



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

SUBJECT: SEE BELOW

FROM: Erik L. Soliván
Omar Passons

DATE: May 29, 2024

Approved

Date

6/6/24

**SUBJECT: EXTENSION OF THE DECLARATION AND PROCLAMATION OF A
LOCAL EMERGENCY FOR THE SHELTER CRISIS**

RECOMMENDATION

Adopt a resolution finding the continued existence of a shelter crisis in the City of San José pursuant to, and in accordance with, the provisions of the California Government Code section 8698 et seq. renewing the proclamation of a local emergency pursuant to, and in accordance with, the provisions of California Government Code sections 8558 and 8630, the San José City Charter, and San José Municipal Code caused by conditions and threatened conditions of homelessness in the City of San José.

SUMMARY AND OUTCOME

On October 24, 2023, City Council adopted the shelter crisis declaration and proclamation of a local emergency caused by conditions and threatened conditions of homelessness in the City.¹ Staff's recommended action continues the shelter crisis declaration and proclamation of local emergency and allows the City to continue to streamline the development of emergency bridge housing, homeless shelters, supportive parking, emergency interim housing, and supportive sleeping sites.

¹Item 8.2, File 23-1433, October 24, 2023: Adoption of an Ordinance Amending Title 5 of the San José Municipal Code to Add Chapter 5.12 Adopting Reasonable Local Standards for Homeless Shelters and Declaration of a Shelter Crisis and Proclamation of a Local Emergency:
<https://sanjose.legistar.com/View.ashx?M=F&ID=12375178&GUID=C2553459-2B9F-46F1-B6ED-AFA40BDAB142>

Under powers granted by the shelter crisis declaration, the following outcomes were achieved:

- Developed over 700 interim housing units;
- Decreased the number and size of encampments as evidenced by the data collected in the Encampment Management System; and
- Increased services provided to over 1,700 families that prevented the experience of homelessness.

BACKGROUND

San José is experiencing a housing emergency as many residents face the threat of homelessness due to a lack of access to affordable housing. For decades, the County of Santa Clara and the larger Bay Area have not incentivized the production of housing affordable to persons with extremely low to no incomes in our City. The National Low Income Housing Coalition Gap Report estimates that there are only 30 affordable and available rental units for every 100 extremely low-income households in the community.² The constrained supply has resulted in rising rents that have made most housing options unaffordable. In San José, 44% of households are low-income, very-low income, or extremely low-income.³ Low-wage workers face housing instability, as approximately 53% of households in San José are “rent burdened,” meaning they pay more than half their income on housing costs, leaving little for other basic needs such as food, healthcare, and transportation. Data shows that communities, where households spend more than 32% of their income on rent, can expect a more rapid increase in homelessness.⁴

On a per capita basis, San José has one of the largest unsheltered populations of any major city in the United States. The 2023 Point in Time Homeless Census identified a total of 6,266 homeless individuals residing in San José on any given night. Out of the total, 4,386 persons were unsheltered (e.g., residing on the street, in vehicles, in abandoned buildings, or in encampment areas.) Of the 4,386 persons, it is estimated that 20% seek shelter in vehicles.

Addressing a crisis of this magnitude requires coordination, planning, and measuring progress. The Santa Clara County Community Plan to End Homelessness 2020-2025 (Community Plan) is a countywide roadmap guiding government, private sector, nonprofit organizations, and other community members as they make decisions about funding, priorities, and needs. The framework for the Community Plan includes three strategies:

- Strategy 1: Address the root causes of homelessness through system and policy change;
- Strategy 2: Expand homelessness prevention and housing programs to meet the need; and

² Source: National Low Income Housing Coalition “The Gap Report” (March 2023):

https://nlihc.org/sites/default/files/gap/Gap-Report_2023.pdf

³ Source: Five-year Housing and Urban Development Comprehensive Housing Affordability Strategy Data (2019):

<https://www.huduser.gov/portal/datasets/cp.html>

⁴ Source: Zillow Reports: https://www.zillow.com/research/homelessness-rent-affordability-22247/?orgid=305&utm_attl=money

- Strategy 3: Improve the quality of life for unsheltered individuals and create healthy neighborhoods for all, including doubling temporary housing and shelter bed capacity across the county.

In August 2020, City Council endorsed the Community Plan, and the City, in partnership with the County of Santa Clara, is implementing and aligning its priorities, funding, and strategies with these three primary strategies of the Community Plan. Strategy 3 specifically aims to offer a variety of welcoming temporary housing options throughout the county, which includes new shelters, interim housing, safe places to park, and access to services. Specifically, the Community Plan seeks to double the capacity of shelter beds and other temporary housing options across the county, from a baseline of 1,882 households, to serve 2,000 additional households each night. San José set a goal to create 1,000 emergency interim housing and Homekey units. Since the Community Plan was adopted in 2020, the City has completed 759 temporary beds or supportive parking spaces. An additional 461 temporary beds are in design or under construction and another five sites are approved by City Council, which could add approximately 350 more beds; this is more than 75% of the region's effort towards the goal for providing temporary housing sites. Further, during the Fiscal Year 2023-2024 budget process, the City adopted four priority focus areas that drive City budget and staffing resources. One of the four priority focus areas is reducing the unsheltered homeless population in San José and moving individuals to safe shelter spaces. Finally, in the Mayor's June 2023 Budget Message for Fiscal Year 2023-2024, City Council set a goal to create 1,000 new safe spaces for people experiencing unsheltered homelessness.

Some cities have addressed the shelter crisis by utilizing the powers authorized under the state Shelter Crisis Act, which requires a declaration of a shelter crisis. The Shelter Crisis Act allows a public entity, upon a declaration of a shelter crisis, to provide emergency housing to people experiencing unsheltered homelessness in existing public facilities, including parks, schools, and vacant or underutilized facilities that are owned, operated, leased, or maintained, by the public entity. The Shelter Crisis Act also provides immunity from liability for ordinary negligence in the provision of emergency housing and suspends any state or local regulatory statute, regulation, or ordinance prescribing standards of housing, health, or safety to the extent that strict compliance would in any way prevent, hinder, or delay the mitigation of the effects of the shelter crisis. Specified public entities may, in place of such standards, enact municipal health and safety standards to be operative during the housing emergency consistent with ensuring minimal public health and safety standards. Additionally, the Shelter Crisis Act allows the construction or establishment of new homeless shelters on land owned, operated, leased, or maintained by certain public entities after the adoption of an authorizing ordinance.

The Emergency of Homelessness

In San José, over 6,000 people are experiencing homelessness, of which, 86% were living in San José or the County of Santa Clara when they became homeless. Families with children, seniors, individuals with disabilities, veterans, youth, and young adults are all represented in the City's

diverse homeless population. The majority of those experiencing homelessness are in dangerous conditions, with 43% staying outdoors, 20% sheltering in vehicles, and 13% staying in structures not meant for human habitation.⁵

Homelessness is devastating to health and well-being. Living outside has impacts on an individual's health, often creating new health conditions or exacerbating existing ones. Living on the street is extremely stressful and made worse by being exposed to communicable diseases (e.g., tuberculosis, respiratory illnesses, flu, hepatitis, etc.), malnutrition, and harmful weather exposure. Furthermore, chronic health conditions, such as high blood pressure, diabetes, and asthma become worse when there is no safe place to store medications properly. Behavioral health issues such as depression, alcoholism, or other substance use disorders can develop and/or are made worse in people experiencing unsheltered homelessness. Injuries that result from violence or accidents do not heal properly because bathing, keeping bandages clean, and getting proper rest and recuperation are not possible while living on the street. Minor issues, such as cuts or common colds, easily develop into larger problems, including infections or pneumonia. People experiencing unsheltered homelessness are at high risk for poor health and a broad range of acute and chronic illnesses. Reports on the health impacts of homelessness include the following:

- High stress and health emergencies that often result in frequent visits to emergency rooms and hospitalizations exacerbated by unhealthy and dangerous environments;⁶
- The University of California, San Francisco Benioff Homelessness and Housing Initiative released a comprehensive study of the causes and consequences of homelessness in California. Forty-five percent of all participants reported their health as poor or fair; 60% reported a chronic disease. More than one-third of all participants (34%) reported a limitation in an activity of daily living, and 22% reported a mobility limitation;⁷
- Medical research shows that unhoused people's bodies have often aged as if they were at least a decade older⁸;
- Homeless people are four times as likely as the general population to die of heart disease⁹; and,

⁵ Source: City of San José Point in Time Count (2023): <https://www.sanjoseca.gov/your-government/departments-offices/housing/resource-library/homeless-reports/homeless-reports-executive-summary>

⁶ Source: National Healthcare for the Homeless Council (February 2019): <https://nhchc.org/wp-content/uploads/2019/08/homelessness-and-health.pdf>

⁷ Source: Benioff Homelessness and Housing Initiative, University of California San Francisco, "Toward a New Understanding: The California Statewide Study of People Experiencing Homelessness," (June 2023): https://homelessness.ucsf.edu/sites/default/files/2023-06/CASPEH_Report_62023.pdf

⁸ Source: The Gerontological Society of America, "Geriatric Conditions in a Population-Based Sample of Older Homeless Adults," (2015): <https://academic.oup.com/gerontologist/article/57/4/757/2631974>

⁹ Source: Los Angeles County Public Health Department, "Mortality Rates and Causes of Death Among People Experiencing Homelessness in Los Angeles County," (May 2023): http://www.publichealth.lacounty.gov/chie/reports/Homeless_Mortality_Report_2023.pdf

- The average life span of a homeless person is shorter by about 17.5 years than that of the general population. Deaths caused by hypothermia are thirteen times more frequent among the homeless than for the general population.¹⁰

Beyond poor health and illness, people experiencing homelessness have higher rates of justice system involvement than people who are housed. In addition, experiencing violence is common and creates an even higher risk of death.

- The University of California, San Francisco Benioff study also found that one-third (30%) of people experiencing unsheltered homelessness reported a jail stay during their episode of homelessness.
- Experiencing unsheltered homelessness leaves individuals more vulnerable to violence and sexual assault. Overall, 32.3% of women, 27.1% of men, and 38.1% of transgendered persons reported experiencing either sexual or physical assault.¹¹
- A study from the National Healthcare for the Homeless Council found that older people and those experiencing unsheltered homelessness for more than two years face an especially high risk of experiencing a violent attack.¹²
- In 2022, 356 people experiencing unsheltered homelessness died on the streets in the County of Santa Clara. Among those who died, 146 were seniors. More than half were people of color. Three babies and seven teenagers and young adults between ages 16 and 25 also died on the streets that year.¹³
- People experiencing unsheltered homelessness are more likely to die as a result of a car crash or traffic fatalities. In San José, traffic fatalities peaked during 2021 with 33% of all traffic fatalities involving people experiencing homelessness.¹⁴

While the brunt of this crisis is borne by our unhoused neighbors, its impacts are felt much more broadly. Neighborhoods, first responders, businesses, and the environment are also suffering the consequences of the region's severe homelessness crisis. In 2015, Destination: Home commissioned a study to take an in-depth look at the cost of homelessness in Santa Clara County. This study, *Home Not Found: The Cost of Homelessness in Silicon Valley*¹⁵ offers the most comprehensive analysis of the public costs of homelessness in the United States. More than \$3 billion worth of services went to homeless residents in the six years (2007-2012) covered by the study. The cost to the community is estimated at \$520 million a year. In the last 12 months, the San José Fire Department responded to 10,580 calls for service related to the unhoused, of which 6,261 were medically related and 2,075 were fire related.

¹⁰ Source: PLOS One, "Mortality Among the Homeless: Causes and Meteorological Relationships," (December 2017): <https://journals.plos.org/plosone/article?id=10.1371/journal.pone.0189938>

¹¹ Source: "No Door to Lock: Victimization Among Homeless and Marginally Housed," by M. Kushel, MD, J. Evans, MS and S. Perry, PhD (2003): <https://jamanetwork.com/journals/jamainternalmedicine/fullarticle/216287>

¹² Source: National Healthcare for the Homeless Council, "Exploring the Experiences of Violence Among Individuals Who are Homeless," (2014): <https://nhchc.org/research/publications/>

¹³ Source: Santa Clara County Medical Examiner Coroner's Office (2022)

¹⁴ Source: City of San José Department of Transportation, "Unhoused Traffic Fatalities in San José," (July 2023): <https://storymaps.arcgis.com/stories/47b7f203f6474c76829d701c713120c1>

¹⁵ Source: Home Not Found: The Cost of Homelessness in Silicon Valley (2015): https://destinationhomesv.org/wp-content/uploads/2021/01/er_homenotfound_report_6.pdf

ANALYSIS

Stormwater Permit Requirements

The City is home to approximately 140 miles of waterways. Its storm sewer system carries stormwater into these protected areas. As a result, the City must meet the mandates of the San Francisco Region Water Quality Control Board in its Regional Stormwater Permit (Permit). The Permit requires both structural and nonstructural controls to reduce trash entering the waterways. In May 2015, the State Water Resources Control Board adopted resolution R2-2015-004, declaring that, “discharges of trash and human wastes from homeless encampments pose a significant water quality and public health threat.” In fact, since 2017, the City’s assessment determined that 88% of the trash in the creeks originated from people experiencing unsheltered homelessness living at or near waterways.

The current Permit requires that the City meet a 100% trash load reduction in the waterways by June 30, 2025. To help meet this requirement, the City has a Direct Discharge Plan, which if adopted and implemented, provides important credits toward that goal.

In section C.10 of the Permit, the Direct Discharge Plan must “include a commitment to, and a plan for, increasing the provision of emergency, transitional and/or permanent housing, and the following services: trash and sanitary services, and other services which are necessary to reduce discharges associated with unsheltered homelessness, such as recreational vehicle safe parking areas and pump out services, and social services that can help unsheltered homeless individuals transition to housing. Furthermore, the Direct Discharge Plan shall prioritize housing and services to people experiencing unsheltered homelessness who are living near receiving waters.”

For over a year, City staff worked closely with San Francisco Region Water Quality Control Board staff on its updated Direct Discharge Plan. When rejecting three separate versions of the Direct Discharge Plan, the San Francisco Region Water Quality Control Board staff clarified that unless the City implements a revised, robust Direct Discharge Plan, including the prioritization of housing and services for those living near waterways, the City cannot claim the credits toward the trash reduction requirements. On March 6, 2024, the City provided the San Francisco Region Water Quality Control Board staff with its fourth revised Direct Discharge Plan. The failure to meet Permit requirements creates significant legal and financial risks for the City, including penalties, fines, and exposure to attorneys’ fees.

Declaration of the Shelter Crisis and Proclamation of Local Emergency

Over the last several years, the City and its partners have pursued many innovative programs to address the need for homeless housing including:

- Creating a pipeline of permanent supportive housing;

- Creating a pipeline of interim housing units;
- Supporting the availability of rapid-rehousing units;
- Repurposing hotels and motels for emergency interim housing;
- Developing eviction prevention programs;
- Constructing longer-term emergency interim housing;
- Implementing safe parking programs; and
- Providing winter warming centers to offer life-saving temporary shelter in City community facilities during inclement weather conditions.

Despite these actions, thousands of people are still living on the streets or without adequate shelter, and more immediate emergency housing options are needed to ensure the continued health and well-being of the most vulnerable members of our community.

Extending the homeless local emergency in the City continues a formal declaration of a shelter crisis that will additionally extend a proclamation of local emergency that together will jointly advance immediate actions to improve the quality of life for those experiencing homelessness, increase shelter capacity, and improve basic needs support. The continued declaration of a shelter crisis continues the suspension of certain provisions of state or local regulatory statutes, regulations, and ordinances prescribing standards of housing, health, or safety to the extent that strict compliance with the regulations would in any way prevent, hinder, or delay the mitigation effects of the shelter crisis.

A proclamation of local emergency provides the authority to:

- Provide mutual aid consistent with the provisions of local ordinances, resolutions, emergency plans, and agreements;
- Receive mutual aid from state and other governmental agencies;
- In the absence of a State of War Emergency or State of Emergency, seek recovery of the cost of extraordinary services incurred in executing mutual aid agreements;
- Promulgate orders and regulations necessary to provide for the protection of life and property; and
- Request that the governor proclaim a state of emergency when locally available resources are inadequate to cope with the emergency.

The unsafe and life-threatening conditions of people experiencing homelessness, along with the threatened conditions of homelessness in the City, warrant the continued declaration of a local emergency. The purpose of a local emergency proclamation is to provide extraordinary police powers, immunity for emergency actions, receive mutual aid, and authorize the issuance of orders and regulations necessary to provide for the protection of life and property.

Priorities of the Next Declaration Period

Under the extension of the shelter crisis declaration and proclamation of local emergency, staff will prioritize the following efforts to address the homelessness crisis in San José:

1. Increase the development of homeless shelters and emergency bridge housing, and continue to develop units towards the City's goal of 1,000 emergency interim housing units;
2. Study efforts undertaken by other jurisdictions to combat challenges of homelessness, including but not limited to the development of additional types of homeless shelter facilities;
3. Identify specific and necessary resources and support that the City should request opportunities for partnerships with the county, state, and federal government to address the homelessness crisis;
4. Better utilize the City's resources to further leverage county, state, and federal resources to reduce the number of new individuals or households entering homelessness in the City to address racial inequity and reverse the disproportionately high rates of people of color who are unhoused in the City. Additional means by which the City can leverage partnerships, include but are not limited to, public and private partnerships, interagency partnerships, joint power agreements, and partnerships with local universities and research institutions to better address the homelessness crisis;
5. Make additional efforts to secure regulatory relief from state, federal, and other jurisdictions, and within City departments, to create flexibility to better address the homelessness crisis; and
6. Identify ways the City can streamline and remove obstacles that may limit the ability of City departments to quickly address the crisis, including but not limited to, ways the City can further streamline the creation of housing, more effectively and efficiently use funds, expand access to services, and expedite the procurement and contracting processes for materials, equipment, and services necessary to respond rapidly to the homelessness crisis.

Outcomes to Date

The means to collect and report on these key performance indicators, since the original declaration went into effect in October 2023, has been challenging because existing infrastructure does not collect many of these data points and no additional funding was allocated to establish a process for this purpose. In light of these challenges, the City has identified several key performance indicators to better understand and manage the homelessness crisis. These indicators include:

- Decrease in the number of unsheltered homeless individuals in the City: The City Manager's Office determined, in discussions with the County of Santa Clara which oversees the region's Homeless Management Information System, that an alternative

proxy measure that is available in greater frequency than the bi-annual homeless point in time count may be appropriate;¹⁶

- Decrease in the size and complexity of encampments: staff has launched the Encampment Management System that will monitor and track the location and number of encampments along waterways and on land, and the number of lived-in vehicles. Further, the size and complexity of encampments are in the early stages of being monitored and may be an appropriate metric;
- Increase in the number of shelter beds and other new safe opportunities (e.g., permanent housing, rapid rehousing, rental assistance, emergency interim housing, safe parking capacity, etc.). Since the start of the City's shelter crisis, no new opportunities have opened, however, staff has broken ground on two supportive parking sites: Via del Oro and Berryessa. According to the Public Works Department, San José Municipal Code 8698.4 has provided significant relief in the development of bridge housing communities/emergency interim housing communities. In the two bridge housing community developments, Mabury and Felipe, the Public Works Department used the alternative standard requirements extensively. While the Public Works Department utilized the State of California's Department of Housing and Community Development-approved sleeping units for the emergency interim housing sites, the Public Works Department still benefited significantly from the alternative standard requirements. Specifically, the appropriate City departments waived the formal development and planning processes and used alternative fire and life safety requirements and other time and cost savings that would have otherwise made these projects cost-prohibitive and lengthy to develop;
- Increase in households receiving prevention services who retain housing after one year. The shelter crisis declaration was approved in mid-year (October 2023). Since then, no new funding resources for prevention have been designated. The homelessness prevention program is on track to serve 1,700 new households in the current Fiscal Year 2023-2024;
- Increase in the number of households who remain housed one year after being housed in permanent housing. The shelter crisis declaration was approved in mid-year (October 2023), since then no new funding resources for permanent housing have been designated. However, the current system rate is 5%; and
- Increase in regional partnerships to address the homelessness crisis. Staff are working with the County of Santa Clara and the region's Managed Care Plans to bring state Housing and Homeless Incentive Program funding to our local region. These funds (if awarded), potentially \$5 million to San José in the coming Fiscal Year 2024-2025, would help fund interim housing.

¹⁶ The proxy measure identified in concert with the County of Santa Clara, utilizing data within the Homeless Management Information System, is the number of unduplicated unsheltered people who were affiliated with the City of San José and accessed homelessness services by being in touch with a (a) street outreach worker or (b) case manager who completed a crisis needs assessment or housing needs assessment with them. Note that this measure is not a perfect proxy because it only reflects unsheltered people who accessed services in the time period and there may be other unsheltered people who did not access services in which case the true number would be higher.

EVALUATION AND FOLLOW-UP

The continuing proclamation of an emergency on homelessness shall be regularly evaluated by City Council, by reference to key performance indicators of progress in addressing the emergency during the quarterly reports of the Reducing Unsheltered Homelessness priority focus area and in the City's Annual Homelessness Report to City Council, that will include, but not be limited to:

- Decrease in the number of unsheltered homeless individuals in the City;
- Decrease in the number and size of encampments;
- Increase in the number of shelter beds and other new safe opportunities (e.g., permanent housing, rapid rehousing, rental assistance, emergency interim housing, safe parking capacity, etc.);
- Increase in households receiving prevention services who retain housing after one year;
- Increase in the number of households who remain housed one year after being housed in permanent housing; and
- Increase in regional partnerships to address the homelessness crisis.

COORDINATION

This memorandum has been coordinated with the City Attorney's Office; City Manager's Budget Office; City Manager's Office of Emergency Management; Fire Department; Planning, Building, and Code Enforcement Department; and, Public Works Department.

PUBLIC OUTREACH

This memorandum will be posted on the City's Council Agenda website for the June 18, 2024 City Council meeting.

COMMISSION RECOMMENDATION AND INPUT

No commission recommendation or input is associated with this action.

CEQA

Mitigated Negative Declaration for Emergency Interim Housing Programs, File No. ER 22-198.

HONORABLE MAYOR AND CITY COUNCIL

May 29, 2024

Subject: Extension of the Declaration and Proclamation of a Local Emergency for the Shelter Crisis

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PUBLIC SUBSIDY REPORTING

This item does not include a public subsidy as defined in section 53083 or 53083.1 of the California Government Code or the City's Open Government Resolution.

/s/

ERIK L. SOLIVÁN
Housing Director

/s/

OMAR PASSONS
Deputy City Manager

For questions, please contact Cupid Alexander, Deputy Director, Housing Department, at cupid.alexander@sanjoseca.gov.