council allocated \$12,450,000 in ARPA funds for the construction of the Navigation Center and \$4,500,000 in ARPA funds for the operation of the Navigation Center.
- On March 15, 2023, the Mayor and City Council approved an allocation of \$4,299,671 of HOME-ARP funds to assist with the design and construction of the Navigation Center.
- On June 21, 2023, the Mayor and City Council adopted the FY 2023-24 Annual Action Plan, which included an allocation of \$1,901,365 in CDBG funds for the Navigation Center.
- On July 19, 2023, the Mayor and City Council adopted Resolution No. 2023-097, amending the City's 2020-2023 Permanent Local Housing Allocation (PLHA) Program funding to provide \$4,355,241 towards the operating and/or capital costs of the City's Navigation Center.
- On October 4, 2023, the Mayor and City Council adopted Resolution No. 2023-144 for the Strategic Initiatives, approving an annual allocation of \$2,000,000 for Homelessness Services Sustainability beginning FY 2026/27.
- On November 1, 2023, the Mayor and City Council accepted \$808,358.87 in Homeless Housing, Assistance, and Prevention (HHAP) Round 3 grant funds from the County of San Bernardino for the Navigation Center.

The City continues to work collectively with local stakeholders and government agencies to streamline processes, leverage funding, and improve coordination and collaboration.

Discussion

Emergency shelter and housing is a critical component of working towards the resolution of the homeless crisis in San Bernardino, along with the wraparound social support services.

Defining Emergency Housing

Emergency housing is housing in a permanent or temporary structure(s), occupied during a declaration of a state of emergency, local emergency, or shelter crisis. Currently, the Section 19.02.050 of the City's Development Code defines "Emergency

Shelter” as follows:

“As used in Government Code Sections 65582, 65583 and 65589.5 (Senate Bill 2), and as defined in Health and Safety Code Section 50801(e), “emergency shelter” means housing with minimal supportive services for homeless persons that is limited to occupancy of six months or less by a homeless person. No individual or household may be denied emergency shelter because of an inability to pay. Emergency shelters shall be occupied only by homeless persons unable to pay for housing. Facilities occupied by individuals who pay for their housing shall not be permitted as emergency shelters. Also referred to as “homeless shelter,” “homeless facility,” or “social service center with a residential component.”

The City could consider adopting state-provided appendices related to emergency housing. Emergency housing may include, but is not limited to, buildings and structures constructed in accordance with the California Building Standards Code; emergency sleeping units, emergency transportable units and structures constructed in accordance with Appendix X of the California Residential Code.

- Dependent units used for sleeping.
- Site provided communal sanitary facilities.

The Adoption of California Residential Code Appendix X and California Building Code Appendix O into Title 15 of the SBMC will provide construction standards for developing emergency housing facilities in approved locations and a standard for third-party projects impacting emergency housing/homelessness.

The Development Code currently allows Emergency Shelters as a “by-right” use at five pre-defined Emergency Shelter Overlay Zone areas in the City that fall within the CH – Commercial Heavy, IL – Industrial Light, and OIP – Office Industrial Park Zones, consistent with California Government Code Section 65589.5. Emergency Shelters in these areas are only required to obtain an Administrative Development Permit Type 1 and any necessary Building Permits. Chapter 19.10-E of the Development Code outlines the Development and Operational Standards for the Emergency Shelter Overlay Zone including but not limited to proximity to transit lines, maximum length of stay, parking requirements, and the preparation of security and management plans.

For other areas outside the Emergency Shelter Overlay Zone, the Development Code allows Emergency Shelters with the granting of a Conditional Use Permit (CUP) by the Planning Commission within the CR-2 - Commercial Regional-Downtown and CH – Commercial Heavy Zones. The Development Code does not currently allow for Emergency Shelters within any residential zones. However, “Homeless Facilities” and “Social Service Uses/Centers,” which may include overnight stays, are permitted with a CUP in some residential zones.

In an effort to provide greater flexibility and a streamlined approval process for Emergency Shelters, the City Council may consider amending the Development Code

to allow Emergency Shelters with a CUP in additional zones and consider applying the Emergency Shelter Overlay Zone to more properties as deemed appropriate. Possible Zones to consider allowing Emergency Shelters by right, with a CUP or by applying the Emergency Shelter Overlay Zone, could include the following:

Zoning District	Requirement
(RH) Residential High	Conditional Use Permit
(CO) Commercial Office	Conditional Use Permit
(CG-1) Commercial General	Conditional Use Permit
(IL) Industrial Light	Permitted by-right
(PF) Public Facilities	Permitted by-right

Once locations are identified, the City will create a map of allowable zones and will also need to do the following:

- Create an ordinance to update Standards applicable to emergency homeless shelters.
- Determine an alternate means of compliance concerning specific Fire Code requirements that must at least meet the minimum fire/life safety and building regulations identified by the City and San Bernardino County Fire Department (i.e., occupancy rate, structural requirements, ventilation, etc.).
- Identify a plan/process for streamlining zoning regulations for privately-owned or operated shelters, including administrative approval of conditional use permits for shelters, allowing temporary shelters by-right on sites with an approved assembly use and streamlining approval of City-sponsored shelters on private property that may otherwise require zoning approvals.

Things the City Can Do by Declaring a Homelessness State of Emergency

If the City Council adopts the Homelessness State of Emergency Declaration, the effective period of the Homelessness Crisis shall begin on February 1, 2023, and shall end on February 1, 2024, with the City Council having to review the declaration every 60 days.

If passed, the Homelessness State of Emergency Declaration would yield several consequences (see Gov. Code § 8630 et seq). First, the City Manager and/or Mayor and City Council can promulgate, issue, and enforce rules, regulations, orders and directives it considers necessary for the protection of life and property. Second, it would expand some of the City Manager’s powers, allowing him to enter into contracts, pursue grants and obtain emergency funding from state and federal entities to create additional shelters, add interim housing, and obtain emergency funding as it becomes available. Third, City workers would become designated disaster workers and may be used for such purposes.

Should the Declaration pass, the City Manager could be directed to do any or all of the following:

- Prepare an ordinance adopting California Residential Code Appendix X and California Building Code Appendix O to serve as alternative local standards and procedures for the construction of homeless shelters if required, as well as their operation.
- Prepare an interim ordinance (if required) to streamline zoning regulations for privately-owned or operated shelters, including zoning administrator approval of conditional use permits for shelters, allowing small temporary shelters by right on sites with an approved assembly use, and streamlining approval of City-sponsored shelters on private property that may otherwise require zoning approvals.
- Help with the development of interim housing, tiny homes, and partnerships with landlords to rent apartments, access land for temporary or permanent housing structures, dispense funds, approve master leases and speed up permitting processes. Certain purchases would not have to go out to bid and would not require City Council approval.

2021-2025 Strategic Targets and Goals

Declaring a Homelessness State of Emergency will allow staff to identify opportunities to streamline zoning regulations and explore an administrative approval of Conditional Use Permits for Emergency Shelters and interim housing thereby allowing unhoused individuals to exit off the streets into a clean and safe environment where they can stabilize and get connected to resources and housing. This effort aligns with Key Strategic Goal No. 3, Improved Quality of Life

Fiscal Impact

There is no fiscal impact to declaring a state of emergency. Declaring a State of Emergency will allow the City to set policies and prepare Municipal Code changes for City Council consideration to accelerate the development and operation of Emergency Shelters and interim housing.

Conclusion

It is recommended that the Mayor and City Council of the City of San Bernardino, California:

1. Adopt Resolution No. 2024-201, reaffirming the declaration of a Homelessness State of Emergency; and
2. Direct the City Manager or designee the ability to take certain administrative actions to streamline the provision of shelter to people experiencing homelessness, including the waiver of purchasing or bidding for physical shelter space.

Attachments

Attachment 1 - Resolution No. 2023-028 Declaring a Homelessness State of Emergency

Attachment 2 - Resolution No. 2024-201 Reaffirming a Homelessness State of Emergency

Ward:

All Wards

Synopsis of Previous Council Actions:

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| August 4, 2021 | Mayor and City Council received a report and discussed the allocation of ARPA funds. |
| December 7, 2022 | Mayor and City Council approved a Homelessness Solutions Action Plan |
| December 7, 2022 | Mayor and City Council authorized the use of over \$20,000,000 in ARPA funds for the development of a Navigation Center, State of California Homekey Round 3 Projects, Homeless/Street Outreach and a Mobile Shower Expansion. |
| December 7, 2022 | Mayor and City Council approved \$4.5 million to cover operational expenses associated with the Navigation Center of a three year span. |
| December 7, 2022 | Mayor and City Council approved On December 7, 2022, Council approved \$613,678 in the first quarter of Fiscal Year 2023 to increase the number of Public Works employees to assist with homeless encampment cleanups. |
| February 1, 2023 | Mayor and City Council approved Resolution No. 2023-028 declaring a Homelessness State of Emergency. |