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REPORT NO. R 15 - 0 2 8 7  
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**REPORT RE:**

**A DECLARATION OF A STATE OF EMERGENCY REGARDING HOMELESSNESS  
AND A DECLARATION OF A SHELTER CRISIS; AMENDMENTS TO LOS ANGELES  
MUNICIPAL CODE SECTIONS 12.03, 12.80 AND 12.81; AND SAFE PARKING  
PROGRAMS TO PROVIDE SHELTER FOR THE HOMELESS**

The Honorable City Council  
of the City of Los Angeles  
Room 395, City Hall  
200 North Spring Street  
Los Angeles, California 90012

Council File No. 15-1138

Honorable Members:

At a special joint meeting on October 14, 2015, the Housing and Homelessness and Poverty Committees (the Committees) requested a report from the City Attorney's Office on several options to address the homelessness crisis in the City of Los Angeles.

This report addresses the following options discussed by the Committees and the related legal issues:

- declaring a state of emergency under the state Government Code Section 8630, City Charter Section 231(i) and the Los Angeles Administrative Code (LAAC) Section 8.27 to address the homelessness crisis and identifying the resources available to a municipality resulting from such declarations;

- declaring a shelter crisis under Government Code Section 8698, et seq., and the Los Angeles Municipal Code (LAMC) Sections 12.80 and 12.81;
- amending LAMC Sections 12.03, 12.80 and 12.81 to allow the City to exercise the full authority granted to a municipality in declaring a shelter crisis under Government Code Section 8698, et seq.; and
- establishing a “Safe Parking Program” to be utilized during a shelter crisis.

A separate, confidential report has been provided to the Council discussing the applicability of the California Environmental Quality Act (CEQA) to the options explored in this report.

#### **I. State and Local Laws Provide Authority for the Declaration of a Local Emergency**

Government Code Section 8630 confers upon the City the ability to declare a local emergency, and that authority is codified in the City’s own regulations in City Charter Section 231(i) and LAAC Section 8.27. As explained in the attached chart, the Mayor may declare a local emergency pursuant to these authorities.<sup>1</sup> “Local emergency” is defined by the LAAC as “an occurrence which by reason of its magnitude is or is likely to become beyond the control of the normal services, personnel, equipment and facilities of the regularly constituted branches and departments of the City government.” LAAC Sec. 8.22. Within seven days of the Mayor’s declaration, City Council must ratify the declaration. LAAC Sec. 8.27. The Council must reaffirm the need for the state of emergency every fourteen days thereafter until the state of emergency is terminated. LAAC Secs. 8.27 and 8.31.

The declaration of a local emergency has certain benefits. It activates the Emergency Operations Organization (EOO) and personnel are called into active service by the Mayor. LAAC Sec. 8.28. As the director of the EOO, the Mayor may “promulgate, issue and enforce rules, regulations, orders and directives he considers necessary for the protection of life and property.” LAAC Sec. 8.29. The Mayor may also requisition supplies and personnel he deems necessary for the protection of life or property. LAAC Sec. 8.30. During a declared local emergency, the Council may suspend the requirements related to competitive bidding under Charter Section 371 by a resolution adopted by a two-thirds vote and approved by the Mayor. Charter Sec. 371(e)(6). It should be noted that the declaration of a local emergency does not

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<sup>1</sup> We have been asked whether it would be appropriate for Council to adopt a resolution acknowledging the severity of the homeless crisis in Los Angeles and classifying it as an emergency to underscore the severity of the crisis and the import in the City taking all possible actions to address it. We conclude that the Council may do so without violating the City Charter, because the effect of such a resolution would not activate emergency responses under the LAAC.

necessarily suspend the application of CEQA to projects implemented in response to the emergency.

If the declaration of a local emergency triggers the declaration of an emergency at the state and federal level, there are other possible benefits. We have summarized in the attachment the benefits that arise from such declarations.

The City's emergency power has been historically utilized in cases of natural disasters and other discrete emergencies.<sup>2</sup> There is limited precedent of the City declaring a local emergency to address issues surrounding homelessness.<sup>3</sup> However, there is language in the authorizing statutes which could support that application.

## II. State Law Grants the City the Authority to Declare a Shelter Crisis

A. The declaration of a shelter crisis under Government Code Section 8698, et seq., enables the City to allow shelters for the homeless to be established and operate in public facilities<sup>4</sup>.

Separate and distinct from the declaration of a local emergency, under California Government Code Sections 8698-8698.2, the Mayor and/or the City Council have the authority to declare a shelter crisis. To declare a shelter crisis, the City must make a finding that "a significant number of persons within the jurisdiction of the governing body are without the ability to obtain shelter, and that the situation has resulted in a threat to the health and safety of those persons." Cal. Govt. Code Sec. 8698.2(a)(1). The declaration of a shelter crisis results in three benefits:

1. enabling the City to allow homeless individuals to occupy designated public facilities during the crisis;
2. providing the City with immunity from liability (with some limitations) for ordinary negligence in its provision of emergency housing in public facilities; and
3. suspending state and local regulatory laws "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." In

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<sup>2</sup> Previous declarations of local emergencies have included emergencies relating to earthquakes (January 18, 1994, Council File #94-0081), rainstorms (January 11, 2005, Council File #05-0072), and wildfires (November 17, 2008, Council File #08-3100). Local emergencies have been declared for the effect of cold weather conditions on the homeless (December 24, 1987, Council File #87-0082-S14) and to establish a temporary urban campground for the homeless in downtown Los Angeles (June 26, 1987, Council File #87-0566).

<sup>3</sup> Local emergencies have been declared for the effect of cold weather conditions on the homeless (December 24, 1987, Council File #87-0082-S14) and to establish a temporary urban campground for the homeless in downtown Los Angeles (June 26, 1987, Council File #87-0566).

<sup>4</sup> Again, it should be noted that the declaration of a shelter crisis does not circumvent CEQA.

the absence of adhering to those standards, the City must enact minimal health and safety standards to apply for the duration of the crisis.

Cal. Govt. Code Secs. 8698.1-8698.2.

B. LAMC Sections 12.80 and 12.81 limit the establishment of temporary shelters on public and private property from November through March and impose additional notice and hearing requirements.

1. LAMC Section 12.80 provides for shelters in designated public facilities.

Through LAMC Section 12.80, the City avails itself of the benefits of declaring a shelter crisis under Government Code Sections 8698, et seq., to allow the establishment of temporary shelters on public property. However, in adopting its ordinance the City established health and safety standards more onerous than would otherwise be imposed on homeless shelters by state law. As currently written, Section 12.80 only allows shelters to operate in public facilities for no more than 120 days between November 1 and March 31, and imposes notice and hearing requirements in excess of the Brown Act's seventy-two hour notice requirements. Additionally, Section 12.80 requires Council to approve of each location where temporary shelters will be located. State law does not restrict the declaration of a shelter crisis to a limited period of time or impose any specific notice, hearing or location approval requirements on local legislative bodies. Therefore, LAMC Section 12.80 could be amended to reflect the full authority granted to the City by the state as follows:

*Notwithstanding any provisions of this article to the contrary, during any period for which the Mayor and/or the City Council have declared a shelter crisis within the meaning of Government Code Sections 8698, et seq., a shelter for the homeless (as defined in Section 12.03 of this Code) may be established and operated on property owned or leased by a government agency in any zone as a matter of right without regard to the number of beds or number of persons served. Facilities used as a shelter for the homeless under this Section must comply with the minimum building regulations set forth in Section 91.8605 of this Code, as it is currently written or as it may be amended in the future. If the lot on which any such shelter is located does not have sufficient area to provide the number of parking spaces required by Section 12.21.A.4(w) of this Code, then the number of spaces required shall be the number for which adequate area exists. If insufficient area for any parking spaces exists on the lot, no spaces shall be required.*

2. LAMC Section 12.81 authorizes the establishment of shelters on private property owned or leased by non-profit, charitable organizations in certain zones.

LAMC Section 12.81 applies the declaration of a shelter crisis to certain private property throughout the City<sup>5</sup>. As currently written, Section 12.81 is similar to Section 12.81 in that it limits the operation of shelters on sites owned or leased by non-profit, charitable organizations to no more than 120 days between November 1 and March 31. Section 12.80 also imposes notice and hearing requirements in excess of the Brown Act's requirements. Moreover, it requires the Council to specifically authorize, by resolution and accompanied by a series of findings, the establishment and operation of each shelter established pursuant to this regulation. Lastly, Section 12.81 requires interested organizations to submit an application to HCID to operate a shelter prior to the requisite public hearing.

Section 12.81 can be amended to allow its authorization to take effect more quickly in the event of a shelter crisis, without seasonal constraints or unnecessary procedure, as follows:

*Notwithstanding any provisions of this article to the contrary, during any period for which the Mayor and/or the City Council have declared a shelter crisis within the meaning of Government Code Sections 8698, et seq., a shelter for the homeless (as defined in Section 12.03 of this Code) may be established and operated in the R3, RAS3, R4, RAS4, R5, C2, C4, C5, CM, M1, M2, and M3 zones without regard to the number of beds or number of persons served, if the shelter is operated by a religious institution or a non-profit, charitable organization and the shelter is located on property owned or leased by that institution or organization. If the lot on which any such shelter is located does not have sufficient area to provide the number of parking spaces required by Section 12.21.A.4(w) of this Code, then the number of spaces required shall be the number for which adequate area exists. If insufficient area for any parking spaces exists on the lot, no spaces shall be required.*

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<sup>5</sup> Although LAMC Section 12.81 is triggered by the declaration of a shelter crisis, its legal underpinning is not based on the authority granted by the state in Government Code Sections 8698 et seq. Instead, LAMC Section 12.81 was enacted as a direct use of the City's police powers.

With these amendments, LAMC Sections 12.80 and 12.81 could provide virtually the same process for the use of public *and* private sites as locations for homeless shelters as would be triggered under a declaration of shelter crisis. The only difference, as reflected in the draft ordinance language above, is that Government Code Section 8698.1(b) expressly allows cities to relax local and state building and safety regulations for facilities used as homeless shelters on *public* sites.<sup>6</sup> The Government Code does not provide the City with authority to relax state building code regulations for shelters located on *private* property, absent the City employing the more drawn out process of amending the applicable building code provisions by adopting suitable findings justifying the deviation from the state building code.

As a legislative act, the declaration of a shelter crisis under Government Code Sections 8698, et seq., and LAMC Sections 12.80 and 12.81 is reviewable by ordinary mandate under California Code of Civil Procedure Section 1085 and limited to a determination of whether the City's actions were arbitrary, capricious or entirely lacking in evidentiary support, or whether the City failed to follow the procedure and give the notices required by law. See *Swanson v. Marin Municipal Water District*, 56 Cal.App.3d 512, 519 (1976); see also *Strumsky v. San Diego County Employees Retirement Association*, 11 Cal.3d 28, 34, fn. 2 (1974). Therefore, the Council's declaration of a shelter crisis should be based on facts sufficient to satisfy the standard of review under ordinary mandate, such as information and statistics relating to the number of beds currently available in homeless shelters throughout the City versus the estimated number of homeless people without lodging. Supporting facts may also relate to exacerbating circumstances like weather conditions, air quality, and other environmental considerations.

### **III. The City Has Several Options for Establishing Parking Programs to Accommodate the Homeless**

A. The City could establish a program similar to Santa Barbara's "Recreational Vehicle Accommodation Program" as a response to a declaration of a shelter crisis.

The Committees expressed interest in creating a "Safe Parking Program" similar to Santa Barbara's program allowing recreational vehicles (RVs) to park overnight in certain private or public parking lots. Santa Barbara limits the program to those lots for which the use would not conflict with any express conditions imposed by the city on a permit for the organization's institutional use. Bathroom facilities approved by the Santa Barbara County Health Officer must be made available to RV occupants. Only five RVs are allowed to park overnight at any one time on a church or nonprofit organization's lot; and only one RV per night for sites located in certain areas of certain zones. RVs must be sited no less than fifty feet from any residential property. Most notably, an RV owner

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<sup>6</sup> The reduced building and safety regulations to be applied to public facilities pursuant to the declaration of a shelter crisis under LAMC Section 12.80 are currently codified in LAMC Section 91.8605. The Council may amend those minimal standards as it sees fit.

who seeks to park in a privately owned lot must obtain a permit for the use of the RV as a “transitional housing alternative” from a city-designated non-profit entity that acts as the parking program administrator and also assists RV owners in transitioning to permanent housing.

Santa Barbara’s program runs differently in city owned or controlled parking lots. In order for a city lot to be used by RVs for overnight parking, the lot must be designated by a city council resolution that also expressly establishes conditions and permit restrictions that apply to the use. The resolution also must set forth the criteria and process for certifying the “continuing need for the occupants of a recreational vehicle to use the recreational vehicle as a transitional housing alternative pending an eventual transition to an acceptable and safe housing alternative.”

If the Council decides to adopt a program similar to Santa Barbara’s, it may elect to contract the administration of the program, or task a City department with oversight of the program, including the enforcement of regulations and the issuance of permits to RV owners.

In order for the Council to implement a program similar to the program in Santa Barbara, the Council would need to amend the definition in LAMC 12.03 of “shelter for the homeless”. Currently, the definition of “shelter for the homeless” in LAMC Section 12.03 is limited to a “residential facility operated by a ‘provider’”. A “provider” is “...a government agency or private non-profit organization which provides, or contracts with recognized community organizations to provide, emergency or temporary shelter for the homeless, and which has been certified by [HCID] to meet all applicable requirements as such which are contained in the California Health and Safety Code and the California Administrative Code.” The amendment should remove the reference to “residential facility” from the definition of “shelter for the homeless” and expand the meaning of “provider” to include religious institutions, as well as non-profit, charitable organizations.<sup>7</sup>

B. The City could amend its existing entitlement process allowing trailer parking as a public benefit to remove the limitations and requirements and waive the fee.

City law already provides one model of a safe parking program. LAMC Section 14.00, et seq., authorizes certain uses deemed “public benefit projects” in nearly any zone, subject to certain performance standards.<sup>8</sup> The Planning Department receives very few applications for public benefits projects under Section 14.00, et seq. – perhaps two a year. LAMC Section 14.00.A.9 provides for trailer parking in lots on the sites of

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<sup>7</sup> The Planning Department may have additional suggestions for an amendment to the definition of “shelter for the homeless” in LAMC Section 12.03.

<sup>8</sup> LAMC Section 14.00.A.8. deems shelters for the homeless, as defined in LAMC Section 12.03, as public benefit projects and allows them by right, subject to performance standards, in the R3, M1, M2 and M3 zones.

religious or philanthropic institutions as a public benefit project, and imposes performance standards such as a limit on the number of trailers allowed per lot, the erection of a wall or fence around the property, and a minimum proximity from a residential zone or use. This Code section expands the definition of “shelter for the homeless” in LAMC Section 12.03 to include trailers used as temporary accommodations for homeless persons. For purposes of Section 14.00.A.9, neither the height and area regulations in the Zoning Code nor the Code’s parking requirements apply to trailers<sup>9</sup> used as temporary accommodations for the homeless as a public benefit project.

LAMC Section 14.00.B provides alternative compliance procedures from LAMC Section 14.00.A. for projects that cannot meet the minimum performance standards required for a public benefit project. That process includes a noticed public hearing, requires findings to be made, allows conditions to be imposed on the use, and includes an appeal process.

The fee currently charged by the Planning Department for an entitlement pursuant to Section 14.00.A.9 is about \$400. If the project is exempt from CEQA (and most likely would be, according to the Planning Department, if it meets the performance standards), the cost for the environmental clearance is under \$100. However, if the project requires environmental analysis and the publication of a mitigated negative declaration or circulation of an environmental impact report, the cost could increase by about \$3,000. A project that seeks to qualify for the entitlement by using the alternate compliance procedure would likely require additional environmental analysis. If the Council wanted to amend the performance standards, it should consider doing so in a limited way because a more expansive change in performance standards could have impacts on the environment.

With respect to fees, the Council could consider waiving the fees, but would be subject to certain requirements in doing so. Fees are collected by the City to reimburse departments for performing the work required to provide a particular service. *Financial Policies for the City of Los Angeles*, pp. 4-5 (April 2005). If the Council desires to make the policy decision to waive fees associated with LAMC Section 14.00.A.9, it may need to supplement the funds normally collected by the fee with General Fund money or some other source of revenue. *Id.* at p. 5.

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<sup>9</sup> “Trailer” is defined in LAMC Section 12.03 as “a vehicle without motive power, designed to be drawn by a motor vehicle and to be used for human habitation or for carrying persons and property....” The definition does not include mobilehomes. (The definition of “mobilehome” in Section 12.03 does not include recreational vehicles.)



C. The City could adopt an ordinance to allow vehicle lodging on non-residential City streets through a permit process.

On March 26, 2015, the City Attorney's Office transmitted two alternative ordinances to replace LAMC 85.02 (the City's former ban on the use of a vehicle as living quarters), which had been declared unconstitutional by the Ninth Circuit Court of Appeals. One version of a replacement ordinance reinstated the ban, while a second version offered a novel approach to afford permitted vehicle lodging on certain non-residential streets. The second version of the ordinance would require anyone seeking to dwell in a vehicle on a public street to obtain a permit for a limited time frame subject to renewal after receiving homeless outreach services from regional homeless services providers, including the Los Angeles Homeless Services Authority. The City would be able to designate streets (and provide a map to permit holders) suitable for dwelling and also would be able to place restrictions on the number of vehicles used for dwelling on any designated street.

**IV. Ordinances Amending Sections 12.03, 12.80, et seq., 14.00.A.9, and 85.02, Or Establishing a New Safe Parking Program Are Zoning Regulations Subject to Review by the City Planning Commission**

Ordinances to amend the current Code or to establish new programs discussed in this report are zoning regulations concerning permissible uses, and therefore would first need to be considered by the City Planning Commission (CPC) pursuant to Charter Section 558.<sup>10</sup> LAMC Section 12.32 sets forth the notice and hearing requirements for consideration of a zoning regulation, which include a public hearing and notice of the hearing by publication and by mailing to owners of surrounding property at least twenty-four days in advance.<sup>11</sup>

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<sup>10</sup> Under Charter Section 559, the CPC can delegate its authority under Section 558 to the Director of Planning, subject to the same notice and hearing requirements established in LAMC Section 12.32.

<sup>11</sup> The Council may, for policy reasons, retain the practice of separately designating public and private sites by way of resolution for the operation of shelters under LAMC Sections 12.80 and 12.81. Those resolutions would also fall within the zoning regulations that are subject to CPC review under Charter Section 558, and would consequently also be entitled to notice and hearing pursuant to LAMC Section 12.32.

**V. Conclusion**

If you have any questions regarding this matter, please contact Deputy City Attorney Adrienne Khorasanee at (213) 978-8120 or Chief Assistant City Attorney David Michaelson at (213) 978-7100. A member of this Office will be present when you consider this matter to answer any questions you may have.

Very truly yours,

MICHAEL N. FEUER, City Attorney

By



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AK:pj

cc: Eric Garcetti, Mayor  
Ron Galperin, Controller  
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**DECLARATION OF EMERGENCY PURSUANT TO LOCAL, STATE, AND FEDERAL LAW**

AUTHORITY	PROCESS	REQUIRED FINDINGS	BENEFITS*	EXAMPLES
<p><b>Local Emergency Pursuant to Los Angeles Administrative Code ("LAAC") § 8.21 et seq.</b></p>	<p>Mayor has the power to declare a local emergency. Los Angeles Charter § 231(i) and LAAC § 8.27. After the Mayor's declaration, Council must approve or disapprove the resolution within seven days. Thereafter, Council must reaffirm the need for a state of emergency every 14 days unless the local emergency is terminated sooner. LAAC § 8.27.</p>	<p>The existence of any occurrence which by reason of its magnitude is or is likely to become beyond the control of the normal services, personnel, equipment and facilities of the regularly constituted branches and departments of the City government. LAAC § 8.22.</p>	<p>A declaration of local emergency under the Administrative Code (or an official warning of an impending or threatened emergency) activates the Emergency Operations Organization ("EOO") and all of its personnel the Mayor calls into active service. LAAC § 8.28. As Director of the EOO, the Mayor may "promulgate, issue and enforce rules, regulations, orders and directives he considers necessary for the protection of life and property." LAAC § 8.29. The Mayor may also requisition supplies and personnel he deems necessary for the protection of life and property. LAAC § 8.30. During times of declared local emergency, Council may suspend any and all restrictions of Charter § 371 (addressing competitive bidding and competitive sealed proposals) or their applicability to specific boards, officers or employees. Any such resolution must be adopted by two-thirds vote and approved by the Mayor. Charter § 371(e)(6).*</p>	<ul style="list-style-type: none"> <li>• 11/17/2008. Local declaration of emergency relating to wildfire. CF# 08-3100</li> <li>• 1/11/2005. Local declaration of emergency relating to rain storms. CF# 05-0072.</li> <li>• 1/18/1994. Local declaration of emergency relating to Northridge Earthquake. CF# 94-0081</li> <li>• 12/24/1987. Local declaration of emergency relating to effect of cold on homeless population. CF# 87-0082-S14.</li> <li>• 6/26/1987. Local declaration of emergency relating to housing homeless persons in downtown Los Angeles and establishing a temporary urban campground. CF# 87-0566.</li> </ul>
<p><b>Local Emergency Under California Emergency Services Act (Cal. Gov. Code § 8630)</b></p>	<p>While under state law local emergency may be proclaimed by the local governing body or by an official designated by ordinance (Cal. Gov. Code § 8630), in Los Angeles, local emergency must be proclaimed by the Mayor as the official designated by Charter and by ordinance. Charter § 231(i) and LAAC § 8.27. Local emergency must be ratified by local governing body within 7 days. Cal. Gov. Code § 8630(b). Local governing body must review need for continuing the local emergency every 30 days. Cal. Gov. Code § 8630(c).</p>	<p>The duly proclaimed existence of conditions of disaster or of extreme peril to the safety of persons and property within the territorial limits of a county, city and county, or city, caused by such conditions as air pollution, fire, flood, storm, epidemic, riot, drought, sudden and severe energy shortage, plant or animal infestation or disease, the Governor's warning of an earthquake or volcanic prediction, or an earthquake, or other conditions, other than conditions resulting from a labor controversy, which are or are likely to be beyond the control of the services, personnel, equipment, and facilities of that political subdivision and require the combined forces of other political subdivisions to combat... Cal. Gov. Code § 8558(c).</p>	<p>A proclamation of local emergency accords political subdivisions full power to provide mutual aid to each other for any affected area. Cal. Gov. Code § 8631. State agencies may also provide mutual aid, including personnel, equipment, and other available resources to assist during a local emergency pursuant to mutual aid agreements or at the direction of the Governor. Cal. Gov. Code § 8632. During a local emergency the City's designated official may promulgate orders and regulations necessary to provide for the protection of life and property, including orders and regulations establishing a curfew. Cal. Gov. Code § 8634.*</p>	<ul style="list-style-type: none"> <li>• In 2002 the San Diego City Council declared a local emergency pursuant to the California Emergency Services Act to address a lack of affordable housing. San Diego Resolution R-296982, adopted August 6, 2002. It is unclear what benefits, if any, San Diego received from declaring the local emergency. In addition, every two weeks since the original declaration to present, San Diego City Council has renewed the declaration – citing the continued existence of conditions which gave rise to the original declaration.</li> <li>• In 2007 Humboldt County proclaimed a local emergency with regard to the closure of the Martins Ferry Bridge because of issues with its structural stability.</li> </ul>

\* We have been asked whether the City's declaration of emergency would facilitate access to FEMA emergency assistance funds. It appears that FEMA emergency funds are only available pursuant to a presidential declaration of emergency, which as discussed on page 2 of this attachment, could be based on a local declaration but would need to be requested by the Governor. It would be at the discretion of the President to determine if the homeless crisis, either on its own or coupled with the upcoming severe weather predicted with El Nino, constitutes an emergency and whether the other statutory findings can be made.

**DECLARATION OF EMERGENCY PURSUANT TO LOCAL, STATE, AND FEDERAL LAW**

AUTHORITY	PROCESS	REQUIRED FINDINGS	BENEFITS	EXAMPLES
<p><b>State of California Emergency Services Act (Cal. Gov. Code § 8625)</b></p>	<p>Governor is empowered to proclaim a state of emergency in an area affected or likely to be affected thereby when:                      He finds that circumstances described in Gov. Code § 8558(b) exist; and either                      (i) He is requested to do so by a mayor; or                      (ii) He finds that local authority is inadequate to cope with the emergency. Cal. Gov. Code § 8625.</p>	<p>The duly proclaimed existence of conditions of disaster or of extreme peril to the safety of persons and property within the state caused by such conditions as air pollution, fire, flood, storm, epidemic, riot, drought, sudden and severe energy shortage, plant or animal infestation or disease, the Governor's warning of an earthquake or volcanic prediction, or an earthquake, or other conditions... which by reason of their magnitude, are or are likely to be beyond the control of the services, personnel, equipment, and facilities of any single county, city and county, or city and require the combined forces of a mutual aid region or regions to combat...". Cal. Gov. Code § 8558(b).</p>	<p>Governor may:</p> <ul style="list-style-type: none"> <li>• Make, amend, and rescind orders and necessary regulations, Cal. Gov. Code § 8567;</li> <li>• Mitigate emergency using the property, services, resources of the state as necessary, Cal Gov. Code § 8570(c);</li> <li>• Plan for the use of any private facilities, services and property, Cal Gov. Code § 8570;</li> <li>• Suspend regulatory statutes and rules of agency, Cal. Gov. Code § 8571;</li> <li>• Commandeer or utilize private property or personnel, Cal Gov. Code § 8572;</li> <li>• Exercise authority over all agencies of the state government and promulgate and enforce necessary orders and regulations, Cal Gov. Code 8627;</li> <li>• Suspend nonsafety related restrictions on delivery of emergency necessities, Cal Gov. Code § 8627.5;</li> <li>• Utilize state personnel, equipment and facilities to prevent or alleviate actual and threatened damage due to an emergency, Cal Gov. Code § 8628;</li> <li>• Direct agencies to provide supplemental services and equipment to political subdivision to restore services, Cal. Gov. Code § 8628.</li> </ul>	<ul style="list-style-type: none"> <li>• On July 31, 2015, the Governor proclaimed a state of emergency in California due to wildfires. The Governor suspended statutes, rules, regulations and requirements related to the removal of hazardous and nonhazardous materials. The Governor further suspended specific portions of the Government Code, Public Contract Code, Health and Safety Code, Penal Code, Vehicle Code, and Unemployment Insurance Code.</li> <li>• On January 17, 2014 the Governor proclaimed a state of emergency due to severe drought conditions. On April 25, 2014 the Governor issued an executive order wherein he promulgated certain rules and regulations and suspended certain provisions of the Water Code, Government Code, Public Contract Code, and California Environmental Quality Act.</li> <li>• On April 21, 2009 the Governor proclaimed a state of emergency due to dangers posed to Chinook Salmon.</li> <li>• On October 4, 2006 the Governor proclaimed a state of emergency with regard to prison overcrowding.</li> </ul>
<p><b>Presidential Declaration of Emergency (42 U.S.C. 5191)</b></p>	<p>Only the Governor of an affected state may make a request for a presidential declaration of emergency or major disaster. 42 U.S.C. 5191, 5170.</p>	<ul style="list-style-type: none"> <li>• An emergency is "any occasion or instance for which [the President determines] Federal assistance is needed to supplement State and local efforts and capabilities to save lives and to protect property and public health and safety, or to lessen or avert the threat of a catastrophe in any part of the United States." 42 U.S.C. 5122.</li> <li>• A request for presidential declaration of emergency must be based "on a finding that the situation is of such severity and magnitude that the effective response is beyond the capabilities of the State and the local governments and that Federal Assistance is necessary." 42 U.S.C. 5191.</li> <li>• A major disaster is "any natural catastrophe..., or regardless of cause, any fire, flood, or explosion... which [the President determines] causes damage of sufficient severity and magnitude to warrant major disaster assistance... to supplement the efforts and available resources of States, local governments, and disaster relief organizations in alleviating the damage, loss, hardship, or suffering caused thereby." 42 U.S.C. 5122.</li> </ul>	<p>In an emergency the President may:</p> <ul style="list-style-type: none"> <li>• Direct any Federal agency with or without reimbursement, to utilize its authorities and resources in support of State and local emergency assistance efforts to save lives, protect property and public health and safety, and lessen or avert the threat of a catastrophe;</li> <li>• Coordinate all disaster assistance;</li> <li>• Provide technical and advisory assistance;</li> <li>• Provide emergency assistance through Federal agencies;</li> <li>• Remove debris;</li> <li>• Assist the State and local governments in the distribution of medicine, food, and other consumable supplies, and emergency assistance. 42 U.S.C. 5192.</li> </ul> <p>The Federal share for provided assistance is 75% of the eligible costs. However, total assistance provided for a single emergency is generally limited to \$5,000,000 or less. 42 U.S.C. 5193.</p>	<ul style="list-style-type: none"> <li>• No instances have been identified in which a presidential declaration has been made in response to a chronic, ongoing situation such as the homeless crisis.</li> <li>• A declaration of a local emergency and corresponding declaration and request by the Governor based on the threat raised by the predicted El Niño, with an emphasis of the risk it will pose to the homeless population, would provide a stronger basis for a Presidential declaration of emergency.</li> </ul>

**DECLARATION OF SHELTER CRISIS PURSUANT TO LOCAL AND STATE LAW**

AUTHORITY	PROCESS	REQUIRED FINDINGS	BENEFITS
<p><b>Declaration of Shelter Crisis Pursuant to Cal. Gov. Code § 8698 et seq.</b></p>	<p>Declared by governing body (such as the legislative body for a city) or official designated by ordinance or resolution adopted by governing body. Cal. Gov. Code § 8698(b). Through ordinance the Council has allowed the Mayor to declare a shelter crisis in addition to Council.</p>	<p>A significant number of persons within the jurisdiction of the governing body are without the ability to obtain shelter, and that the situation has resulted in a threat to health and safety of those persons. Cal. Gov. Code § 8698.2(a)(1).</p>	<p>Upon declaration of shelter crisis the City may allow persons unable to obtain housing to occupy designated <i>public facilities</i> during the duration of the crisis. Cal. Gov. Code § 8698.2. The City is immune from liability for ordinary negligence for providing emergency housing pursuant to § 8698 et seq. Cal. Gov. Code § 8698.1(a). The provisions of any state or local regulatory statute, regulation, or ordinance prescribing standards of housing, health, or safety shall be suspended to the extent that strict compliance would in any way prevent, hinder, or delay the mitigation of the effects of the shelter crisis. Cal. Gov. Code § 8698.1(b). <b>(Note: the benefits in § 8698.1(a) and (b) apply only to usage of public facilities.</b> See Cal. Gov. Code § 8698.1(b).)</p>
<p><b>Establishment of Emergency Homeless Shelters Pursuant to Los Angeles Municipal Code ("LAMC") §12.80</b></p>	<p>Becomes operable upon Mayor and/or City Council declaring a "shelter crisis" as defined in Cal. Gov. Code § 8698 et seq. Precise location of each shelter subject to Council approval. Prior to Council action, notice of public hearing before Council shall be mailed to abutting properties at least seven days prior to Council consideration of the matter. LAMC § 12.80</p>	<p>Mayor and/or Council must have declared a "shelter crisis" as defined in Cal. Gov. Code § 8698: "the duly proclaimed 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." LAMC § 12.80.</p>	<p>For a period of no more than 120 days between November 1 and March 31, a shelter for the homeless (as defined in LAMC § 12.03) may be established and operated on property owned or leased by a government agency in any zone as a matter of right without regard to the number of beds or number of persons served. LAMC § 12.80.</p>
<p><b>Establishment of Emergency Homeless Shelters Pursuant to Los Angeles Municipal Code ("LAMC") § 12.81</b></p>	<p>Becomes operable upon Mayor and/or City Council declaring a "shelter crisis" as defined in Cal. Gov. Code § 8698 et seq. Before a shelter may be established or operated, City Council, City official, or body authorized by Council must by resolution make certain findings. LAMC § 12.81.</p>	<p>Mayor and/or Council must have declared a "shelter crisis" as defined in Cal. Gov. Code § 8698 (see above). Additional findings are required before a shelter may be operated pursuant to LAMC § 12.81:</p> <ol style="list-style-type: none"> <li>1. An emergency exists which affects the health and safety of homeless persons;</li> <li>2. Shelter for the homeless in the proposed location would contribute to alleviation of effects of shelter crisis.</li> <li>3. Project is consistent with elements and objectives of General Plan.</li> <li>4. Project would have no substantial adverse impact on properties or improvements in surrounding neighborhood.</li> <li>5. There is not an over-concentration of shelters for the homeless in the surrounding area.</li> <li>6. Land uses and development in immediate vicinity of site will not constitute an immediate or potential hazard to occupants of shelter.</li> </ol> <p>LAMC § 12.81.</p>	<p>For a period of no more than 120 days between November 1 and March 31, a shelter for the homeless (as defined in LAMC § 12.03) may be established and operated by a non-profit charitable organization, on property owned or leased by that organization, in the R3, RAS3, R4, RAS4, R5, C2, C4, C5, CM, M1, M2, and M3 Zones without regard to the number of beds or number of persons served. LAMC § 12.81.</p>