



AGENDA

SPECIAL MEETING OF THE MAYWOOD CITY COUNCIL AND THE SUCCESSOR AGENCY TO THE MAYWOOD COMMUNITY REDEVELOPMENT AGENCY

Maywood City Council Chambers
4319 E. Slauson Avenue, Maywood, CA 90270
Tuesday, March 17, 2020 at 10:45 a.m.

Pursuant to Governor Newsom's Executive Order N-25-20, members of the City of Maywood City Council or staff may participate in this meeting via a teleconference. In the interest of maintaining appropriate social distancing, members of the public may participate in the meeting electronically as indicated further below, or in person at the City Council Chambers at 4319 E. Slauson Avenue, Maywood.

Rules of Decorum

*"Members of the Public are advised that all **ELECTRONIC DEVICES, CELLULAR TELEPHONES and any OTHER COMMUNICATION DEVICES** are to be turned off upon entering the City Council Chambers." If you need to have a discussion with someone in the audience, kindly step out into the lobby.*

Reglas de Comportamiento

*"Al público en general se le avisa que todos los **teléfonos celulares, pagers y demás aparatos de comunicación deben ser apagados** al entrar a la sala de audiencias del Consejo Municipal de la Ciudad." Si usted necesita tener una conversación con alguien que está en la audiencia, amablemente le pedimos que salga del recinto y tenga su conversación en el vestíbulo de la sala de audiencias.*

ROLL CALL:

Eduardo De La Riva, Mayor
Ricardo Lara, Mayor Pro Tem
Ramon Medina, Councilmember
Carlos Alvarez, Councilmember
Heber Marquez, Councilmember
Gloria Viramontes, City Treasurer
Gerardo Mayagoitia, City Clerk
Jennifer Vasquez, City Manager
David Mango, Director of Building and Planning
Hrant Manuelian, Finance Director
Roxanne Diaz, City Attorney

*In order to address the Council, please complete a Public Comment Card.
No Public Comment Cards will be accepted after 10:15a.m. Time allotted per speaker: 3 minutes.
No agenda item may be taken after 11:00 a.m. without a motion to extend time by the majority of Council present.*

INVOCATION* AND PLEDGE OF ALLEGIANCE

**In permitting a nonsectarian invocation, the City does not intend to proselytize, advance, or disparage any faith or belief. Neither the City nor the City Council endorses any particular belief or form of invocation.*

COUNCIL MEMBERS' COMMENTS

PUBLIC PARTICIPATION (Agenda Items Only)

Remote public participation is allowed in the following ways:

City Council meetings are live-streamed on the City's Facebook page.

Public comment will be accepted by email to shirley.quinones@cityofmaywood.org during the meeting, prior to the close of public comment on an item, and read into the record during public comment.

Public comment may be submitted by telephone during the meeting, prior to the close of public comment on an item, by calling (323) 562-5711 at the time indicated by the Mayor.

PRESENTATION(S)

PUBLIC HEARING

CONSENT CALENDAR

All matters listed under CONSENT CALENDAR are considered to be routine and can be acted on by one roll call vote. There will be no separate discussion of these items unless members of the City Council request specific items to be removed from the Consent Calendar for separate discussion or action.

1. A Resolution of the City Council of the City of Maywood for Approval of Ratification of the Proclamation of a Local Emergency.
2. An Urgency Ordinance of the City of Maywood Enacting a Temporary Moratorium on Evictions Due to Nonpayment of Rent for Residential Tenants Where the Failure to Pay Rent Results from Income Loss Resulting from The Novel Coronavirus (COVID-19).
3. An Urgency Ordinance of the City of Maywood Prohibiting Price Gouging during Local Emergencies.

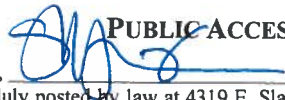
DISCUSSION/ACTION ITEMS

CLOSED SESSION

PUBLIC PARTICIPATION (Non-Agenda Items)

At this time speakers wishing to address the City Council on an item not on the agenda will be called upon in the order that the speaker card is received. The maximum time allotted for individuals to speak shall not exceed three (3) minutes.

ADJOURNMENT – The next Regular Meeting of the Maywood City Council is on March 25, 2020.



PUBLIC ACCESS TO CITY COUNCIL MEETING AGENDA AND AGENDA PACKETS

I, Gerardo Mayagoitia, City Clerk or Shirley Quinones, Deputy City Clerk, hereby certify that this agenda was duly posted by law at 4319 E. Slauson Avenue, Maywood, CA 90270 and the City Website. Any public record, relating to an open session agenda item, that is distributed within 72 hours prior to the meeting is available for public inspection at the Maywood City Hall, 4319 E. Slauson Avenue, Maywood CA 90270. If you challenge in court any discussion or action taken concerning an item on this Agenda, you may be limited to rising only those issues you or someone else raised during the meeting or in written correspondence delivered to the City at or prior to the City's consideration of the item at the meeting. In compliance with the ADA, if you need special assistance for the meeting, call (323) 562-5723 within 72 hours prior to the meeting so the City can make reasonable arrangements to ensure accessibility.





AGENDA 1
ITEM NO. _____

CITY COUNCIL STAFF REPORT

DATE: MARCH 17, 2020

TO: HONORABLE MAYOR, AND MEMBERS OF THE CITY COUNCIL

FROM: JENNIFER E. VASQUEZ, CITY MANAGER *JV*

RE: CONSIDERATION OF A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MAYWOOD FOR APPROVAL OF RATIFICATION OF THE PROCLAMATION OF A LOCAL EMERGENCY

RECOMMENDATION

Staff recommends that City Council consider approval a resolution for approval of ratification of the proclamation of a local emergency.

FISCAL IMPACT

The fiscal impact for the City's response to COVID-19 is being tracked by the Finance department. Ratification of the proclamation of a local emergency will formalize the City's coordination with public health agencies, smooth the way for quicker acquisition of supplies, and ease access to State and Federal funds as the need arises in response to COVID-19.

LEGAL REVIEW

The City Attorney has not reviewed this report; but did prepare the attached resolution.

BACKGROUND/DISCUSSION

The City Manager, as the Director of Emergency Services, proclaimed on March 13, 2020, a Local Emergency for the 2020 Coronavirus Pandemic pursuant to Maywood

Municipal Code Section 4-1.06(a), to protect public health, safety and welfare, and to enhance the City's ability to mobilize local resources, coordinate interagency response, accelerate procurement of vital supplies, use mutual aid, and seek potential reimbursement by the State and Federal governments.

The City Council now needs to ratify the Proclamation of Local Emergency for the 2020 Coronavirus Pandemic, pursuant to Maywood Municipal Code 4-1.06(a).

Attachment

1. Resolution No. 6099 - Approval of Ratification of the Proclamation of a Local Emergency

ATTACHMENT NO. 1

RESOLUTION NO. 6099

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MAYWOOD RATIFYING THE DIRECTOR OF EMERGENCY SERVICES' PROCLAMATION OF THE EXISTENCE OF A LOCAL EMERGENCY

WHEREAS, pursuant to Maywood Municipal Section 4-1.06(a), the City Manager as the Director of Emergency Services is empowered to proclaim the existence or threatened existence of a local emergency when said city is affected or likely affected by a public calamity and the City Council is not in session, subject to ratification by the City Council within 7 days; and

WHEREAS, conditions of disaster or of extreme peril to the health and safety of persons and property have arisen both Internationally and within the United States as a result of the introduction of the novel coronavirus (COVID-19), a novel communicable disease, which was first detected in December 2019; and

WHEREAS, COVID-19 has spread globally to over 70 countries, infecting more than 118,000 persons and killing more than 4,200 individuals worldwide. Due to the expanding list of countries with widespread transmission of COVID-19, and increasing travel alerts and warnings for countries experiencing sustained or uncontrolled community transmission issued by the Centers for Disease Control and Prevention (CDC), COVID-19 has created conditions that are likely to be beyond the control of local resources and require the combined forces of other political subdivisions to combat; and

WHEREAS, on February 26, 2020, the CDC confirmed the first case of local person-to-person transmission of COVID-19 in the United States and this case raises the possibility of community transmission occurring in the general public. Also on March 5, 2020, the County of Los Angeles declared a local emergency to prepare in the event of a COVID-19 outbreak; and

WHEREAS, on March 4, 2020, Gavin Newsom, Governor of the State of California, proclaimed a state of emergency to exist in California due to the spread of COVID-19 and further on March 12, 2020, issued Executive Order N-25-20 in furtherance of the state of emergency; and

WHEREAS, as of March 12, 2020, across the globe, there were more than 130,000 confirmed cases of COVID-19, tragically resulting in more than 4,000 deaths worldwide; and

WHEREAS, as of March 13, 2020, there were over 1,621 COVID-19 cases identified in the United States, including over 335 cases in California. As of March 16, 2020, there are 94 cases in Los Angeles County, and officials expect the number of cases in California, the United States, and worldwide to increase; and

WHEREAS, on March 13, 2020, the President of the United States of America declared a national emergency; and

WHEREAS, due to the expanding list of countries with widespread transmission of COVID-19, increasing travel alerts and warnings for countries experiencing sustained or uncontrolled community transmission issued by the CDC, the escalation of United States

domestic cases of and deaths from COVID-19, and the identification of COVID-19 cases in California, COVID-19 has created conditions that are or likely to be beyond the control of local resources and require the combined forces of other political subdivisions to combat; and

WHEREAS, the Centers for Disease Control and Prevention, the California Department of Health and the Los Angeles County Department of Public Health and the County of Los Angeles Office of Emergency Management have all issued recommendations including but not limited to social distancing, staying home if sick, canceling or postponing large group events, and other precautions to protect public health and prevent transmission of this communicable virus; and,

WHEREAS, the City's ability to mobilize local resources, coordinate interagency response, accelerate procurement of vital supplies, use mutual aid, and seek future reimbursement by the State and Federal governments will be critical to successfully responding to COVID-19; and

WHEREAS, these conditions have endangered the safety of persons within the City of Maywood due to the spread of COVID-10, which threatens extreme peril to the safety of persons and property, at which time the City Council was not in session; and

WHEREAS, the City Council does hereby find that the above described conditions of extreme peril did warrant and necessitate the proclamation of the existence of a local emergency by the Director of Emergency Services; and

WHEREAS, the Director of Emergency Services of the City of Maywood did proclaim the existence of a local emergency within this City on the 13th day of March, 2020;

WHEREAS, the Director of Emergency Services of the City of Maywood did appoint the City Attorney as the Assistant Director of Emergency Services;

NOW, THEREFORE BE IT RESOLVED, by the City Council of the City of Maywood that the Proclamation of Existence of a Local Emergency, as issued by the Director of Emergency Services is hereby ratified and confirmed and there exists a local emergency throughout the City of Maywood; and

IT IS FURTHER ORDERED, that the duties of the City Manager and the Director of Emergency Services and the Assistant Director of Emergency Services, if appointed, shall be those prescribed by state law, by ordinances, and resolutions of the City and by the approved emergency plans of the City of Maywood; and

IT IS FURTHER ORDERED, that the local emergency shall be deemed to continue to exist until its termination is proclaimed by the City Council;

IT IS FURTHER ORDERED, that a copy of this Resolution be forwarded to the Los Angeles County Office of Emergency Management and that a copy of this Resolution be forwarded to the Director of the California Governor's Office of Emergency Services requesting that the Director find it acceptable in accordance with State law; that the Governor of California pursuant to the Emergency Services Act, issue a proclamation declaring an emergency in the City of Maywood and/or the declaring an emergency in Los Angeles County; that the Governor waive regulations that may hinder response and recovery efforts; that response and recovery assistance be made available under the California Disaster Assistance Act; and that the State expedite access to State and Federal resources and any other appropriate federal disaster relief programs.

PASSED, APPROVED AND ADOPTED this 17th day of March, 2020.

Eduardo De La Riva, Mayor

ATTEST:

Gerardo Mayagoitia, City Clerk

APPROVED AS TO FORM:

Roxanne Diaz, City Attorney

I, Gerardo Mayagoitia, City Clerk of the City of Maywood, do hereby certify that the foregoing Resolution was adopted at a regular meeting of the City Council of the City of Maywood held on the 17th day of March, 2020 by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

Gerardo Mayagoitia, City Clerk



AGENDA 2
ITEM NO. _____

CITY COUNCIL STAFF REPORT

DATE: MARCH 17, 2020

TO: HONORABLE MAYOR, AND MEMBERS OF THE CITY COUNCIL

FROM: ROXANNE DIAZ, CITY ATTORNEY

RE: CONSIDERATION OF AN URGENCY ORDINANCE
ADOPTING EMERGENCY REGULATIONS RELATED TO
TENANT EVICTIONS AND DECLARING THE URGENCY
THEREOF

RECOMMENDATION

Staff recommends that City Council waive full reading of the ordinance, read the ordinance by title only: AN URGENCY ORDINANCE OF THE CITY OF MAYWOOD ADOPTING EMERGENCY REGULATIONS RELATED TO TENANT EVICTIONS AND DECLARING THE URGENCY THEREOF; and adopt the urgency ordinance by a 4/5 vote.

FISCAL IMPACT

The fiscal impact for the City's response to COVID-19 is being tracked by the Finance department.

LEGAL REVIEW

The City Attorney has reviewed this report.

BACKGROUND/DISCUSSION

As the community is aware, the Coronavirus pandemic (COVID-19) has caused the closure of restaurants, schools, businesses and other establishments throughout the County of Los Angeles, including the City of Maywood. These closures have mostly been the result of the County and State orders to close

businesses or limit the number of persons that can gather in contained areas. As a result of this public health emergency and the precautions recommended by health authorities, many tenants in Maywood have experienced or expect soon to experience sudden and unexpected income loss.

Pursuant to a city's constitutional police power, many entities including the City of Los Angeles, City of Santa Monica and others have issued orders or adopted regulations to prevent the eviction of residential and commercial tenants.

The proposed urgency ordinance will prevent the eviction of residential and commercial tenants for non-payment of rent as a result of the COVID-19 pandemic during the period of the City's local emergency. Any tenant must demonstrate that he or she is unable to pay their rent due to financial impacts related to COVID-19. The tenant within 30 days after the date the rent is due must notify the landlord in writing of their lost income and inability to pay the full rent due to financial impacts related to COVID-19 and provide documentation for support of the claim. In addition, the ordinance will also apply if the inability to pay rent is due to substantial medical costs related to COVID-19.

The rent owed will not be forgiven but must be paid back within 6 months of the expiration of the local emergency.

URGENCY ORDINANCE NO. 20-01-U

AN URGENCY ORDINANCE OF THE CITY OF MAYWOOD ADOPTING EMERGENCY REGULATIONS RELATED TO TENANT EVICTIONS AND DECLARING THE URGENCY THEREOF

THE CITY COUNCIL OF THE CITY OF MAYWOOD HEREBY ORDAINS AS FOLLOWS:

WHEREAS, international, national, state, and local health and governmental authorities are responding to an outbreak of respiratory disease caused by a novel coronavirus named “SARS-CoV-2,” and the disease it causes has been named “coronavirus disease 2019,” abbreviated COVID-19, (“COVID-19”); and

WHEREAS, on March 4, 2020, the Los Angeles County Board of Supervisors and Department of Public Health declared a local emergency and local public health emergency to aid the regional healthcare and governmental community in responding to COVID-19; and

WHEREAS, on March 4, 2020, the Governor of the State of California declared a state of emergency to make additional resources available, formalize emergency actions already underway across multiple state agencies and departments, and help the state prepare for broader spread of COVID-19; and

WHEREAS, on March 13, 2020, the President of the United States of America declared a national emergency and announced that the federal government would make emergency funding available to assist state and local governments in preventing the spread of and addressing the effects of COVID-19; and

WHEREAS, on March 15, 2020, the City Manager, in her role as the Director of Emergency Services, proclaimed the existence of a local emergency pursuant to Section 4-1.06(a) of the Maywood Municipal Code to ensure the availability of mutual aid and an effective the City’s response to the novel coronavirus (“COVID-19”); and

WHEREAS, the Centers for Disease Control and Prevention, the California Department of Health, and the Los Angeles County Department of Public Health have all issued recommendations including but not limited to social distancing, staying home if sick, canceling or postponing large group events, working from home, and other precautions to protect public health and prevent transmission of this communicable virus; and

WHEREAS, as a result of the public health emergency and the precautions recommended by health authorities, many tenants in Maywood have experienced or expect soon to experience sudden and unexpected income loss; and

WHEREAS, the Governor of the State of California has stated that individuals exposed to COVID-19 may be temporarily unable to report to work due to illness caused by COVID-19 or quarantines related to COVID-19 and individuals directly affected by COVID-19 may experience potential loss of income, health care and medical coverage, and ability to pay for housing and basic needs, thereby placing increased demands on already strained regional and local health and safety resources, including shelters and food banks; and

WHEREAS, further economic impacts are anticipated, leaving tenants vulnerable to eviction; and

WHEREAS, during this local emergency, and in the interest of protecting the public health and preventing transmission of COVID-19, it is essential to avoid unnecessary housing displacement, to protect the City's affordable housing stock, and to prevent housed individuals from falling into homelessness; and

WHEREAS, in the interest of public peace, health and safety, as affected by the emergency caused by the spread of COVID-19, it is necessary for the City Council to exercise its authority to issue these regulations related to the protection of the public peace, health or safety.

Section 1. Policy, Purpose and Findings. The purposes of this Ordinance is to promote housing stability during the COVID-19 pandemic and to prevent avoidable homelessness. This Ordinance is necessary for the immediate preservation of the public peace, health or safety because the COVID-19 pandemic has the potential for destabilizing the residential rental market for all of the reasons described herein. It is intended to enable tenants in the City whose employment and income have been affected by the COVID-19 pandemic to be temporarily exempt from eviction for non-payment of rent and to reduce the risk that these events will lead to anxiety, stress and potential homelessness for the affected City residents and their communities thereby serving the public peace, health, safety, and public welfare. The temporary moratorium on evictions for non-payment imposed by this Ordinance is created pursuant to the City's general police powers to protect the health, safety, and welfare of its residents. Accordingly, for all these reasons, including the facts set forth in the recitals herein, the City Council finds there is an urgent need for the immediate preservation of the public peace, health, and safety to enact this Ordinance on an urgency basis.

Section 2. The City Council of the City of Maywood does adopt the following emergency regulations which shall take effect immediately:

A. A temporary moratorium on eviction for non-payment of rent by residential tenants impacted by the COVID-19 crisis is imposed as follows:

1. During the period of local emergency declared in response to COVID-19, no landlord shall endeavor to evict a tenant in either of the following situations:
(a) for nonpayment of rent if the tenant demonstrates that the tenant is unable to pay rent

due to financial impacts related to COVID-19 or (b) for a no-fault eviction unless necessary for the health and safety of tenants, neighbors, or the landlord. A landlord who knows that a tenant cannot pay some or all of the rent temporarily for the reasons set forth above shall not serve a notice pursuant to CCP 1161(2), file or prosecute an unlawful detainer action based on a 3-day pay or quit notice, or otherwise seek to evict for nonpayment of rent. A landlord knows of a tenant's inability to pay rent within the meaning of this Ordinance if the tenant, within 30 days after the date that rent is due, notifies the landlord in writing of lost income and inability to pay full rent due to financial impacts related to COVID-19, and provides documentation to support the claim. For purposes of this Ordinance, "in writing" includes email or text communications to a landlord or the landlord's representative with whom the tenant has previously corresponded by email or text. Any medical or financial information provided to the landlord shall be held in confidence, and only used for evaluating the tenant's claim. Nothing in this Ordinance shall relieve the tenant of liability for the unpaid rent, which the landlord may seek after expiration of the local emergency and the tenant must pay within six months of the expiration of the local emergency. A landlord may not charge or collect a late fee for rent that is delayed for the reasons stated in this Ordinance; nor may a landlord seek rent that is delayed or the reasons stated in this Ordinance through the eviction process.

2. For purposes of this ordinance, "financial impacts related to COVID-19" include, but are not limited to, a substantial decrease in tenant household income as a result of any of the following: (a) being sick with COVID-19, or caring for a household or family member who is sick with COVID-19; (b) lay-off, loss of hours, or other income reduction resulting from business closure or other economic or employer impacts of COVID-19; (c) compliance with a recommendation from a government health authority to stay home, self-quarantine, or avoid congregating with others during the state of emergency; (d) local, state or federal government response to COVID-19; (e) extraordinary out-of-pocket medical expenses; (f) child care needs arising from school closures related to COVID-19; or (g) or otherwise caused by the COVID-19 pandemic. "Financial impacts related to COVID-19" shall also include substantial out of pocket medical expenses caused by the COVID-19 pandemic or as a result of any local, state or federal government response to COVID-19. In all events, the financial impacts related to COVID-19 shall be documented as described in paragraph A(1) above.

3. For purposes of this Ordinance, "no-fault eviction" refers to any eviction for which the notice to terminate tenancy is not based on alleged fault by the tenant, including but not limited to eviction notices served pursuant to Code of Civil Procedure sections 1161(1), 1161(5), or 1161c.

4. This Ordinance applies to nonpayment eviction notices, no-fault eviction notices, and unlawful detainer actions based on such notices, served or filed on or after the date on which a local emergency was proclaimed.

B. A temporary moratorium on eviction for non-payment of rent by commercial tenants impacted by the COVID-19 crisis is imposed as follows:

1. During the period of local emergency declared in response to COVID-19, no landlord shall endeavor to evict a commercial tenant in either of the following situations: (1) for nonpayment of rent if the commercial tenant demonstrates that the commercial tenant is unable to pay rent due to financial impacts related to COVID-19 or (2) for a no-fault eviction unless necessary for the health and safety of tenants, neighbors, or the landlord. A landlord who knows that a commercial tenant cannot pay some or all of the rent temporarily for the reasons set forth above shall not serve a notice or otherwise seek to evict for nonpayment of rent. A landlord knows of a commercial tenant's inability to pay rent within the meaning of this Ordinance if the commercial tenant, within 30 days after the date that rent is due, notifies the landlord in writing of lost income and inability to pay full rent due to financial impacts related to COVID-19, and provides documentation to support the claim. For purposes of this Ordinance, "in writing" includes email or text communications to a landlord or the landlord's representative with whom the commercial tenant has previously corresponded by email or text. Any medical or financial information provided to the landlord shall be held in confidence, and only used for evaluating the commercial tenant's claim. Nothing in this Ordinance shall relieve the commercial tenant of liability for the unpaid rent, which the landlord may seek after expiration of the local emergency and the commercial tenant must pay within six months of the expiration of the local emergency. Six months after the end of the emergency if the rent is unpaid, a landlord may charge or collect a late fee for rent that is delayed for the reasons stated in this Ordinance; or a landlord may seek rent that is delayed for the reasons stated in this Ordinance through the eviction or other appropriate legal process.

2. For purposes of this Ordinance, "financial impacts related to COVID-19" include, but are not limited to, substantial decrease in tenant lost business income as a result of any of the following: (a) being sick with COVID-19, or caring for a household or family member who is sick with COVID-19; (b) income reduction resulting from business closure or other economic or employer impacts of COVID-19, such as but not limited to a reduction in the business' opening hours or reduction in consumer demand; (c) compliance with a recommendation from a government health authority to stay home, self-quarantine, or avoid congregating with others during the state of emergency; (d) local, state or federal government response to COVID-19; (e) or otherwise caused by the COVID-19 pandemic. In all events, the financial impacts related to COVID-19 shall be documented as described in paragraph B (1) above.

Section 3. Violations. This Ordinance shall be punishable as set forth in Section 4-1.10 of Chapter 1 of Title 4 of the Maywood Municipal Code. In addition, this Ordinance grants a defense in the event that an unlawful detainer action is commenced in violation of this Ordinance.

Section 4. Remain in Effect. This Ordinance shall remain in effect for the duration of the local emergency.

Section 5. Uncodified. This Ordinance shall not be codified.

Section 6. Severability. If any provision of this ordinance is held invalid by a court of competent jurisdiction, such provision shall be considered a separate, distinct and independent provision and such holding shall not affect the validity and enforceability of the other provisions of this ordinance.

Section 7. Certification and Publication. The City Clerk shall certify to the adoption of this Ordinance and shall cause the same to be published or posted in the manner prescribed by law.

Section 8. Effective Date. This Ordinance is adopted as an urgency ordinance for the immediate preservation of the public peace, health and safety within the meaning of Government Code Section 36937(b), and therefore shall be passed immediately upon its introduction and shall become effective immediately upon its adoption by a minimum 4/5 vote of the City Council.

Section 9. Duration. This Ordinance shall remain in effect until it is superseded by another Ordinance adopted by the City Council.

PASSED, APPROVED AND ADOPTED this 17th day of March, 2020.

Eduardo De La Riva, Mayor

ATTEST:

Gerardo Mayagoitia, City Clerk

APPROVED AS TO FORM:

Roxanne Diaz, City Attorney

I, Gerardo Mayagoitia, City Clerk of the City of Maywood, do hereby certify that the foregoing Urgency Ordinance was adopted at a special meeting of the City Council of the City of Maywood held on the 17th day of March, 2020 by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

Gerardo Mayagoitia, City Clerk



AGENDA 3
ITEM NO. _____

CITY COUNCIL STAFF REPORT

DATE: MARCH 17, 2020

TO: HONORABLE MAYOR, AND MEMBERS OF THE CITY COUNCIL

FROM: ROXANNE DIAZ, CITY ATTORNEY

RE: CONSIDERATION OF AN URGENCY ORDINANCE
ESTABLISHING RESTRICTIONS ON EXCESSIVE AND
UNJUSTIFIED INCREASES IN CONSUMER PRICES
DURING A DECLARED EMERGENCY

RECOMMENDATION

Staff recommends that City Council waive full reading of the ordinance, read the ordinance by title only: AN URGENCY ORDINANCE OF THE CITY OF MAYWOOD ESTABLISHING RESTRICTIONS ON EXCESSIVE AND UNJUSTIFIED INCREASES IN CONSUMER PRICES DURING A DECLARED EMERGENCY; and adopt the urgency ordinance by a 4/5 vote.

FISCAL IMPACT

The fiscal impact for the City's response to COVID-19 is being tracked by the Finance department.

LEGAL REVIEW

The City Attorney has reviewed this report.

BACKGROUND/DISCUSSION

The City has been informed of price gouging by local retail markets and convenience stores. For example, social media disclosed that residents are paying extraordinary prices for water, milk, toilet paper, etc.

The proposed urgency ordinance prohibits the practice of price gouging, which is the practice of raising the price off something that is in demand to an unreasonable level because of a local or state emergency.

While the State of California already prevents price gouging pursuant to Penal Code Section 396, cities are not prohibited from adopting their own ordinances. Currently, the State's anti-gouging provisions are in effect by virtue of the Governor's State Declaration of Emergency and this is in place through September 4, 2020.

The proposed ordinance follows several of the provisions of Penal Code 396 and prohibits price gouging on consumer goods and services for a period of 30 day following the proclamation of a local emergency. This means that no person, business, contractor or other entity can sell or offer to sell any consumer good including food items, at a price of more than 10% above the price charged by that person immediately prior to the proclamation of declared emergency. Violators will be subject to the penalty provisions in Section 1-2.01 of the Maywood Municipal Code.

In addition, State Attorney General Becerra has set up a complaint line and anyone who has information regarding potential price gouging or has been a victim of price gouging should call: (800) 952-5225.

URGENCY ORDINANCE NO. 20-02-U

AN URGENCY ORDINANCE OF THE CITY OF MAYWOOD ESTABLISHING RESTRICTIONS ON EXCESSIVE AND UNJUSTIFIED INCREASES IN CONSUMER PRICES DURING A DECLARED EMERGENCY

**THE CITY COUNCIL OF THE CITY OF MAYWOOD DOES ORDAIN AS
FOLLOWS:**

Section 1. Urgency Findings.

A. International, national, state, and local health and governmental authorities are responding to an outbreak of respiratory disease caused by a novel coronavirus named "SARS-CoV-2," and the disease it causes has been named "coronavirus disease 2019," abbreviated COVID-19, ("COVID-19").

B. On March 4, 2020, the Los Angeles County Board of Supervisors and Department of Public Health declared a local emergency and local public health emergency to aid the regional healthcare and governmental community in responding to COVID-19.

C. On March 4, 2020, the Governor of the State of California declared a state of emergency to make additional resources available, formalize emergency actions already underway across multiple state agencies and departments, and help the state prepare for broader spread of COVID-19.

D. On March 13, 2020, the President of the United States of America declared a national emergency and announced that the federal government would make emergency funding available to assist state and local governments in preventing the spread of and addressing the effects of COVID-19.

E. On March 13, 2020, the City Manager, as Directory of Emergency Services, declared a state of local emergency, pursuant to Section 8568 of the California Emergency Services Act and Maywood Municipal Code Section 4-1.06.

F. The Centers for Disease Control and Prevention, the California Department of Health, and the Los Angeles County Department of Public Health have all issued recommendations including but not limited to social distancing, staying home if sick, canceling or postponing large group events, working from home, and other precautions to protect public health and prevent transmission of this communicable virus.

G. There have been reports of "price gouging" - the practice of raising the price of something that's in demand to an unreasonable level - basic household staples since the COVID-19 outbreak.

H. California Penal Code Section 396 makes it illegal for a person, contractor, business, or other entity to increase the price of a product or service item more than ten (10) percent for the following thirty (30) days after a proclamation of a state of emergency declared by the President of the United States or the Governor, or upon the declaration of a local emergency by an official, board, or other governing body vested with authority to make that declaration.

I. Pursuant to California Penal Code Section 396(k), municipalities are authorized to enact local legislation prohibiting excessive and unjustified increases in the prices of essential consumer goods and services when a declared state of emergency results in abnormal disruptions of the market.

J. Article XI, Section 7 of the California Constitution and California Government Code Section 37100 provide the City with authority to enact local ordinances to protect the health, safety, and welfare of its residents; and Government Code Section 36937(b) also authorizes the City Council to adopt an urgency ordinance to become effective immediately upon a four-fifths (4/5) vote, when such an ordinance is necessary for the immediate preservation of public peace, health, and safety.

K. This urgency ordinance is intended to prohibit the act of price gouging in the City. Unless this ordinance takes effect immediately as provided herein, there is a possibility that essential consumer goods and services could be subject to excessive and unjustified increases in the prices that may lead to the detriment of the public health, safety and welfare.

L. For all these reasons, *inter alia*, the City Council finds there is a current and immediate threat to the public health, safety and welfare and that excessive and unjustified increases in the prices of essential consumer goods and services would result in that threat to the public health, safety or welfare absent implementation of the restrictions contained in this ordinance. Accordingly, there is an urgent need for the immediate preservation of the public peace, health, and safety to enact this ordinance on an urgency basis.

Section 2. **Addition of Chapter 14.** A new Chapter 14 ("Price Gouging") is hereby added to Article 1 ("Emergency Organization and Functions") of Title 4 ("Public Safety") of the Maywood Municipal Code to read as follows:

"Chapter 14 - PRICE GOUGING

4-14.01 - Findings and Intent.

The city council hereby finds that during emergencies and major disasters elsewhere, including, but not limited to, earthquakes, fires, floods, or civil disturbances, some merchants have taken unfair advantage of consumers by greatly increasing prices for essential consumer goods and services. While the pricing of consumer goods and

services is generally best left to the marketplace under ordinary conditions, when a declared state of emergency results in abnormal disruptions of the market, the public interest requires that excessive and unjustified increases in the prices of essential consumer goods and services be prohibited. It is the intent of the city council in enacting this article to protect citizens from excessive and unjustified increases in the prices charged during or shortly after an emergency for goods and services that are vital and necessary for the health, safety, and welfare of consumers. Further it is the intent of the city council that this article be liberally construed so that its beneficial purposes may be served.

4-14.02 - Definition.

For the purposes of this chapter, the following terms shall have the following meanings:

BUILDING MATERIALS: Lumber, construction tools, windows, and anything else used in the building or rebuilding of property.

CONSUMER FOOD ITEM: Any article that is used or intended for use for food, drink, confection, or condiment by a person or animal.

DECLARED EMERGENCY: A "local emergency" or "state of emergency" as defined in Chapter 1 of Title 4 of this code.

EMERGENCY SUPPLIES: Includes, but is not limited to, water, flashlights, radios, batteries, candles, blankets, soaps, diapers, temporary shelters, tape, toiletries, plywood, nails, and hammers.

GASOLINE: Any fuel used to power any motor vehicle or power tool.

GOODS: Has the same meaning as defined in subdivision (c) of section 1689.5 of the California Civil Code.

HOUSING: Any rental housing leased on a month to month term.

MEDICAL SUPPLIES: Includes, but is not limited to, prescription and nonprescription medications, bandages, gauze, isopropyl alcohol, and antibacterial products.

REPAIR OR RECONSTRUCTION SERVICES: Services performed by any person who is required to be licensed under the California contractors' state license law (chapter 9 (commencing with section 7000) of division 3 of the California Business and Professions Code), for repairs to residential or commercial property of any type that is damaged as a result of an event that led to a declared emergency or state of war emergency.

TRANSPORTATION, FREIGHT, AND STORAGE SERVICES: Any service that is performed by any company that contracts to move, store, or transport personal or business property or rents equipment for those purposes.

4-14.03 - Prohibition Against Excessive And Unjustified Increases In Consumer Prices During A Declared Emergency.

(a) Consumer Goods And Services:

(i) Upon the proclamation of a declared emergency or an event triggering a state of war emergency, and for a period of thirty (30) days following the proclamation of a declared emergency or the event that triggered a state of war emergency, it is unlawful for a person, contractor, business, or other entity to sell or offer to sell any consumer food items or goods, goods or services used for emergency cleanup, emergency supplies, medical supplies, home heating oil, building materials, housing, transportation, freight, and storage services, or gasoline or other motor fuels for a price of more than ten percent (10%) above the price charged by that person for those goods or services immediately prior to the proclamation of a declared emergency or the event that triggered a state of war emergency.

(ii) A person may increase prices in excess of the amount permitted in subsection (a)(i) of this section if the seller or vendor can demonstrate that the increase in price is directly attributable to additional costs imposed on that person by the supplier of the goods, or directly attributable to additional costs for labor or materials used to provide the services, provided that in those situations where the increase in price is attributable to additional costs imposed by the seller's supplier or additional costs of providing the goods or service during the declared emergency or state of war emergency, the price represents no more than ten percent (10%) above the total of the cost to the seller plus the markup customarily applied by the seller for that good or service in the usual course of business immediately prior to the proclamation of a declared emergency or the event that triggered a state of war emergency.

(iii) A business offering an item for sale at a reduced price immediately prior to the proclamation of a declared emergency or the event triggering a state of war emergency may use the price at which it usually sells the item to calculate the price increase permitted pursuant to this subsection.

(b) Construction, Repair, And Cleanup Services:

(i) Upon the proclamation of a declared emergency or an event triggering a state of war emergency, and for a period of one hundred eighty (180) days following the proclamation of a declared emergency or the event that triggered a state of war emergency, it is unlawful for a contractor to sell or offer to sell any repair or reconstruction services or any services used in emergency cleanup for a price of more than ten percent (10%) above the price charged by that person for those services immediately prior to the proclamation of a declared emergency or the event that triggered a state of war emergency.

(ii) A person may increase prices in excess of the amount permitted in subsection (b)(i) of this section if the seller or vendor can demonstrate that the increase in price is directly attributable to additional costs imposed on that person by the supplier of the goods, or directly attributable to additional costs for labor or materials used to provide the services, provided that in those situations where the increase in price is attributable to the additional costs imposed by the contractor's supplier or additional costs of providing the service during the declared emergency or state of war emergency, the price represents no more than ten percent (10%) above the total of the cost to the contractor plus the markup customarily applied by the contractor for that good or service in the usual course of business immediately prior to the proclamation of a declared emergency or the event that triggered a state of war emergency.

(iii) A business offering an item for sale at a reduced price immediately prior to the proclamation of a declared emergency or the event triggering a state of war emergency may use the price at which it usually sells the item to calculate the price increase permitted pursuant to this subsection.

(c) Hotel And Motel Rates:

(i) Upon the proclamation of a declared emergency or an event triggering a state of war emergency, and for a period of thirty (30) days following the proclamation of a declared emergency or the event that triggered a state of war emergency, it is unlawful for an owner or operator of a hotel or motel to increase the hotel or motel's regular rates, as advertised immediately prior to the proclamation of a declared emergency or the event that triggered a state of war emergency, by more than ten percent (10%).

(ii) A hotel owner or operator may increase prices in excess of the amount permitted by subsection (c)(i) of this section if the owner or operator can prove that the increase in price is directly attributable to additional costs imposed on it for goods or labor used in its business, to seasonal adjustments in rates that are regularly scheduled, or to previously contracted rates.

4-14.04 - Extension of Time Period During Which Prohibition is in Effect.

The provisions of this chapter may be extended for additional 30-day periods by the Director of Emergency Services, Assistant Director of Emergency Services or the City Council, if deemed appropriate to protect public health, safety, or welfare."

Section 3. Severability.

If any section, subsection, sentence, clause, or phrase of this ordinance, or any part thereof, is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance or any part thereof. The City Council hereby declares that it

would have passed each section, subsection, subdivision, paragraph, sentence, clause, or phrase thereof, irrespective of the fact that any one or more section, subsection, subdivision, paragraph, sentence, clause, or phrase would be subsequently declared invalid or unconstitutional.

Section 4. **Compliance with California Environmental Quality Act.** The City Council finds that Ordinance No. ____-U is not subject to the California Environmental Quality Act pursuant to Section 15060(c)(2), constituting an activity that will not result in a direct or reasonably foreseeable indirect physical change in the environment, and pursuant to Section 15060(c)(3) constituting an activity that is not a project as defined in Section 15378.

Section 5. **Effective Date.** This Ordinance is an urgency ordinance for the immediate preservation of the public peace, health, and safety within the meaning of Government Code Section 36937(b); and therefore shall be passed immediately upon its introduction and shall become effective immediately upon its adoption.

Section 6. **Certification and Publication.** The City Clerk shall certify to the adoption of this Ordinance and shall cause the same to be published or posted in the manner prescribed by law.

PASSED, APPROVED AND ADOPTED this 17th day of March, 2020.

Eduardo De La Riva, Mayor

ATTEST:

Gerardo Mayagoitia, City Clerk

APPROVED AS TO FORM:

Roxanne Diaz, City Attorney

I, Gerardo Mayagoitia, City Clerk of the City of Maywood, do hereby certify that the foregoing Urgency Ordinance was adopted at a regular meeting of the City Council of the City of Maywood held on the 17th day of March, 2020 by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

Gerardo Mayagoitia, City Clerk