

RESOLUTION NO. _____

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSE (1) ORDERING A SUSPENSION OF CITY ZONING CODE, THE GENERAL PLAN AND OTHER REQUIREMENTS APPLICABLE TO SHELTERS ESTABLISHED OR EXPANDED DURING THE COVID-19 EMERGENCY PURSUANT TO CITY'S EMERGENCY POWERS UNDER CALIFORNIA GOVERNMENT CODE SECTION 8634 (2) DECLARING THE EXISTENCE OF A CONTINUED SHELTER CRISIS IN THE CITY OF SAN JOSE, PURSUANT TO AND IN ACCORDANCE WITH THE PROVISIONS OF CALIFORNIA GOVERNMENT CODE SECTION 8698 ET SEQ. CITYWIDE FOR FACILITIES AND SITES AS AUTHORIZED BY THE CITY MANAGER DURING THE COVID-19 EMERGENCY; AND (3) RATIFYING THE CITY MANAGER'S MARCH 20, 2020 DECLARATION OF SHELTER CRISIS

WHEREAS, on January 30, 2020, the World Health Organization declared COVID-19 ("novel coronavirus") a Public Health Emergency of International concern, and on January 31, 2020, the United States Secretary of Health and Human Services declared a Public Health Emergency; and

WHEREAS, on March 11, the World Health Organization declared the coronavirus outbreak a pandemic and on March 13, 2020 the President issued a Proclamation on Declaring a National Emergency Concerning COVID-19 beginning March 1, 2020; and

WHEREAS, guidance released from the U.S. Department of Housing and Urban Development on March 9, 2020, states that housing instability and frequent mobility increase the risk of exposure to infectious disease, and limited access to health care services and poor living conditions further compound this risk and thus, the experience of homelessness itself may place homeless individuals at greater risk of exposure to a variety of infectious diseases, including COVID-19; and

WHEREAS, on March 6, 2020, the Director of the Office of Emergency Services of the City of San José issued a Proclamation of Local Emergency finding that the existence and threat of COVID-19 in the community give rise to conditions of extreme peril to the safety and health of persons within the City of San José; and

WHEREAS, on March 16, 2020, the County of Santa Clara (“County”) issued a shelter in place order directing all individuals to shelter in their place of residence unless they must obtain or perform essential services and all businesses, except essential businesses, were required to cease all activities at facilities located within the County; and

WHEREAS, on March 19, 2020, the Governor also issued Executive Order N-33-20 directing California residents to comply with a March 19 State Shelter Order issued by the State Public Health Officer ordering all individuals to stay home or at their place of residence except as needed to maintain continuity of operations of the federal critical infrastructure sector; and

WHEREAS, at a White House briefing on March 31, 2020 doctor Anthony S. Fauci, the leading infectious disease expert in the United States and director of the National Institute of Allergy and Infectious Diseases, reported that most recent transmission modelling estimated COVID-19 will kill between 100,000 and 240,000 persons; and

WHEREAS, theses grim projections combined with the most recent warning from the director of the Centers for Disease Control and Prevention (“CDC”) that as many as 25 percent of people infected with the virus may not show any symptoms and are therefore contributing to the virus’s rapid spread add to the urgency of ensuring people are sheltering indoors and taking the necessary precautions to prevent getting sick; and

WHEREAS, as of March 29, 2020 there were 848 confirmed COVID-19 cases in Santa Clara County, and at least 2,092 confirmed cases and 51 deaths in the seven Bay Area jurisdictions, counting these deaths for one third of fatalities in California and by April 1, 2020, the County's Public Health Department reported 956 positive cases, and increase of 108 confirmed cases since March 29, 2020; and

WHEREAS, in the United States, 188,247 cases and 3,921 deaths have already been reported as of March 31, 2020, and the number of cases is expected to continue growing rapidly as the virus is easily transmitted and may result in serious health complications including death; and

WHEREAS, although there is limited information regarding risk factors for COVID-19, certain populations are at higher risk for developing severe illness from the disease, and according to current CDC guidance these include people aged 65 years and older, and people with underlying medical conditions; and

WHEREAS, additionally, people experiencing homelessness are considered at risk by the CDC and recommended to take additional precautions; and

WHEREAS, the County issued a second, more restrictive, shelter in place order on March 31, 2020, superseding its initial order as total confirmed cases increased by over 1,800 in just a two-week period; and

WHEREAS, the City's Housing Department has been responding to public health guidance from the CDC, and the State and County Public Health Officers, and accordingly on March 10, 2020, encampment abatements were suspended unless they are required for safety or health reasons, this suspension will continue to ensure alignment with the County Public Health Order shelter in place and CDC recommendations; and

WHEREAS, the most effective means of slowing the transmission of COVID-19, as exemplified in the shelter in place order at the State and County levels, requires significantly restricting mobility to limit interaction among people, thus slowing the rate of community transmission, and slowing the virus's transmission is essential to protecting the most vulnerable, which includes people experiencing homelessness; and

WHEREAS, unsheltered populations are especially vulnerable as they are without a place to shelter, quarantine, or self-isolate; and

WHEREAS, in the most recent County Public Health Order individuals experiencing homelessness are strongly urged to obtain shelter, and "governmental and other entities are urged to, as soon as possible make such shelter available; and

WHEREAS, an emergency order suspending the of zoning codes, the City General Plan, and other City requirements that otherwise might impose limitations or additional standards and processes to the establishment or expansion of shelters or the use of land for shelters, and a Citywide declaration of shelter crisis under California Government Code Section 8698 *et seq.* is necessary for the City to expeditiously follow the recommendations in the Public Health Order to protect City residents from COVID-19; and

WHEREAS, according to the 2019 San José Homeless Census and Survey, a total of 6,097 people experiencing homelessness were counted in San José, 5,117 of which were unsheltered; and

WHEREAS, the Santa Clara County Office of Supportive Housing identified 849 year-round emergency shelter beds in San José; and

WHEREAS, limited access to health care services and poor living conditions further compound this risk, and as a result, the experience of homelessness may place individuals at greater risk of exposure to a variety of infectious diseases, including COVID-19; and

WHEREAS, pursuant to the provisions of California Government Code Section 8698 *et seq.*, the City may declare a shelter crisis, which is deemed to constitute a local emergency; and

WHEREAS, pursuant to Shelter Crisis Act, upon declaration of a shelter crisis, the provisions of state or local 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, 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; and

WHEREAS, the City now desires to (1) order a suspension of City Zoning Code, land use plans and other requirements applicable to shelters established or expanded during COVID-19 emergency pursuant to the City's emergency powers under California Government Code Section 8634; (2) declare the existence of a continued shelter crisis in the City of San José, pursuant to and in accordance with, the provisions of California Government Code Section 8698 *et seq.* Citywide for facilities and sites as authorized by the City Manager during the COVID-19 emergency; and (3) ratify the City Manager's March 20, 2020 declaration of Shelter Crisis, as set forth in the City's Manager memorandum dated April 1, 2020.

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

(1) A suspension of the Zoning Code, City land use plans and other requirements applicable to shelters established or expanded during the COVID-19 emergency pursuant to the City's emergency powers under California Government Code Section 8634 is hereby ordered; and

(2) A continued shelter crisis in the City of San José is hereby declared pursuant to and in accordance with the provisions of California Government Code section 8698 et seq., the Citywide for facilities and sites as authorized by the City Manager during the COVID-19 emergency; and

(3) The City Manager's March 20, 2020 declaration of Shelter Crisis is hereby ratified.

ADOPTED this _____ day of _____, 2020, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

SAM LICCARDO
Mayor

ATTEST:

TONI J. TABER, CMC
City Clerk