

RESOLUTION NO. _____

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSE DECLARING A SHELTER CRISIS PURSUANT TO, AND IN ACCORDANCE WITH, THE PROVISIONS OF CALIFORNIA GOVERNMENT CODE SECTION 8698 ET SEQ., AND RENEWAL OF THE PROCLAMATION OF A LOCAL EMERGENCY CAUSED BY CONDITIONS BOTH EXISTING AND THREATENED OF HOMELESSNESS WITHIN THE CITY OF SAN JOSE, WHICH IF NOT CORRECTED, CONSTITUTES AN IMMINENT AND PROXIMATE THREAT TO THE SAFETY OF PERSONS AND PROPERTY IN THE CITY

WHEREAS, on December 8, 2015, the Council of the City of San José (“City”) first declared a shelter crisis under California Government Code Section 8698 *et seq.*, and in the following years, the City Council has declared a continued shelter crisis with the last one proclaimed on October 24, 2023¹; and

WHEREAS, pursuant to the provisions of California Government Code Section 8698 *et seq.*, including but not limited to sections 8698.1, 8698.2, 8698.3, and 8698.4, the City may declare a shelter crisis, which is deemed to constitute a local emergency; and

WHEREAS, to declare a shelter crisis, the City must find that there is an existence of a situation in which a significant number of persons are without the ability to obtain shelter, resulting in a threat to their health and safety; and

WHEREAS, pursuant to the Shelter Crisis Act codified in California Government Code section 8698 *et seq.*, upon declaration of a shelter crisis, the provisions of state or local

¹ Shelter Crisis Declaration and Proclamation of Local Emergency Caused by Homelessness (RES2023-379), https://records.sanjoseca.gov/Pages/Search.aspx?k=ContentType%3AResolutions%20ResolutionNumber%3AROWSSTR%3ARES2023-379*

regulatory statutes, regulations, and ordinances prescribing standards of housing, health, or safety are deemed suspended and inapplicable to the extent that strict compliance with such regulations or ordinances would in any way prevent, hinder, or delay the mitigation effects of the shelter crisis; and

WHEREAS, the City continues to experience a housing emergency as many residents face the threat of homelessness due to a lack of access to affordable housing. In San José, 44% of all households qualify as low-income, very-low income, or extremely low-income; and

WHEREAS, 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; and

WHEREAS, 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; and

WHEREAS, the majority of those experiencing homelessness in the City are in dangerous conditions, with 43% staying outdoors, 20% sheltering in vehicles, and 13% living in structures not meant for human habitation; and

WHEREAS, homelessness is devastating to the health and well-being of the unhoused. The unhoused are four times as likely as the general population to die of heart disease; the average life span of an unhoused individual is 7.5 years shorter than that of the general population; the unhoused are 13% more likely than the general population to

die of hypothermia; and people experiencing unsheltered homelessness are more likely to die as a result of a car crash or traffic fatality; and

WHEREAS, the State Water Resources Control Board has declared that discharges of trash and human waste from homeless encampments pose a significant water quality and public health threat. The City's assessment determined that 88% of the trash in the creeks originated from people experiencing unsheltered homelessness living at or near waterways; and

WHEREAS, the City must meet the mandates of the San Francisco Region Water Quality Control Board in its Regional Stormwater Permit ("Permit"). The Permit requires that the City meet a 100% trash load reduction in its waterways by June 30, 2025. To meet the mandates, the City's Direct Discharge Plan must include a commitment to, and a plan for, increasing the provision of emergency, transitional and/or permanent housing, as well as prioritizing housing and services to people experiencing unsheltered homelessness who are living near receiving waters; and

WHEREAS, the City continues to work towards its goal of adding 1,000 emergency interim housing beds and 1,000 safe sleeping opportunities, and since the adoption of the proclamation of local emergency, the City has broken ground on two supportive parking sites at Via Del Oro and Berryessa. However, more time is needed to collect and report on the key performance indicators set forth in the previous proclamation; and

WHEREAS, although the Shelter Crisis declaration and proclamation of a local emergency have helped to streamline and prioritize the City's development of interim housing, supportive parking, and other opportunities, more needs to be done to combat the unhoused crisis; and

WHEREAS, the City continues to experience a shelter crisis in that a significant number of persons within San José are without the ability to obtain shelter, and that this situation has resulted in a threat to the health and safety of these individuals; and

WHEREAS, the City now desires to declare the continued existence of a shelter crisis in San José pursuant to and in accordance with the provisions of California Government Code section 8698 *et seq.*, and to renew its proclamation of a local emergency due to the conditions, existing or threatened, of homelessness in San José pursuant to and in accordance with the provisions of California Government Code sections 8558 and 8630 and applicable State laws, the San José City Charter, and the San José Municipal Code;

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF SAN JOSE THAT:

1. The City Council has reviewed and considered the entirety of the administrative record, including but not limited to, the Recitals set forth in this Resolution, City staff memorandum to the City Council, public testimony, and any and all information and documents provided to the City Council and public related to the adoption of this Resolution.
2. The City Council declares, based on substantial evidence, the continued existence of a shelter crisis in San José under California Government Code section 8989 *et seq.*, such that the number of unsheltered and unhoused individuals currently outnumbers the amount of available shelter beds such that a large number of individuals are unable to find shelter constituting a threat to their health and safety.

3. Pursuant to California Government Code section 8630 and other applicable State law, the City Council hereby finds and proclaims the existence of a local emergency caused by conditions or threatened conditions of homelessness in San José, which, if not corrected, constitutes a threat to the safety of persons and property within the territorial limits of the City beyond the control of the services, personnel, equipment, and facilities of the City.
4. It is determined that strict compliance with otherwise applicable state or local statutes, regulations and ordinances would prevent, hinder, or delay the mitigation of the effects of the shelter crisis.
5. The City of San José requests the Federal Government, Governor and State Legislature declare an emergency to combat homelessness and to direct resources to support the efforts of major cities in the State of California to address the emergency.
6. The City further requests the County of Santa Clara, regional agencies, and other public agencies declare an emergency on homelessness and coordinate efforts and partner to address this proclaimed emergency with other local jurisdictions, the County of Santa Clara, the State of California, and the Federal Government.
7. Staff is directed to prioritize the following efforts to address the homelessness crisis in San José:
 - The development of homeless shelters, emergency bridge housing, and emergency interim housing, supportive parking, and other opportunities; and
 - Study efforts undertaken by other jurisdictions to combat the problem of homelessness, including but not limited to, the development of additional types of homeless shelter facilities; and

- Identify specific and necessary resources and support which the City should request, and opportunities for collaboration with the County, the State of California and the Federal Government to address this crisis; and
 - To better utilize the City's resources and to further leverage county, state, and federal resources to reduce the number of new individuals or households entering homelessness in the City; and
 - Address inequity and reverse the disproportionately high rates of the socioeconomically disadvantaged who are unhoused in the City; and
 - Explore additional means by which the City can leverage partnerships, including but not limited to, public and private partnerships, public-public partnerships and Joint Powers Agreements, and partnerships with local Universities and research institutions to better address the homelessness crisis; and
 - Making additional efforts to secure regulatory relief from federal, state, and other jurisdictions and within City departments to create flexibility to address the homeless crisis; and
 - Implement ways the City can streamline and remove obstacles which may limit the ability of the City's 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.
8. The continuing proclamation of an emergency on homelessness shall be regularly evaluated by the City Council, by reference to key performance indicators of progress in addressing the emergency, including, but not limited to:
- A decrease in the number of unsheltered homeless in the City;
 - Decrease in number and size of encampments;

- Increase in the number of shelter beds and other new safe opportunities (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 number of households who remain housed one year after being housed in permanent housing; and
 - Increase in regional partnerships to address the homelessness crisis.
9. If any provision of this resolution, or if any application thereof to any actions or circumstance is held to be unenforceable, the remainder of this resolution and the application of its provisions to other actions and circumstances shall not be affected thereby.
10. This Shelter Crisis Declaration adopted under California Government Code section 8698 *et seq.* shall be deemed to continue until terminated by the City Council.
11. This Proclamation of Emergency adopted under California Government Code section 8630 and other applicable State laws shall sunset in One Hundred Eighty (180) days from the date of adoption, subject to being renewed or earlier termination by the City Council. The setting of a specific time frame allows for actions to be taken to make permanent, necessary structural changes, as explained in detail in this Resolution.
12. The City Clerk is directed to forward copies of this resolution to the Board of Supervisors of the County of Santa Clara, the County of Santa Clara's Office of Emergency Management, the California Governor's Office of Emergency Services, and to the Office of the Governor of the State of California.

ADOPTED this _____ day of _____, 2024, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

MATT MAHAN
Mayor

ATTEST:

TONI J. TABER, CMC
City Clerk