

**CITY COUNCIL OF MONTEREY PARK  
AND THE CITY COUNCIL ACTING ON BEHALF OF THE SUCCESSOR AGENCY  
OF THE FORMER REDEVELOPMENT AGENCY**

**AGENDA**

**THIS IS A JOINT SPECIAL AND REGULAR CITY COUNCIL MEETING  
BOTH MEETINGS WILL BE CALLED TO ORDER AT 6:30 P.M.  
(THE REGULAR MEETING WILL NOT BE SEPARATELY CALLED TO ORDER)**

**THE SPECIAL MEETING AND REGULAR MEETING WILL BE COMBINED  
FOR PURPOSES OF ACTION TAKEN AND OFFICIAL MINUTES**

**Wednesday  
July 15, 2020  
6:30 p.m.**

**EXECUTIVE ORDER NO. N-29-20**

These meetings will be conducted pursuant to Section 3 of Executive Order No. N-29-20 issued by Governor Newsom on March 17, 2020.

Accordingly, Councilmembers will be provided with a meeting login number and conference call number; they will not be physically present at council chambers.

Pursuant to the governor's order, the public may provide public comment utilizing the methods set forth below.

Note that city hall is currently closed to the public. You will not be admitted to city hall.

**MISSION STATEMENT**

The mission of the City of Monterey Park is to provide excellent services to enhance the quality of life for our entire community.

**GENERAL INFORMATION**

Documents related to an Agenda item are available to the public in the City Clerk's Office located at 320 West Newmark Avenue, Monterey Park, CA 91754, during normal business hours and the City's website at <http://www.montereypark.ca.gov/AgendaCenter/City-Council-17>.

The public may watch the meeting live on the city's cable channel MPKTV (AT&T U-verse, channel 99 or Charter Communications, channel 182) or by visiting the city's website at <http://www.montereypark.ca.gov/133/City-Council-Meeting-Videos>.

This Agenda includes items considered by the City Council acting on behalf of the Successor Agency of the former Monterey Park Redevelopment Agency which dissolved February 1, 2012. Successor Agency matters will include the notation of "SA" next to the Agenda Item Number.

**PUBLIC PARTICIPATION**

In accordance with Executive Order No. N-29-20 and guidance from the California Department of Public Health on gatherings, remote public participation is allowed in the following ways:

Via Email

Public comment will be accepted up to an hour before the meeting via email to [mpclerk@montereypark.ca.gov](mailto:mpclerk@montereypark.ca.gov) and read into the record during public comment, when feasible. We request that written communications be limited to not more than 50 words.

Via Telephone

Public comment may be submitted via telephone during the meeting, before the close of public comment, by calling (888) 788-0099 or (877) 853-5247 and entering Zoom Meeting ID: 985 8980 9672 then press pound (#). When prompted to enter participation ID number press pound (#) again. If participants would like to make a public comment they will enter “\*9” then the Clerk’s office will be notified and you will be in the rotation to make a public comment. Participants are encouraged to join the meeting 15 minutes before the start of the meeting. You may speak up to 5 minutes on Agenda item. Speakers will not be allowed to combine time. The Mayor and City Council may change the amount of time allowed for speakers. As part of the virtual meeting protocols, anonymous persons will not be allowed to provide public comment.

Important Disclaimer

When a participant calls in to join the meeting, their name and/or phone number will be visible to all participants. Note that all public meetings will be recorded.

**CALL TO ORDER** Mayor

**FLAG SALUTE** Mayor

**ROLL CALL** Peter Chan, Hans Liang, Henry Lo, Fred Sornoso, Yvonne Yiu

**AGENDA ADDITIONS, DELETIONS, CHANGES AND ADOPTIONS**

**PUBLIC COMMUNICATIONS:**

While all comments are welcome, the Brown Act does not allow the City Council to take action on any item not on the agenda. The Council may briefly respond to comments after Public Communications is closed. Persons may, in addition to any other matter within the City Council's subject-matter jurisdiction, comment on Agenda Items at this time. If you provide public comment on a specific Agenda item at this time, however, you cannot later provide comments at the time the Agenda Item is considered.

**[1.] PRESENTATION**

**1-A. INTRODUCTION OF ECONOMIC DEVELOPMENT MANAGER - JOSEPH TORRES**

**[2.] OLD BUSINESS – None.**

**[3.] CONSENT CALENDAR ITEMS NOS. 3A-3C**

**3-A. MONTHLY INVESTMENT REPORT – JUNE 2020**

It is recommended that the City Council:

- (1) Receive and file the monthly investment report; and
- (2) Take such additional, related, action that may be desirable.

**3-B. WAIVE FURTHER READING AND ADOPT ORDINANCES REGARDING IMPLEMENTING A BUSINESS RECOVERY PROGRAM FOR RESTARTING THE LOCAL ECONOMY**

It is recommended that the City Council:

- (1) Waive second reading and adopt an ordinance amending the Monterey Park Municipal Code (“MPMC”) to restructure the Monterey Park Planning Agency;
- (2) Waive second reading and adopt the an ordinance implementing Phase I of the Monterey Park Business Recovery Program; or;
- (3) Taking such additional, related, action that may be desirable.

**3-C. WAIVE FURTHER READING AND ADOPT AN ORDINANCE AMENDING MONTEREY PARK MUNICIPAL CODE (“MPMC”) BY AMENDING CHAPTER 3.100 “PUBLIC WORKS CONTRACTS”**

It is recommended that the City Council:

- (1) Waive second reading and adopt the an ordinance amending Chapter 3.100 of the Monterey Park Municipal Code governing informal bidding of public works contracts; or
- (2) Taking such additional, related, action that may be desirable.

**[4.] PUBLIC HEARING**

**4-A. CONSIDERATION OF COSTS RESULTING FROM ABATING WEED NUISANCES AND AUTHORIZING COLLECTION VIA SPECIAL ASSESSMENT (PUBLIC HEARING)**

It is recommended that the City Council consider:

- (1) Opening the public hearing, receiving public comment, closing the public hearing;
- (2) Adopting the attached Resolution approving the Weed Abatement Clearance Charge List and authorizing collection of such costs through special assessment; and/or
- (3) Take such additional, related, action that may be desirable.

**4-B. CONSIDERATION AND POSSIBLE ACTION REGARDING IMPLEMENTING PHASE II OF THE 2020 MONTEREY PARK BUSINESS RECOVERY PROGRAM FOR RESTARTING THE LOCAL ECONOMY**

It is recommended that the City Council consider:

- (1) Opening a public hearing regarding Phase II of the 2020 Monterey Park Business Recovery Program (the "Program");
- (2) After receiving verbal and written testimony, close the public hearing;
- (3) After discussing the evidence, adopt an urgency ordinance implementing the Program immediately upon a 4/5s vote;
- (4) Introduce and waive first reading of an ordinance implementing the Program. Second reading and adoption would occur on August 5, 2020;
- (5) If appropriate, provide direction to the City Manager for placing additional items to be integrated into the Program on a future City Council meeting agenda; and
- (6) Or, taking such additional, related, action that may be desirable.

CEQA (California Environmental Quality Act):

The proposed Program was reviewed pursuant to the California Environmental Quality Act (Public Resources Code §§ 21000, *et seq.*, "CEQA") and the regulations promulgated thereunder (14 Cal. Code of Regulations §§15000, *et seq.*, the "CEQA Guidelines"). Based upon that review, these Ordinances are exempt from further review pursuant to CEQA Guidelines § 15269(a) because the protection of public and private property is necessary to maintain service essential to the public, health and welfare.<sup>1</sup> Additionally, these Ordinances are exempt pursuant to CEQA Guidelines §15061(b)(3) because it can be seen with certainty that there is no possibility that the Ordinances, by themselves, may have a significant effect on the environment. Any project utilizing the Program will undergo separate CEQA review.

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<sup>1</sup> CEQA findings regarding an anticipated imminent emergency are valid (see *CalBeach Advocates v. City of Solana Beach* (2002) 103 Cal.App.4th 529).

**[5.] NEW BUSINESS – None.**

**[6.] COUNCIL COMMUNICATIONS AND MAYOR/COUNCIL AND AGENCY MATTERS**

**6-A. MANTA RAYS POSSIBLE LEASE OF GEORGE ELDER POOL (REQUESTED BY MAYOR PRO TEM CHAN)**

**[7.] CLOSED SESSION (IF REQUIRED; CITY ATTORNEY TO ANNOUNCE)**

**ADJOURN**



# City Council Staff Report

**DATE:** July 15, 2020

**AGENDA ITEM NO:** Consent Calendar  
Agenda Item 3-A

**TO:** The Honorable Mayor and City Council  
**FROM:** Joseph Leon, City Treasurer  
**SUBJECT:** Monthly Investment Report – June 2020

**RECOMMENDATION:** It is recommended that the City Council:  
(1) Receive and file the monthly investment report; and  
(2) Take such additional, related, action that may be desirable.

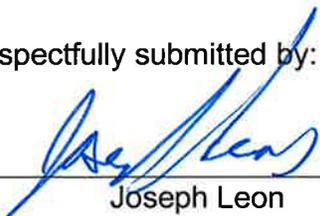
**EXECUTIVE SUMMARY:**

As of June 30, 2020 invested funds for the City of Monterey Park is \$96,818,906.18.

**BACKGROUND:**

In accordance with the City's Investment Policy, a monthly investment report is presented to the City Council showing the types of investments, dates of maturities, amounts of deposits, rates of interest, and the current market values for securities with maturity more than 12 months. The attached monthly investment report includes a summary investment report for the LA County Pooled Investment Fund, which displays the composition by type for the entire pooled investment fund.

Respectfully submitted by:



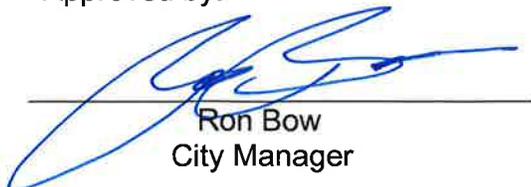
Joseph Leon  
City Treasurer

Prepared by:



Martha Garcia  
Director of Management Services

Approved by:



Ron Bow  
City Manager

**CITY OF MONTEREY PARK  
INVESTMENT REPORT  
AS OF JUNE 30, 2020**

**INVESTMENTS PORTFOLIO PROFILE:**

**TOTAL BALANCE AT 6/30/2020** **\$ 96,818,906.18**

**INVESTMENT COMPOSITION**

(1) **LA COUNTY POOLED INVESTMENT FUND** ON DEMAND 0.980% **\$ 4,738,626.14**  
*(See Schedule A for LA County Pool Composition)*

(2) **LOCAL AGENCY INVESTMENT FUND** ON DEMAND 1.430% **\$ 88,020,280.04**

(3) <b><u>CERTIFICATES OF DEPOSIT</u></b>	<u>Purchase Date</u>	<u>Maturity Date</u>	<u>Interest Rate</u>		
1	PREFERRED BANK	09/30/19	09/03/20	2.00%	140,000
2	ALLY BANK MIDVALE	10/06/17	10/05/20	1.95%	245,000
3	AMERICAN FIRST CREDIT UNION	03/06/20	03/07/22	1.60%	245,000
4	CAPITAL ONE NATL BANK	10/25/17	10/26/20	2.00%	245,000
5	CITIBANK NATIONAL BANK	02/07/19	02/08/21	2.65%	245,000
6	DIRECT CFED CREDIT UNION	11/22/17	11/23/20	2.00%	245,000
7	DISCOVER BANK	09/01/17	09/01/20	1.90%	245,000
8	ENVISION CREDIT UNION	06/07/19	06/07/21	2.50%	245,000
9	FIRST SOURCE FED CREDIT UNION	10/08/19	03/26/21	1.95%	245,000
10	GOLDMAN SACHS BANK	10/18/17	10/19/20	1.95%	245,000
11	GUARANTY BANK	03/15/18	09/15/20	2.40%	245,000
12	IBERIABANK	05/30/18	11/30/20	2.70%	245,000
13	MORGAN STANLEY PRIVATE BANK	02/27/20	02/28/22	1.70%	245,000
14	NATIONWIDE BANK	11/30/17	08/31/20	2.00%	245,000
15	THIRD FED SAVINGS & LOAN	12/21/17	12/21/20	2.10%	245,000
16	UNIVERSITY IOWA CMNTY	04/30/18	04/30/21	2.75%	245,000
17	WELLS FARGO BANK	02/13/19	02/16/21	2.65%	245,000
<i>Total CDs (17)</i>			2.165%	<b><u>\$ 4,060,000.00</u></b>	

**OTHER INFORMATION:**

**BANK BALANCE:** <sup>(1)</sup> \$ 12,301,766.31

AVERAGE MATURITY DAYS 11

AVERAGE INTEREST RATE FOR THE MONTH 1.439%

**THE CITY'S INVESTMENT HAS SUFFICIENT LIQUIDITY TO MEET THE CITY'S EXPENDITURE REQUIREMENTS FOR THE NEXT 180 DAYS. THE 180-DAY LIQUIDITY DISCLOSURE IS REQUIRED PER GOVERNMENT CODE 53646.**

**ESTIMATED INTEREST EARNINGS FOR 2019-2020** \$ 1,501,026.00

**THERE HAVE BEEN NO VARIANCES TO THE INVESTMENT POLICY.**

*(1) Bank balance is maintained to cover outstanding warrants, payroll checks and on-going operating costs.*

POOLED SURPLUS AND SPECIFIC PURPOSE INVESTMENTS  
AS OF MAY 31, 2020

SCHEDULE A

<u>PORTFOLIO PROFILE</u>	<u>Pooled Surplus Investments</u>	<u>Specific Purpose Investments</u>
Inventory Balance at 5/31/20		
At Cost	\$ 36,316,122,801	\$ 112,808,187
At Market	\$ 36,418,950,417	\$ 116,722,005
Repurchase Agreements	\$ -	\$ -
Reverse Repurchase Agreements	\$ -	\$ -
Composition by Security Type:		
Certificates of Deposit	8.54%	17.73%
United States Government and Agency Obligations	67.83%	40.97%
Bankers Acceptances	0.00%	0.00%
Commercial Paper	23.13%	0.00%
Municipal Obligations	0.22%	3.11%
Corporate and Deposit Notes	0.28%	0.00%
Repurchase Agreements	0.00%	0.00%
Asset-Backed	0.00%	0.00%
Other	0.00%	38.19%
1-60 days	33.90%	17.73%
61 days-1 year	32.10%	38.19%
Over 1 year	34.00%	44.08%
Weighted Average Days to Maturity	623	



## City Council Staff Report

DATE: July 15, 2020

AGENDA ITEM NO: Consent Calendar  
Agenda Item 3-B

**TO:** The Honorable Mayor and City Council  
**FROM:** Mark A. McAvoy, Director of Public Works/City Engineer  
**SUBJECT:** Waive further reading and adopt Ordinances regarding implementing a Business Recovery Program for restarting the local economy

### **RECOMMENDATION:**

It is recommended that the City Council consider:

1. Waive second reading and adopt the proposed ordinances; and/or
2. Taking such additional, related, action that may be desirable.

### **EXECUTIVE SUMMARY:**

The Ordinance was introduced at the July 1, 2020 City Council meeting. On July 1, 2020, the City Council conducted the first reading. The original staff report (from July 1, 2020) is attached for reference. Second reading and adoption of this Ordinance is recommended; it will take effect in 30 days.

Respectfully submitted and prepared by:

  
\_\_\_\_\_  
Ron Bow  
City Manager

Reviewed by:

  
\_\_\_\_\_  
Karl H. Berger  
Assistant  
City Attorney

Attachments:

1. Draft Ordinances
2. July 1, 2020 Staff Report

**ATTACHMENT 1**  
Draft Ordinances

**ORDINANCE NO. XXXX**

**AN ORDINANCE AMENDING THE MONTEREY PARK MUNICIPAL CODE TO REVISE THE DUTIES AND RESPONSIBILITIES OF THE PLANNING COMMISSION AND DESIGN REVIEW BOARD.**

**THE COUNCIL DOES ORDAIN AS FOLLOWS:**

**SECTION 1.** *Findings.* The City Council finds, determines and declares as follows:

- A. The City Council believes that it is in the public interest for the City to implement regulations to facilitate the rapid recovery of the local economy, promote additional economic growth, and mitigate the effects of the COVID-19 Pandemic;
- B. Regulations are needed to efficiently implement development projects that will create jobs, invest in the local economy, assist in recovery, and protect the public welfare;
- C. A review of the Monterey Park Municipal Code (“MPMC”) suggests that land use planning and permitting should be more efficient. While the City Council believes that it is in the public interest for land use powers to be exercised by the Planning Commission, the City Council is ultimately responsible for implementing the General Plan (and Land Use Element) for the public welfare. Accordingly, the City Council should retain certain land use authority so that it can directly exercise the City’s Planning Agency powers;
- D. Further review of the historical functions of the design review board (“DRB”), and its effect on land use projects, suggest that its role should be revised and updated. Standards that it is charged with implementing are more than 30 years old and unlikely to meet current land use expectations. Moreover, authorizing the DRB to exercise certain land use powers – after the Planning Commission or City Council have already considered a project – provides unnecessary cost and expense to property owners who seek to develop their properties. Its role should be advisory to the Planning Commission and, under some circumstances, the Planning Commission.

**SECTION 2.** Chapter 2.56 of the MPMC is amended in its entirety to read as follows:

**MONTEREY PARK PLANNING AGENCY**

2.56.010. **Planning Commission.** Pursuant to Government Code § 65100, a planning commission is created. Except as otherwise provided, the City Council delegates authority to the Planning Commission as follows:

- A. The Planning Commission may act as the City's Planning Agency in accordance with Government Code §§ 6500, *et seq.*
- B. The Planning Commission must receive and expeditiously act on all assignments made by City Council resolution or minute order.
- C. The Planning Commission may make recommendations to the City Council regarding land use regulations including, without limitation, amendments to the General Plan or this Code.
- D. The Planning Commission may administer Title 21 of this Code as specified.

2.56.020. **Exceptions.** Notwithstanding any other regulation in this chapter, the City Council will act as the City's Planning Agency as follows:

- A. By resolution for any particular project or land use consideration.
- B. For all public projects requiring findings of General Plan consistency in accordance with Government Code § 65402.
- C. For all projects requiring a zone change; zone map amendment; or development agreement.
- D. For any project appealed to the City Council from the Planning Commission.

2.56.030. **Design Review Board.** Pursuant to Government Code § 65100, a design review board is created to advise the Planning Commission or City Council as follows:

- A. For projects referred to it by the City Planner, the Planning Commission, or the City Council, the design review board will:
  - 1. Recommend to the Planning Commission regarding the design of new buildings and structures and modifications to existing buildings and structures and facades, signage, landscaping, open space, pedestrian walkways and appurtenances, and the use of colors, materials, and construction requirements.

2. Advise the Planning Commission regarding high quality design standards in buildings and development projects to conserve the value of buildings, encourage the most appropriate use of land and maintain a proper relationship between the taxable value of real property and cost of providing municipal services.
- B. On an annual basis, or as requested by the City Planner, the Planning Commission, or the City Council, the design review board will:
1. Recommend methods to the Planning Commission for implementing the interdependence of land values and aesthetics to abet excellence of development of property and maintenance of values of surrounding properties.
  2. Recommend to the Planning Commission reasonable controls over the character and design of private building, structures and open spaces to ensure that public benefits from use of public funds for streets and public facilities are protected.
- C. Receive and expeditiously act on all assignments made by the City Council or Planning Commission.

2.56.040. **Design Review Membership.** Notwithstanding any other provision of this Code, members of the design review board may either be residents of the city or persons maintaining a business license in the city. It is recommended members have a background as an architect, planner, landscape architect, civil engineer building contractor, or a practicing licensed electrician.”

**SECTION 3.** All references in MPMC Title 21 to “design review board” are changed to “Planning Commission.” MPMC Chapter 2.78 and § 21.02.080 are repealed.

**SECTION 4. Conflicts.** In the event of a conflict between the provisions of this Ordinance and the provisions the MPMC, any other ordinance, or any resolution, the provisions of this Ordinance and the Program govern. The City Planner is authorized to resolve any ambiguities in the manner set forth in the MPMC. Any such determination must be forwarded to the City Council as an informational item when practicable.

**SECTION 5. Environmental Review.** This Ordinance was reviewed pursuant to the California Environmental Quality Act (Public Resources Code §§ 21000, *et seq.*, “CEQA”) and the regulations promulgated thereunder (14 Cal. Code of Regulations §§15000, *et seq.*, the “CEQA Guidelines”). Based upon that review, this Ordinance is exempt from further review pursuant to CEQA Guidelines § 15269(a) because the protection of public and private property is necessary to maintain service essential to the public, health and welfare.<sup>1</sup> Additionally, this

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<sup>1</sup> CEQA findings regarding an anticipated imminent emergency are valid (see *CalBeach Advocates v. City of Solana Beach* (2002) 103 Cal.App.4th 529).

Ordinance is exempt pursuant to CEQA Guidelines §15061(b)(3) because it can be seen with certainty that there is no possibility that the Ordinance may have a significant effect on the environment.

**SECTION 6. Construction.** This Ordinance must be broadly construed to achieve the purposes stated in this Ordinance. It is the City Council's intent that the provisions of this Ordinance be interpreted or implemented by the City and others in a manner that facilitates the purposes set forth in this Ordinance.

**SECTION 7. Severability.** If any part of this Ordinance or its application is deemed invalid by a court of competent jurisdiction, the City Council intends that such invalidity will not affect the effectiveness of the remaining provisions or applications and, to this end, the provisions of this Ordinance are severable.

**SECTION 8. Recordation.** The City Clerk, or his duly appointed deputy, is directed to certify the passage and adoption of this Ordinance; cause it to be entered into the City of Monterey Park's book of original ordinances; make a note of the passage and adoption in the records of this meeting; and, within fifteen (15) days after the passage and adoption of this Ordinance, and cause it to be published or posted in accordance with California law.

**SECTION 9. Electronic Signatures.** This Ordinance may be executed with electronic signatures in accordance with Government Code §16.5. Such electronic signatures will be treated in all respects as having the same effect as an original signature.

**SECTION 10. Effective Date.** This Ordinance will become effective 30 days after its adoption.

**THIS ORDINANCE WAS DULY PASSED, APPROVED, AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF MONTEREY PARK AT ITS REGULAR MEETING OF JULY 15, 2020.**

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Hans Liang, Mayor

ATTEST:

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Vincent D. Chang, City Clerk

APPROVED AS TO FORM:



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Karl H. Berger, Assistant City Attorney

**ORDINANCE NO. XXXX**

**AN UNCODIFIED ORDINANCE ADOPTING NON-LAND USE REGULATIONS FOR IMPLEMENTING THE MONTEREY PARK BUSINESS RECOVERY PROGRAM.**

**THE COUNCIL DOES ORDAIN AS FOLLOWS:**

**SECTION 1.** *Findings.* The City Council finds, determines and declares as follows:

- A. On March 11, 2020, at 7:00 p.m., the City declared a state of local emergency due to the COVID-19 Pandemic (the “Emergency”). That Emergency was ratified by Resolution No. 12142, adopted March 18, 2020; extended on April 15, 2020 by Resolution No. 12151; and further extended on June 3, 2020 by Resolution No. 12164;
- B. An additional local emergency was declared on May 31, 2020 related to the unrest associated with the tragic death of George Floyd in Minneapolis, MN. That emergency was ratified on June 3, 2020 by Resolution No. 12165 (also part of the “Emergency”);
- C. The City Council takes notice of the well-documented secondary effects of the Emergency include record-high unemployment rates, bankruptcy, and other disastrous effects upon the national, state, and local economies. It will be many months before the complete extent of this economic devastation is clarified;
- D. The City Council believes that it is in the public interest for the City to implement regulations to facilitate the rapid recovery of the local economy, promote additional economic growth, and mitigate the effects of the Emergency;
- E. Regulations are needed to efficiently implement development projects that will create jobs, invest in the local economy, assist in recovery, and protect the public welfare;
- F. The City Manager and City Planner may recommend changes to this Ordinance – including codification within the Monterey Park Municipal Code – when it is practicable; and
- G. The regulations adopted by this Ordinance are intended to be implemented temporarily in order to accelerate City approvals and promote local businesses. This Ordinance will be uncodified and referred to as the “Monterey Park Business Recovery Program.”

**SECTION 3.** *Monterey Park Business Recovery Program.* The Monterey Park Business Recovery Program (the “Program”) attached as Exhibit “A,” and incorporated by reference is adopted by the City Council as if fully set forth.

**SECTION 4.** *Conflicts.* In the event of a conflict between the provisions of this Ordinance and the provisions the MPMC, any other ordinance, or any resolution, the provisions of this Ordinance and the Program govern. The City Planner is authorized to resolve any ambiguities in the manner set forth in the MPMC. Any such determination must be forwarded to the City Council as an informational item when practicable.

**SECTION 5.** *Environmental Review.* This Ordinance was reviewed pursuant to the California Environmental Quality Act (Public Resources Code §§ 21000, *et seq.*, “CEQA”) and the regulations promulgated thereunder (14 Cal. Code of Regulations §§15000, *et seq.*, the “CEQA Guidelines”). Based upon that review, this Ordinance is exempt from further review pursuant to CEQA Guidelines § 15269(a) because the protection of public and private property is necessary to maintain service essential to the public, health and welfare.<sup>1</sup> Additionally, this Ordinance is exempt pursuant to CEQA Guidelines §15061(b)(3) because it can be seen with certainty that there is no possibility that the Ordinance may have a significant effect on the environment.

**SECTION 6.** *Sunset Clause.* The Council finds that it is in the best interest of the public safety, welfare and convenience of the City to implement this Ordinance during, at least, the Emergency. To ensure that the City Manager reviews the MPMC as contemplated by this Ordinance, this Ordinance will automatically be repealed and will become ineffective on December 31, 2020, unless the City Council takes additional action to extend the effectiveness of this Ordinance or supersedes it via a subsequently adopted Ordinance amending the MPMC.

**SECTION 7.** *Construction.* This Ordinance must be broadly construed to achieve the purposes stated in this Ordinance. It is the City Council’s intent that the provisions of this Ordinance be interpreted or implemented by the City and others in a manner that facilitates the purposes set forth in this Ordinance.

**SECTION 8.** *Severability.* If any part of this Ordinance or its application is deemed invalid by a court of competent jurisdiction, the City Council intends that such invalidity will not affect the effectiveness of the remaining provisions or applications and, to this end, the provisions of this Ordinance are severable.

**SECTION 9.** *Recordation.* The City Clerk, or his duly appointed deputy, is directed to certify the passage and adoption of this Ordinance; cause it to be entered into the City of Monterey Park’s book of original ordinances; make a note of the passage and adoption in the records of this meeting; and, within fifteen (15) days after the passage and adoption of this Ordinance, and cause it to be published or posted in accordance with California law.

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<sup>1</sup> CEQA findings regarding an anticipated imminent emergency are valid (see *CalBeach Advocates v. City of Solana Beach* (2002) 103 Cal.App.4th 529).

**SECTION 11.** *Electronic Signatures.* This Ordinance may be executed with electronic signatures in accordance with Government Code §16.5. Such electronic signatures will be treated in all respects as having the same effect as an original signature.

**SECTION 10.** *Effective Date.* This Ordinance will become effective 30 days after its adoption.

**THIS ORDINANCE WAS DULY PASSED, APPROVED, AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF MONTEREY PARK AT ITS REGULAR MEETING OF JULY 15, 2020.**

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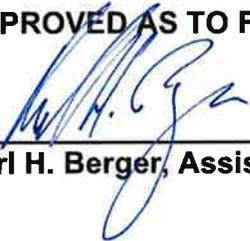
**Hans Liang, Mayor**

**ATTEST:**

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**Vincent D. Chang, City Clerk**

**APPROVED AS TO FORM:**



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**Karl H. Berger, Assistant City Attorney**

## EXHIBIT A

### MONTEREY PARK BUSINESS RECOVERY PROGRAM

BRP1 Reg. 010. *Definitions.* Notwithstanding any definition set forth in the Monterey Park Municipal Code ("MPMC") and unless the contrary is stated or clearly appears from the context, the definitions set forth below govern the construction of words and phrases used in the Monterey Park Business Recovery Program. Words and phrases not defined below will be as set forth in the MPMC.

"ABC license" means the license issued by the California Department of Alcoholic Beverage Control.

"Building Official" means the Building Official of the City of Monterey Park as designated by the City Manager.

"City Planner" means the City Planner as designated within the MPMC or such person authorized by the City Manager in writing.

"Discretionary Permit" means any discretionary permit or action required by the MPMC or by any Specific Plan.

"Entertainment or entertainment establishment" means the organized action of providing amusement or enjoyment to invited members of the public. Examples include, without limitation, presentations, readings, performances, or musical renditions. Such entertainment may be provided free of charge or for a fee.

"Licensed Design Professional" means the California Licensed Architect or Engineer, as applicable, identified as such on the building permit application and accompanying plans.

"Outdoor Temporary Event" includes Temporary Outdoor Dining and Temporary Outdoor Retail Sales Events.

"Program" means this Monterey Park Business Recovery Program.

"Public place" means an area open to the public, or an alley, plaza, park, or parking lot, or an automobile, whether moving or not, or a building open to the general public including one that serves food or drink, or provides entertainment.

"Self-Certification," "Self-Certify" or "Self-Certified" means a submittal to the Building Official that is (1) made by a Licensed Design Professional identified in the building permit application; (2) accompanies plans filed with the Building Official by that Licensed Design Professional; and (3) for which the Licensed Design Professional attests such plans (a) do not contain any false information; (b) comply with all applicable law including, without limitation, the MPMC; and (c)

were prepared by or under the direct supervision of, and signed and stamped by, that Licensed Design Professional.

“Temporary Outdoor Dining” means outdoor dining located within the City right of way pursuant to a permit and/or is required to secure off-site parking or other outdoor dining for which the property does not have the required number of on-site parking spaces. Temporary Outdoor Dining is only allowed in conjunction with a permitted restaurant and is only be permitted to utilize Temporary Outdoor Structures/Facilities. Temporary Outdoor Dining requires a permit and is only allowed for such time commensurate with the time that temporary parking is provided.

“Temporary Outdoor Retail Sales Events” means outdoor retail sales events conducted outdoors on the same premises as, and are consistent in character with, an existing retail store use. These events require a permit and may be allowed up to a total of 30 days in any twelve-month period. Temporary Outdoor Retail Sales Events can only be permitted to utilize Temporary Outdoor Structure/Facilities and must comply with the temporary parking requirements.

“Temporary Outdoor Structure/Facilities” includes awnings or canopies made of material or wood, tents, shade umbrellas, and similar types of structures that can be constructed and removed within a seven day period. Temporary Outdoor Structure/Facilities also include lighting and heating improvements that can be constructed and removed within a seven day period. Any applicant for Temporary Outdoor Structure/Facilities must sign an acknowledgement that the Temporary Outdoor Structure/Facilities can be removed within a seven day period. All Temporary Outdoor Structure/Facilities must meet all zoning, building, fire, health and other applicable law.

“Temporary Use Permits” are permits allowing Temporary Outdoor Dining, Temporary Outdoor Retail Sales Events, and temporary parking associated with such uses.

BRP1 Reg. 020. *Outdoor Temporary Event Permits.*

- A. The City Planner is authorized to receive applications, issue and revoke temporary use permits, and otherwise implement the Business Recovery Program as set forth in this Section.
- B. Persons who obtain a permit pursuant to this Section are not also required to obtain separate permits in the MPMC, e.g., encroachment permits.
- C. Permits Required. It is unlawful for any person to conduct, sponsor, or knowingly participate in any outdoor temporary event without a valid permit issued pursuant to this Program. Possessing a valid temporary use permit does not excuse any failure to otherwise comply with this code or other applicable law.

- D. Nature of the Permit. Permits issued pursuant to this Program are subject to the following limitations:
1. Permits are personal to the applicant not to the premises upon which the event is conducted. No other individual may conduct an event under the authority of a permit issued to another. For purposes of this Program, a permit is not deemed transferred or assigned if the permittee is a corporation or partnership which remains under the control of the same individual or individuals who controlled it at the time the permit was approved;
  2. Permits cannot be transferred or assigned;
  3. No property rights are conferred to the permittee;
  4. There is no right of renewal; and
  5. Permits are specific to the location for which it is applied. A new permit must be obtained in the event there is a relocation of the permitted activity or a major alteration to the existing facility.
- E. Fees. Except as otherwise provided by federal, state, or local laws, or other City Council authorized restrictions, all fees applicable to this Program including, without limitation, fees for using public places, will be established by City Council Resolution.
- F. Temporary Outdoor Dining Permits. Temporary Outdoor Dining permits are subject to the following:
1. Permits cannot be issued for outdoor dining in a street or alley;
  2. To provide for adequate pedestrian circulation, temporary outdoor dining must maintain a minimum of four feet of clearance between dining furnishings and any curblines, street furniture, or above ground utilities. A minimum of 50 feet of clearance must be maintained between dining furnishings and the centerline of intersecting perpendicular driveways, alleys or streets to provide for adequate vehicle sight, unless a lesser distance is determined by the City Planner to be adequate for the protection of the public safety.
  3. Tables and chairs used for outdoor dining must be of substantial materials. Tables may be a maximum of three feet in diameter if round and three feet along the longest side if rectilinear. All such furnishings must be stored indoors after hours of operation unless otherwise determined by the City Planner.

4. Temporary Outdoor Structure/Facilities, without lettering, may also be permitted by the City Planner.
5. No outdoor dining, including furnishings and signs, may block visibility of display windows or signage of adjacent businesses unless written consent of any affected adjacent business owner to block visibility is obtained by the applicant and provided to the City Planner.
6. The permittee must maintain the outdoor dining area in a clean and safe condition at all times, including properly disposing of all trash generated by the operation.
7. The City may charge a rental fee for use of public places.
8. An applicant must submit a diagram drawn to scale and dimensioned showing the proposed location of the outdoor dining with all seating and signage.
9. An applicant must submit a graphical depiction, such as sample photographs, depicting the appearance of the chairs, tables, and other equipment proposed to be used in the outdoor dining area.
10. An applicant must submit the proposed days and times of operating the outdoor dining area.

G. Application for Permit.

1. Permit applications must be filed by a natural person.
2. Permit applications must be in a form prescribed by the City Planner, signed under penalty of perjury, and, for all permits, will contain all of the following information: the name, mailing address, and daytime and evening telephone numbers of the person filing the application; if the permit is obtained on behalf of an organization, the name, mailing address, and daytime telephone number of the organization; and if requested by the City Planner, written documentation of the authority under which the applicant is applying for the permit on behalf of the organization; the name, mailing address, and daytime and evening telephone number of an alternate person to contact if an emergency arises and the applicant is unavailable; and such additional information required by the City Planner.

H. Review by City Departments. After an application is filed, the City Planner will immediately forward the application to the following city departments for review:

1. The fire department;
  2. The police department; and
  3. The public works department.
- I. Special Conditions. Upon receiving an application, these departments will consider the application, conduct any necessary investigation, and provide the City Planner with written recommendations regarding:
1. Any special conditions for a permit; and
  2. Any additional recommendations.
  3. The reviewing officers must complete their review within the time that the City Planner must make a decision on the application.
- J. Time for review. Except as provided in this Program, completed applications for a permit authorizing an event should be denied, approved, or conditionally approved by the City Planner within 14 business days after receiving the completed application. Unless otherwise provided, the applicant's acceptance of the approval or conditional approval must be received by the City Planner within five business days after the applicant was served with notification of the decision and before any entertainment or outdoor dining may occur.
- K. Issuing Permits. The City Planner should issue a permit if
1. The application was complete in accordance with this Program;
  2. There are no grounds for denying the permit; and
  3. The applicant accepts the permit approval or conditional approval in writing.
- L. Permit Denial. A permit may be denied for the following reasons:
1. The application is incomplete;
  2. The applicant failed to provide reasonable supplemental application information requested by the City Planner;
  3. Information submitted by the applicant is materially false;
  4. The application is submitted by a person with a suspended permit or whose permit was revoked;

5. The location of the proposed temporary outdoor event does not conform to the requirements of this Program;
6. Issuing the permit would endanger public health, safety, or welfare as determined by the City Planner.

M. General Permit Conditions.

1. Unless suspended or revoked, permits issued pursuant to this Program have a term of 30 days. Should a permit expire, the permittee must comply with this Program to obtain a new permit.
2. Permittees must enter into a hold harmless agreement, in a form approved by the city attorney, with the city which will, in part, indemnify city, its officers, employees, and agents, from any liability arising from a permit issued pursuant to this Program.
3. Insurance Requirements. Permittees must obtain liability insurance in accordance with City Council resolution.

N. Alcohol Related Conditions. For Temporary Outdoor Events with an ABC license, the permit will include the following conditions:

1. The exterior lighting of the parking area must be kept at an intensity of between one and two foot-candles so as to provide adequate lighting for patrons while not disturbing surrounding residential or commercial areas.
2. The applicant must obtain and maintain all licenses required by the Alcohol Beverage Control Act (Business & Professions Code §§ 23300, *et seq.*).
3. The applicant must post a sign in a clear and conspicuous location listing a phone number at which a responsible party may be contacted during all open hours of the entertainment establishment to address any concerns of the community regarding noise at the entertainment establishment. Said contact's name and phone number must also be available through entertainment establishment staff at all times.
4. If complaints are received regarding excessive noise, lighting, building access, or other disturbances associated with alcohol service, the City Planner may, in its discretion, take action to review the permit including, without limitation, adding conditions or revoking the permit.

O. Subsequent Conditions. The City Planner may condition previously issued permits upon learning or discovering facts not previously disclosed or reasonably discoverable.

- P. Display of permits. The permit issued pursuant to this Program must at all times be posted in a conspicuous place and be immediately produced upon the request of any police or code enforcement officer of the city.
- Q. Emergency Suspension of Permit. The City Planner and any sworn public safety officer may temporarily suspend a permit whenever there is an emergency that requires such action to protect public safety.
- R. Appeals. The City Manager's decision is final. There is no right to a City Council appeal. The final decision will inform the appellant that the decision is a final decision and that the time for judicial review is governed by Code of Civil Procedure § 1094.6.

BRP1 Reg. 030. *Self-Certification Program.*

- A. Purpose: To expedite building permit approvals by allowing Licensed Design Professionals to voluntarily self-certify building plans.
- B. Eligible Participants: To participate in the Program, applicants must be registered and be in good standing as a Licensed Design Professional with the State of California.
- C. Insurance Requirements: For a project to be accepted for Self-Certification, the Licensed Design Professional is required to furnish the City Planner insurance in accordance with the City's requirements and not less than the valuation of the permitted project.
- D. Optional Prescreening Process: The Licensed Design Professional who intends on filing an application with a Self-Certification may meet with the City Planner, or designee, for a courtesy prescreening of the proposed project to ensure the submittal is complete.
- E. Submittal Requirements: The Licensed Design Professional who intends on filing an application with a Self-Certification must submit that application to participate in the program to the Building Official. Self-Certified plans must contain all the information listed in the corresponding City of Monterey Park handout regarding building design criteria. A Self-Certification form and a "hold harmless" letter, in a form approved by the City Attorney, must be completed in its entirety and submitted for each project by the design team and the property owner. The Self-Certification program will be all inclusive, i.e., all construction trade work that requires permits for the project must be Self-Certified. Each page of the plans submitted, must be wet stamped and signed by a Licensed Design Professional for each applicable trade.
- F. Non-Building Division Approvals: The Licensed Design Professional who intends

on filing an application with a Self-Certification must provide documentation to the Building Official demonstrating final approvals from any affected City department before the Building Official issues a permit. That Licensed Design Professional must also provide documentation to the Building Official appropriate approvals of any applicable "outside" agency. Those outside agencies include, without limitation, the following: Los Angeles County Health Department and affected school districts.

- G. Fees: All fees required by the Program will be established by City Council resolution.
- H. Permit Issuance: Applications that have met all the criteria of this voluntary Self-Certification program will be issued a building permit the same day of completed and approved application submittal.
- I. Inspection Protocol: All code-required State of California or City of Monterey Park inspections are required.
- J. Audits: All Self-Certified plans are subject to auditing by the Building Official to determine whether plans comply with the applicable California and City of Monterey Park laws, codes, rules, and regulations. If plans are found not to comply, then the Licensed Design Professional who intends on filing an application with a Self-Certification will ensure compliance. If compliance is not obtained within a reasonable amount of time, then the Building Official may report the non-compliance items to the appropriate licensing board with the State of California.

**ATTACHMENT 2**  
July 1, 2020 Staff Report



## City Council Staff Report

**DATE:** July 1, 2020

**AGENDA ITEM NO:** Old Business  
Agenda Item 2-A

**TO:** The Honorable Mayor and City Council  
**FROM:** Ron Bow, City Manager  
**SUBJECT:** Consideration and possible action regarding implementing a Business Recovery Program for restarting the local economy (continued from June 17, 2020)

### **RECOMMENDATION:**

It is recommended that the City Council consider:

1. Planning Agency restructure:
  - a. Adopting an uncodified Urgency Ordinance upon 4/5s vote implementing the Planning Agency restructure; and
  - b. Introducing and waiving first reading of an uncodified Ordinance implementing the Planning Agency restructure.
2. Business Recovery Program Phase I:
  - a. Adopting an uncodified Urgency Ordinance upon 4/5s vote implementing the Planning Agency restructure; and
  - b. Introducing and waiving first reading of an uncodified Ordinance implementing the Planning Agency restructure.
3. Business Recovery Program Phase II: Choosing temporary land use regulations to be considered during a July 15, 2020 public hearing based upon this staff report and City Council direction.
4. Or, taking such additional, related, action that may be desirable.

### **CEQA:**

The proposed Planning Agency and Business Recovery Program Phase I Ordinances were reviewed pursuant to the California Environmental Quality Act (Public Resources

Code §§ 21000, *et seq.*, “CEQA”) and the regulations promulgated thereunder (14 Cal. Code of Regulations §§15000, *et seq.*, the “CEQA Guidelines”). Based upon that review, these Ordinances are exempt from further review pursuant to CEQA Guidelines § 15269(a) because the protection of public and private property is necessary to maintain service essential to the public, health and welfare.<sup>1</sup> Additionally, these Ordinances are exempt pursuant to CEQA Guidelines §15061(b)(3) because it can be seen with certainty that there is no possibility that the Ordinances may have a significant effect on the environment.

### **EXECUTIVE SUMMARY:**

On June 17, 2020, the City Council considered a Monterey Park Business Recovery Program (staff report, without attachments, is included for reference). During the course of the meeting, individual City Councilmembers expressed concern regarding the length of the temporary Business Recovery Program (approximately one year) and having the City Council act as the Planning Agency for all matters. Ultimately, the City Council continued the matter until July 1<sup>st</sup> to further consider the matter during an anticipated public hearing to be held on that date. As explained below, staff reconvened after that meeting to provide the City Council with some alternative policy decisions regarding the Monterey Park Planning Agency; temporary permitting for outdoor dining and retail sales; and options for land use regulations that could be adopted following a public hearing on July 15, 2020.

### **DISCUSSION**

A context for proposed Business Recovery Program is included with the June 17<sup>th</sup> staff report. Based upon discussions during the June 17<sup>th</sup> Council meeting, I am now proposing a slightly different approach for City Council consideration.

#### ➤ *Planning Agency Ordinances*

Included with this agenda item is an urgency and regular ordinance that would amend the Monterey Park Municipal Code (“MPMC”) regarding the Monterey Park Planning Commission and Design Review Board (“DRB”). As discussed on June 17<sup>th</sup>, the City Council is the final decision-maker for all land use decisions within the City of Monterey Park. The Council renders those decisions either directly (e.g., by adopting zone regulations by ordinance) or upon appeal from, e.g., the Planning Commission. Both the California Constitution and the California Government Code confer this responsibility on the City Council.

While not required by law, the City Council chose to delegate many land use functions to the Planning Commission and DRB through the MPMC. The Government Code allows the City Council to specify what kinds of land use authority is delegated to the Planning Commission and DRB, i.e., the City Council can be very specific about how such boards

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<sup>1</sup> CEQA findings regarding an anticipated imminent emergency are valid (see *CalBeach Advocates v. City of Solana Beach* (2002) 103 Cal.App.4th 529).

and commissions function. Based upon the City Council's discussion, staff reviewed the powers delegated to the Planning Commission and DRB from the standpoint of making planning decisions more efficient for applicants.

The DRB was originally created<sup>2</sup> in 1984 and is generally authorized to review proposed projects from a design standpoint, i.e., the aesthetics of a project. When doing so, it is required to apply design standards that the City last reviewed in 1987.<sup>3</sup> It is unclear whether those design standards were ever considered by the Planning Commission or City Council in the 33 years since they were adopted. While the City Council reviewed and revised the DRB's authority between 1984 and the mid-1990s, there have been no substantive changes since 2000.

MPMC § 21.02.080 states that

“In accordance with Government Code §§ 6500, et seq., the Planning Commission of the City of Monterey Park will administer this title and its amendments. The Planning Commission has the authority and responsibility to hear and act upon all matters as specified in this title and any other responsibilities authorized by this Code.”

This is a broad delegation of authority; most functions related to land use planning are within the Planning Commission's duties and responsibility.

During the June 17<sup>th</sup> meeting, I explained to the City Council that the City Manager's office frequently hears complaints regarding the City's process for land use decisions. In sum, this is because an applicant – for discretionary decisions – must first seek approval from the Planning Commission and then, separately, seek DRB approval for the same project. Persons disagreeing with decisions rendered by either the Planning Commission or DRB could separately appeal to the City Council. Once the City Council makes a decision, however, that does not mean that the process is complete: even if the City Council approves a project upon appeal, the City still cannot issue building permits until an applicant receives approvals from the DRB.

The proposed ordinance for the City's Planning Agency would amend the MPMC to clarify the delegation of authority to the Planning Commission and DRB. In substance, the ordinance would make the DRB advisory to the Planning Commission; once the Planning Commission made a land use decision, that decision would become final unless appealed to the City Council. Separately, the City Council would retain primary authority to approve zone changes and development agreements; to make General Plan findings regarding public projects; be the final decision-maker for projects upon appeal; and, in its discretion, act as the Planning Agency for particular projects.

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<sup>2</sup> Ordinance No. 1615, adopted February 27, 1984.

<sup>3</sup> Adopted by City Council Resolution No. 9084 on March 31, 1987 which incorporates Planning Commission Resolution No. 6-87 adopted March 5, 1987.

It is anticipated that these changes would help (1) speed the process for City consideration of land use projects; (2) reduce the number of separate discretionary approvals needed for a particular project; and (3) ensure that the City Council remains the final decision-maker regarding any project that is appealed.

➤ *Business Recovery Program Phase I*

Separately, an urgency and regular ordinance would implement non-land use regulations to help implement Phase I of the Business Recovery Program. These proposals were briefly discussed on June 17<sup>th</sup> and are being treated separately from the draft ordinances regarding the Planning Agency restructuring.

The Business Recovery Program Phase I would consist of two substantive matters: (1) an outdoor dining and retail permitting process; and (2) a self-certification process. Both of these were explained in the June 17<sup>th</sup> staff report and during the City Council meeting. The end date for Phase I would be December 31, 2020. If Phase I assists in restarting the local economy, the City Council could consider implementing these policies as a permanent part of the MPMC or simply extend the temporary regulations.

➤ *Business Recovery Program Phase II*

After the June 17<sup>th</sup> meeting, it became apparent the City Council wished to consider other regulations affecting land use. While draft regulations are prepared (see attached), I thought it would be better for the City Council to identify which specific policies should be considered during a public hearing that is now scheduled for the July 15, 2020 City Council meeting. To help the City Council with identifying which policies should move forward, each of the following is identified as a "Policy" with a number designation, e.g., "Policy 1." If the City Council wishes to consider any of these Policies, then it should simply designate which one(s) as part of a motion.

Policy 1: Parking. The proposed regulations would allow the City Planner to approve parking through different methods other than the standards set forth in the MPMC. One method, for example, would be to approve parking standards based upon a parking needs study prepared by a licensed professional for a specific project.

Policy 2: Administrative Use Permit – Alcohol Licenses. Currently, persons seeking an alcohol license must, in addition to obtain the license from the California Department of Alcohol Beverage Control ("ABC"), request a conditional use permit ("CUP") from the City (via the Planning Commission). The CUP acts as the City's consent for ABC (also known as a public convenience and necessity letter or "PCN"). A CUP, however, is not required by California law; a PCN can be issued administratively.

Policy 3: Administrative Use Permit - Drive-throughs. Authorize the City Engineer to review and approve drive-through plans submitted by applicants where the underlying zoning allows for such uses. Those plans must be prepared by a design professional

(e.g., a traffic engineer or architect) and could allow for relaxed setbacks if needed to accommodate vehicle queuing to help avoid stacking of vehicles onto public roads.

**Policy 5: Business Recovery Development agreement Zone (“BRDZ”).** Not all projects fit neatly into the MPMC’s zoning regulations. Some projects may be more desirable to the City and the needs of such projects could be met through a negotiated development agreement. That development agreement could then also implement changes to the underlying zoning through an overlay zone (currently, California law provides that development agreements are just that: contracts; they do not act as zone changes). The BRDZ would allow some flexibility in the standards of an underlying zoning on a case-by-case basis.

**Policy 6: Noise Disturbances.** The MPMC’s noise regulations currently govern noise based upon decibel readings. Temporary noise regulations would provide a general definition of “noise” – rather than relying exclusively upon decibel readings – and allow the City to approve temporary (not more than three months) noise generation.

**Policy 7: California Building Code (“CBC”).** Most structures in the City were constructed before the current version of the CBC became effective (the CBC is adopted in three year cycles; it was last adopted in 2019). When business owners and developers seek new permits for, e.g., renovations or expansions, of existing buildings, they frequently are required to make structural changes elsewhere within the building in order to comply with the current CBC. The proposed temporary amendments to the CBC would allow design professionals to submit studies to the Building Official for approval demonstrating that the current structures met the minimum requirements of the current CBC. This would help streamline the City’s process for issuing building permits.

**Policy 8: Public Projects.** Allow the City Council to exempt public projects from zoning regulations under certain circumstances. There are circumstances where a public project would require separate land use approvals to be constructed. While infrequent, a public project may not completely comply with the City’s existing zoning regulations. Under such circumstances, the Business Recovery Program would allow the City Council to exempt the project from zoning regulations.

The above policies are the ones that are currently noticed for the July 15<sup>th</sup> public hearing. However, the City Council is certainly welcomed to provide additional or alternative direction to staff regarding the Phase II Business Recovery Program. Any policies not listed above may require a separate public hearing to be considered.

**FISCAL IMPACT:**

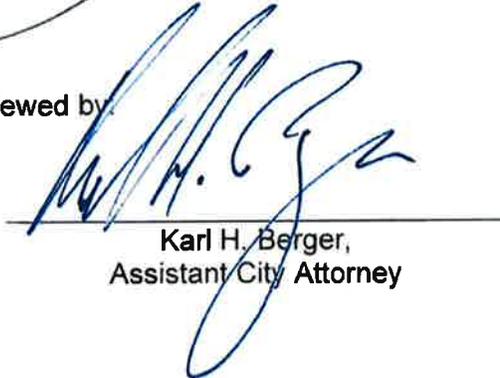
There are no direct foreseeable costs associated with adopting these Ordinances.

Respectfully submitted and prepared by:



Ron Bow, City Manager

Reviewed by:



Karl H. Berger,  
Assistant City Attorney

Attachment(s)

1. June 17<sup>th</sup> Staff Report (without attachments);
2. Urgency and Regular Ordinance reorganizing the Monterey Park Planning Agency;
3. Urgency and Regular Ordinance implementing Phase I of the Business Recovery Program; and
4. *DRAFT* regulations for Policies 1-8.

**ATTACHMENT 1**  
**June 17th Staff Report (without attachments)**



## City Council Staff Report

DATE: June 17, 2020

AGENDA ITEM NO: New Business  
Agenda Item 5-B

**TO:** The Honorable Mayor and City Council  
**FROM:** Ron Bow, City Manager  
**SUBJECT:** Consideration and possible action regarding implementing a Business Recovery Program for restarting the local economy

### **RECOMMENDATION:**

It is recommended that the City Council consider:

1. Adopting an uncodified Urgency Ordinance upon 4/5s vote implementing a Business Recovery Program;
2. Introducing and waiving first reading of an uncodified Ordinance implementing a Business Recovery Program; and
3. Taking such additional, related, action that may be desirable.

### **CEQA:**

These Ordinances were reviewed pursuant to the California Environmental Quality Act (Public Resources Code §§ 21000, *et seq.*, "CEQA") and the regulations promulgated thereunder (14 Cal. Code of Regulations §§15000, *et seq.*, the "CEQA Guidelines"). Based upon that review, these Ordinances are exempt from further review pursuant to CEQA Guidelines § 15269(a) because the protection of public and private property is necessary to maintain service essential to the public, health and welfare.<sup>1</sup> Additionally, these Ordinances are exempt pursuant to CEQA Guidelines §15061(b)(3) because it can be seen with certainty that there is no possibility that the Ordinances may have a significant effect on the environment.

### **EXECUTIVE SUMMARY:**

On March 11, 2020, the City of Monterey Park declared a local emergency because of the COVID-19 Pandemic. It also declared a local emergency on May 31, 2020 because of the community unrest resulting from the death of George Floyd. These national, state, and local emergencies resulted in devastating impacts to the economy including, without limitation, unemployment rates unmatched since the Great Depression. Many economic forecasts predict that the United States already entered into recession. To help assist the restart of the City's local economy, the City Council may wish to consider implementing the proposed Business Recovery Program.

<sup>1</sup> CEQA findings regarding an anticipated imminent emergency are valid (see *CalBeach Advocates v. City of Solana Beach* (2002) 103 Cal.App.4th 529).

## **DISCUSSION**

Since the COVID-19 Pandemic started, the City Council was clear that public health and safety was the City's foremost priority. That resulted in the City reacting to the Pandemic by cancelling public events; closing public facilities, and taking other measures calculated to help ensure that City employees and the general public were not unnecessarily exposed to any spread of the coronavirus. The City is now entering into a second phase for responding to the Pandemic: protection and promotion of the public welfare by helping restart the local economy.

During a series of special meetings in May, the City Council considered the City's budget and financial status for the end of Fiscal Year 2019-20 and the projections for Fiscal Year 2020-21. The City's financial status is grim. FY 2019-20 will end with a potential \$3.1M General Fund shortfall; and the reduction in tax revenue for FY 2020-21 will amount to approximately \$1.8M.

The outlook for the City's local economy, i.e., private businesses, may be even bleaker. Many economists assert that the Nation already entered a recession.<sup>2</sup> This potential is certainly reflected in the City's budget projections.

To help assist the local economy, the City Manager asked Department Directors to suggest various changes to the City's existing policies that would help "cut through the red tape" in government. Those recommendations were assembled into a "Business Recovery Program" that is now presented to the City Council for consideration. Ordinarily, these policy changes would be provided to the City Council as stand-alone items, i.e., each one of these proposed policy changes would be considered as individual items for the City Council over a series of separate meetings. These, however, are not ordinary times.

If the City Council seeks to provide some immediate relief to local businesses, then it should consider approving the Business Recovery Program as set forth in the attached ordinances. If adopted, the Ordinances will initiate additional policy considerations for the City Council that will be provided at the July 1, 2020 regular meeting. The first part of the Business Recovery Program is described below.

### **➤ *Land Use/Planning Decisions***

The Business Recovery Program would implement several substantial changes in decision-making regarding proposed developments.

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<sup>2</sup> "A recession is a significant decline in economic activity spread across the economy, lasting more than a few months, normally visible in production, employment, real income, and other indicators." – National Bureau of Economic Research (reporting on the 2007 Great Recession).

- **Planning Agency**

Currently, the Monterey Park Municipal Code ("MPMC") delegates land use planning authority to the Planning Commission and Design Review Board ("DRB"). Decisions from those two subordinate commissions may be appealed to the City Council which acts as the final decision-maker. There is no legal requirement, however, for the City Council to delegate such authority; it can act as the City's Planning Agency by itself. If adopted, the draft Ordinances would cause the City Council act as the Monterey Park Planning Agency.

Now, development projects are frequently delayed for months so that the Planning Commission can consider project applications. Even after the Planning Commission approves a project, that project must still ordinarily obtain the DRB's approval before the City can issue building permits for a project. This proposal would allow development projects requiring discretionary land use decision-making to go directly to the City Council for consideration.

If the City Council acts as the Planning Agency, months of delay for development projects can be avoided. That is because the City Council's consideration of a project would be the City's final decision; there would be no need for a stop at either the Planning Commission or DRB. This would significantly reduce the time period for developers to obtain a final decision regarding proposed projects.

- **City Council approved projects**

The Business Recovery Program would also allow all projects that were already approved by the City Council to be deemed approved for all purposes. Currently, projects that were appealed to the City Council may still require additional discretionary approvals from, e.g., the DRB, before the City can issue a building permit. This further delays the construction time for projects and costs applicants additional money.

- **Self-Certification**

A frequent complaint among applicants is the delay in having building plans reviewed and approved by the City. The Business Recovery Program proposes a voluntary self-certification process by which applicants could self-certify their building plans. In sum, this program would allow design professionals (e.g., architects and engineers) to certify plans for building applications as being correct; complying with the law; and prepared by that licensed professional. Currently, design professionals often rely upon the City's independent review of plans to correct any deficiencies in submitted plans. Practically, that both delays the time for processing plans (since it results in multiple corrections) and allows the design professional to further charge their clients for corrections. Self-certification places the burden on the design professionals to submit correct plans from the outset. And any problems found in the plans during the City's inspection of a project would be the fault of the design professional; corrections required by such errors would

be paid for by the design professional. This program – in other jurisdictions – has led to increased accountability and efficiency for private development projects.

➤ *Public Projects*

Public projects support the local economy by infusing public money into the construction industry. Such projects result in employment of high-paid workers, help suppliers, and otherwise benefit the general public. The Business Recovery Program proposes two substantive changes for public projects: (1) modifications to the informal bid process which also increases the contract signing authority for the City Manager (considered under a separate agenda item); and (2) allowing the City Council to exempt public projects from zoning regulations under certain circumstances. As to the second item, there are circumstances where a public project would require separate land use approvals to be constructed. The most common is a report from the City's Planning Agency that a project complies with the Monterey Park General Plan. That could now be addressed by the City Council acting as the Planning Agency (rather than the Planning Commission). Less frequently, a public project may not completely comply with the City's existing zoning regulations. Under such circumstances, the Business Recovery Program would allow the City Council to exempt the project from zoning regulations.

➤ *Outdoor Dining Permits*

Because of the various COVID-19 related Health Orders governing dining establishments, indoor dining is limited throughout the City. This is a result of the physical distancing requirements; limitations on occupancy (usually a quarter of the approved occupancy load); and personal protection equipment (e.g., masks) needs.

A recommendation incorporated into the Business Recovery Program is for the City to issue outdoor dining permits for businesses. This would allow various sales (such as dining) on public right-of-ways including, for example, sidewalks and public parking lots.

Most scientific data developed during the Pandemic show that outdoor activities – where wind, sunlight, and open spaces interfere with the spread of the coronavirus – significantly reduce the likelihood of exposure to COVID-19. Accordingly, outdoor events assist commercial establishments by increasing patronage while also adhering to Health Order requirements.

If adopted, the Business Recovery Program would allow these permits to be issued administratively by the City Planner. Any decisions by the City Planner could be appealed to the City Council.

➤ *Additional Recommendations*

These Ordinances would adopt the first part of the Business Recovery Program as described above. They would also direct the City Manager to schedule public hearings to consider the following changes to the City's existing land use regulations:

- **Parking standards.** Among other considerations, whether to allow tandem parking; vehicle lift stations; off-site parking; or an adjustment of parking requirements based upon a parking study completed by licensed professionals.
- **Development Agreements.** Whether to consider adopting overlay zones that would allow flexibility in development standards via a development agreement.
- **Setback Requirements.** Whether setback requirements may be varied either administratively or via approval by the Monterey Park Planning Agency.
- **Administrative Approval for Alcohol.** Consideration of whether establishments serving alcohol may be approved on an administrative level rather than requiring a conditional use permit.
- **One-Stop Permitting.** Consideration of combining various boards and commissions with discretionary authority over land use regulations in order to reduce time frame within which a development may be approved. Among other things, consider whether existing MPMC regulations may be consolidated.

Any of these proposed changes to the City's zoning regulations require a public hearing. If the City Council adopts these Ordinance, a public hearing would be scheduled for July 1, 2020 to consider any amendments. A public hearing would also be scheduled for July 1, 2020 to consider any proposed fees for permit processing (as described in the Business Recovery Program).

The Business Recovery Program, as described above, is set forth in two uncodified Ordinances. One is an urgency ordinance that would take effect immediately upon a 4/5s vote of the City Council; the other is a regular ordinance. Second reading and adoption of the regular ordinance would occur on July 1, 2020. These Ordinances would sunset on June 30, 2021 unless they are terminated, superseded, or extended before that date. This would help ensure that there was immediate assistance to the local economy but also allow the City Council to consider each of the proposed elements of the Business Recovery Program as separate items between now and 2021.

While the City is facing its own budget challenges, the impact to the community is likely more significant. Private developers (whether for large-scale projects or residential homes) should not be required to experience the typical red tape of government. And existing businesses should expect rapid assistance from the City when it comes to reopening. The Business Recovery Program – and its next phase – will help fulfill the City's duty to promote public welfare while also protecting public health and safety.

**FISCAL IMPACT:**

There are no direct foreseeable costs associated with adopting these Ordinances.

Respectfully submitted and prepared by:

  
\_\_\_\_\_  
Ron Bow, City Manager

Reviewed by:

  
\_\_\_\_\_  
Karl H. Berger,  
Assistant City Attorney

**Attachment(s)**

1. Urgency and Regular Ordinance adopting the Monterey Park Business Recovery Program

**ATTACHMENT 2**  
**Urgency and Regular Ordinance reorganizing the**  
**Monterey Park Planning Agency**

**ORDINANCE NO. XXXX**

**AN URGENCY ORDINANCE AMENDING THE MONTEREY PARK MUNICIPAL CODE TO REVISE THE DUTIES AND RESPONSIBILITIES OF THE PLANNING COMMISSION AND DESIGN REVIEW BOARD.**

**THE COUNCIL DOES ORDAIN AS FOLLOWS:**

**SECTION 1.** *Findings.* The City Council finds, determines and declares as follows:

- A. On March 11, 2020, at 7:00 p.m., the City declared a state of local emergency due to the COVID-19 Pandemic (the "Emergency"). That Emergency was ratified by Resolution No. 12142, adopted March 18, 2020; extended on April 15, 2020 by Resolution No. 12151; and further extended on June 3, 2020 by Resolution No. 12164.
- B. An additional local emergency was declared on May 31, 2020 related to the unrest associated with the tragic death of George Floyd in Minneapolis, MN. That emergency was ratified on June 3, 2020 by Resolution No. 12165 (also part of the "Emergency").
- C. The City Council takes notice of the well-documented secondary effects of the Emergency include record-high unemployment rates, bankruptcy, and other disastrous effects upon the national, state, and local economies. It will be many months before the complete extent of this economic devastation is clarified.
- D. The City Council believes that it is in the public interest for the City to implement regulations to facilitate the rapid recovery of the local economy, promote additional economic growth, and mitigate the effects of the Emergency.
- E. Regulations are needed to efficiently implement development projects that will create jobs, invest in the local economy, assist in recovery, and protect the public welfare.
- F. Because of the findings set forth above, the City Council finds that this Ordinance should be adopted on an urgency basis to preserve the public health, safety, and welfare in accordance with Government Code §§ 36934 and 36937(b).
- G. A review of the Monterey Park Municipal Code ("MPMC") suggests that land use planning and permitting should be more efficient. While the City Council believes that it is in the public interest for land use powers to be exercised by the Planning Commission, the City Council is ultimately

responsible for implementing the General Plan (and Land Use Element) for the public welfare. Accordingly, the City Council should retain certain land use authority so that it can directly exercise the City's Planning Agency powers.

- H. Further review of the historical functions of the design review board ("DRB"), and its effect on land use projects, suggest that its role should be revised and updated. Standards that it is charged with implementing are more than 30 years old and unlikely to meet current land use expectations. Moreover, authorizing the DRB to exercise certain land use powers – after the Planning Commission or City Council have already considered a project – provides unnecessary cost and expense to property owners who seek to develop their properties. Its role should be advisory to the Planning Commission and, under some circumstances, the Planning Commission.

**SECTION 2.** Chapter 2.56 of the MPMC is amended in its entirety to read as follows:

"Chapter 2.56

#### **MONTEREY PARK PLANNING AGENCY**

**2.56.010. Planning Commission.** Pursuant to Government Code § 65100, a planning commission is created. Except as otherwise provided, the City Council delegates authority to the Planning Commission as follows:

- A. The Planning Commission may act as the City's Planning Agency in accordance with Government Code §§ 6500, *et seq.*
- B. The Planning Commission must receive and expeditiously act on all assignments made by City Council resolution or minute order.
- C. The Planning Commission may make recommendations to the City Council regarding land use regulations including, without limitation, amendments to the General Plan or this Code.
- D. The Planning Commission may administer Title 21 of this Code as specified.

**2.56.020. Exceptions.** Notwithstanding any other regulation in this chapter, the City Council will act as the City's Planning Agency as follows:

- A. By resolution for any particular project or land use consideration.
- B. For all public projects requiring findings of General Plan consistency in accordance with Government Code § 65402.

- C. For all projects requiring a zone change; zone map amendment; or development agreement.
- D. For any project appealed to the City Council from the Planning Commission.

2.56.030. **Design Review Board.** Pursuant to Government Code § 65100, a design review board is created to advise the Planning Commission or City Council as follows:

- A. For projects referred to it by the City Planner, the Planning Commission, or the City Council, the design review board will:
  - 1. Recommend to the Planning Commission regarding the design of new buildings and structures and modifications to existing buildings and structures and facades, signage, landscaping, open space, pedestrian walkways and appurtenances, and the use of colors, materials, and construction requirements.
  - 2. Advise the Planning Commission regarding high quality design standards in buildings and development projects to conserve the value of buildings, encourage the most appropriate use of land and maintain a proper relationship between the taxable value of real property and cost of providing municipal services.
- B. On an annual basis, or as requested by the City Planner, the Planning Commission, or the City Council, the design review board will:
  - 1. Recommend methods to the Planning Commission for implementing the interdependence of land values and aesthetics to abet excellence of development of property and maintenance of values of surrounding properties.
  - 2. Recommend to the Planning Commission reasonable controls over the character and design of private building, structures and open spaces to ensure that public benefits from use of public funds for streets and public facilities are protected.
- C. Receive and expeditiously act on all assignments made by the City Council or Planning Commission.

2.56.040. **Design Review Membership.** Notwithstanding any other provision of this Code, members of the design review board may either be residents of the city or persons maintaining a business license in the city. It is recommended members have a background as an architect, planner, landscape architect, civil engineer building contractor, or a practicing licensed electrician.”

**SECTION 3.** All references in MPMC Title 21 to “design review board” are changed to

"Planning Commission." MPMC Chapter 2.78 and § 21.02.080 are repealed.

**SECTION 4. Conflicts.** In the event of a conflict between the provisions of this Ordinance and the provisions the MPMC, any other ordinance, or any resolution, the provisions of this Ordinance and the Program govern. The City Planner is authorized to resolve any ambiguities in the manner set forth in the MPMC. Any such determination must be forwarded to the City Council as an informational item when practicable.

**SECTION 5. Environmental Review.** This Ordinance was reviewed pursuant to the California Environmental Quality Act (Public Resources Code §§ 21000, *et seq.*, "CEQA") and the regulations promulgated thereunder (14 Cal. Code of Regulations §§15000, *et seq.*, the "CEQA Guidelines"). Based upon that review, this Ordinance is exempt from further review pursuant to CEQA Guidelines § 15269(a) because the protection of public and private property is necessary to maintain service essential to the public, health and welfare.<sup>1</sup> Additionally, this Ordinance is exempt pursuant to CEQA Guidelines §15061(b)(3) because it can be seen with certainty that there is no possibility that the Ordinance may have a significant effect on the environment.

**SECTION 6. Construction.** This Ordinance must be broadly construed to achieve the purposes stated in this Ordinance. It is the City Council's intent that the provisions of this Ordinance be interpreted or implemented by the City and others in a manner that facilitates the purposes set forth in this Ordinance.

**SECTION 7. Severability.** If any part of this Ordinance or its application is deemed invalid by a court of competent jurisdiction, the City Council intends that such invalidity will not affect the effectiveness of the remaining provisions or applications and, to this end, the provisions of this Ordinance are severable.

**SECTION 8. Recordation.** The City Clerk, or his duly appointed deputy, is directed to certify the passage and adoption of this Ordinance; cause it to be entered into the City of Monterey Park's book of original ordinances; make a note of the passage and adoption in the records of this meeting; and, within fifteen (15) days after the passage and adoption of this Ordinance, and cause it to be published or posted in accordance with California law.

**SECTION 9. Declaration of Urgency.** Based on the findings set forth in Section 1, this is an Urgency Ordinance adopted for the immediate preservation of the public peace, health, safety and welfare.

**SECTION 10. Electronic Signatures.** This Ordinance may be executed with electronic signatures in accordance with Government Code §16.5. Such electronic signatures will be treated in all respects as having the same effect as an original signature.

**SECTION 11. Effective Date.** This Ordinance will become effective immediately

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<sup>1</sup> CEQA findings regarding an anticipated imminent emergency are valid (*see CalBeach Advocates v. City of Solana Beach* (2002) 103 Cal.App.4th 529).

upon adoption pursuant to Government Code §§ 36934 and 36937 for the immediate preservation of the public peace, health, safety, and welfare. Pursuant to those statutes this Ordinance is adopted by fourth-fifths vote of the City Council.

**THIS ORDINANCE WAS DULY PASSED, APPROVED, AND ADOPTED BY  
THE CITY COUNCIL OF THE CITY OF MONTEREY PARK AT ITS REGULAR  
MEETING OF JULY 1, 2020.**

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**Hans Liang, Mayor**

**ATTEST:**

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**Vincent D. Chang, City Clerk**

**APPROVED AS TO FORM:**



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**Karl H. Berger, Assistant City Attorney**

**ORDINANCE NO. XXXX**

**AN ORDINANCE AMENDING THE MONTEREY PARK MUNICIPAL CODE TO REVISE THE DUTIES AND RESPONSIBILITIES OF THE PLANNING COMMISSION AND DESIGN REVIEW BOARD.**

**THE COUNCIL DOES ORDAIN AS FOLLOWS:**

**SECTION 1.** *Findings.* The City Council finds, determines and declares as follows:

- A. The City Council believes that it is in the public interest for the City to implement regulations to facilitate the rapid recovery of the local economy, promote additional economic growth, and mitigate the effects of the COVID-19 Pandemic;
- B. Regulations are needed to efficiently implement development projects that will create jobs, invest in the local economy, assist in recovery, and protect the public welfare;
- C. A review of the Monterey Park Municipal Code ("MPMC") suggests that land use planning and permitting should be more efficient. While the City Council believes that it is in the public interest for land use powers to be exercised by the Planning Commission, the City Council is ultimately responsible for implementing the General Plan (and Land Use Element) for the public welfare. Accordingly, the City Council should retain certain land use authority so that it can directly exercise the City's Planning Agency powers;
- D. Further review of the historical functions of the design review board ("DRB"), and its effect on land use projects, suggest that its role should be revised and updated. Standards that it is charged with implementing are more than 30 years old and unlikely to meet current land use expectations. Moreover, authorizing the DRB to exercise certain land use powers – after the Planning Commission or City Council have already considered a project – provides unnecessary cost and expense to property owners who seek to develop their properties. Its role should be advisory to the Planning Commission and, under some circumstances, the Planning Commission.

**SECTION 2.** Chapter 2.56 of the MPMC is amended in its entirety to read as follows:

"Chapter 2.56

**MONTEREY PARK PLANNING AGENCY**

2.56.010. **Planning Commission.** Pursuant to Government Code § 65100, a planning commission is created. Except as otherwise provided, the City Council delegates authority to the Planning Commission as follows:

- A. The Planning Commission may act as the City's Planning Agency in accordance with Government Code §§ 6500, *et seq.*
- B. The Planning Commission must receive and expeditiously act on all assignments made by City Council resolution or minute order.
- C. The Planning Commission may make recommendations to the City Council regarding land use regulations including, without limitation, amendments to the General Plan or this Code.
- D. The Planning Commission may administer Title 21 of this Code as specified.

2.56.020. **Exceptions.** Notwithstanding any other regulation in this chapter, the City Council will act as the City's Planning Agency as follows:

- A. By resolution for any particular project or land use consideration.
- B. For all public projects requiring findings of General Plan consistency in accordance with Government Code § 65402.
- C. For all projects requiring a zone change; zone map amendment; or development agreement.
- D. For any project appealed to the City Council from the Planning Commission.

2.56.030. **Design Review Board.** Pursuant to Government Code § 65100, a design review board is created to advise the Planning Commission or City Council as follows:

- A. For projects referred to it by the City Planner, the Planning Commission, or the City Council, the design review board will:
  - 1. Recommend to the Planning Commission regarding the design of new buildings and structures and modifications to existing buildings and structures and facades, signage, landscaping, open space, pedestrian walkways and appurtenances, and the use of colors, materials, and construction requirements.

2. Advise the Planning Commission regarding high quality design standards in buildings and development projects to conserve the value of buildings, encourage the most appropriate use of land and maintain a proper relationship between the taxable value of real property and cost of providing municipal services.
- B. On an annual basis, or as requested by the City Planner, the Planning Commission, or the City Council, the design review board will:
1. Recommend methods to the Planning Commission for implementing the interdependence of land values and aesthetics to abet excellence of development of property and maintenance of values of surrounding properties.
  2. Recommend to the Planning Commission reasonable controls over the character and design of private building, structures and open spaces to ensure that public benefits from use of public funds for streets and public facilities are protected.
- C. Receive and expeditiously act on all assignments made by the City Council or Planning Commission.

2.56.040. **Design Review Membership.** Notwithstanding any other provision of this Code, members of the design review board may either be residents of the city or persons maintaining a business license in the city. It is recommended members have a background as an architect, planner, landscape architect, civil engineer building contractor, or a practicing licensed electrician.”

**SECTION 3.** All references in MPMC Title 21 to “design review board” are changed to “Planning Commission.” MPMC Chapter 2.78 and § 21.02.080 are repealed.

**SECTION 4. Conflicts.** In the event of a conflict between the provisions of this Ordinance and the provisions the MPMC, any other ordinance, or any resolution, the provisions of this Ordinance and the Program govern. The City Planner is authorized to resolve any ambiguities in the manner set forth in the MPMC. Any such determination must be forwarded to the City Council as an informational item when practicable.

**SECTION 5. Environmental Review.** This Ordinance was reviewed pursuant to the California Environmental Quality Act (Public Resources Code §§ 21000, *et seq.*, “CEQA”) and the regulations promulgated thereunder (14 Cal. Code of Regulations §§15000, *et seq.*, the “CEQA Guidelines”). Based upon that review, this Ordinance is exempt from further review pursuant to CEQA Guidelines § 15269(a) because the protection of public and private property is necessary to maintain service essential to the public, health and welfare.<sup>1</sup> Additionally, this

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<sup>1</sup> CEQA findings regarding an anticipated imminent emergency are valid (*see CalBeach Advocates v. City of Solana Beach* (2002) 103 Cal.App.4th 529).

Ordinance is exempt pursuant to CEQA Guidelines §15061(b)(3) because it can be seen with certainty that there is no possibility that the Ordinance may have a significant effect on the environment.

**SECTION 6. Construction.** This Ordinance must be broadly construed to achieve the purposes stated in this Ordinance. It is the City Council's intent that the provisions of this Ordinance be interpreted or implemented by the City and others in a manner that facilitates the purposes set forth in this Ordinance.

**SECTION 7. Severability.** If any part of this Ordinance or its application is deemed invalid by a court of competent jurisdiction, the City Council intends that such invalidity will not affect the effectiveness of the remaining provisions or applications and, to this end, the provisions of this Ordinance are severable.

**SECTION 8. Recordation.** The City Clerk, or his duly appointed deputy, is directed to certify the passage and adoption of this Ordinance; cause it to be entered into the City of Monterey Park's book of original ordinances; make a note of the passage and adoption in the records of this meeting; and, within fifteen (15) days after the passage and adoption of this Ordinance, and cause it to be published or posted in accordance with California law.

**SECTION 9. Electronic Signatures.** This Ordinance may be executed with electronic signatures in accordance with Government Code §16.5. Such electronic signatures will be treated in all respects as having the same effect as an original signature.

**SECTION 10. Effective Date.** This Ordinance will become effective 30 days after its adoption.

**THIS ORDINANCE WAS DULY PASSED, APPROVED, AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF MONTEREY PARK AT ITS REGULAR MEETING OF JULY 15, 2020.**

\_\_\_\_\_  
**Hans Liang, Mayor**

**ATTEST:**

\_\_\_\_\_  
**Vincent D. Chang, City Clerk**

**APPROVED AS TO FORM:**

  
\_\_\_\_\_  
**Karl H. Berger, Assistant City Attorney**

**ATTACHMENT 3**  
**Urgency and Regular Ordinance implementing**  
**Phase I of the Business Recovery Program**

**ORDINANCE NO. XXXX**

**AN UNCODIFIED URGENCY ORDINANCE ADOPTING NON-LAND USE REGULATIONS FOR IMPLEMENTING THE MONTEREY PARK BUSINESS RECOVERY PROGRAM.**

**THE COUNCIL DOES ORDAIN AS FOLLOWS:**

**SECTION 1.** *Findings.* The City Council finds, determines and declares as follows:

- A. On March 11, 2020, at 7:00 p.m., the City declared a state of local emergency due to the COVID-19 Pandemic (the "Emergency"). That Emergency was ratified by Resolution No. 12142, adopted March 18, 2020; extended on April 15, 2020 by Resolution No. 12151; and further extended on June 3, 2020 by Resolution No. 12164;
- B. An additional local emergency was declared on May 31, 2020 related to the unrest associated with the tragic death of George Floyd in Minneapolis, MN. That emergency was ratified on June 3, 2020 by Resolution No. 12165 (also part of the "Emergency");
- C. The City Council takes notice of the well-documented secondary effects of the Emergency include record-high unemployment rates, bankruptcy, and other disastrous effects upon the national, state, and local economies. It will be many months before the complete extent of this economic devastation is clarified;
- D. The City Council believes that it is in the public interest for the City to implement regulations to facilitate the rapid recovery of the local economy, promote additional economic growth, and mitigate the effects of the Emergency;
- E. Regulations are needed to efficiently implement development projects that will create jobs, invest in the local economy, assist in recovery, and protect the public welfare;
- F. The City Manager and City Planner may recommend changes to this Ordinance – including codification within the Monterey Park Municipal Code – when it is practicable;
- G. Because of the findings set forth above, the City Council finds that this Ordinance should be adopted on an urgency basis to preserve the public health, safety, and welfare in accordance with Government Code §§ 36934 and 36937(b); and

- H. The regulations adopted by this Ordinance are intended to be implemented temporarily in order to accelerate City approvals and promote local businesses. This Ordinance will be uncodified and referred to as the "Monterey Park Business Recovery Program."

**SECTION 3.** *Monterey Park Business Recovery Program.* The Monterey Park Business Recovery Program (the "Program") attached as Exhibit "A," and incorporated by reference is adopted by the City Council as if fully set forth.

**SECTION 4.** *Conflicts.* In the event of a conflict between the provisions of this Ordinance and the provisions the MPMC, any other ordinance, or any resolution, the provisions of this Ordinance and the Program govern. The City Planner is authorized to resolve any ambiguities in the manner set forth in the MPMC. Any such determination must be forwarded to the City Council as an informational item when practicable.

**SECTION 5.** *Environmental Review.* This Ordinance was reviewed pursuant to the California Environmental Quality Act (Public Resources Code §§ 21000, *et seq.*, "CEQA") and the regulations promulgated thereunder (14 Cal. Code of Regulations §§15000, *et seq.*, the "CEQA Guidelines"). Based upon that review, this Ordinance is exempt from further review pursuant to CEQA Guidelines § 15269(a) because the protection of public and private property is necessary to maintain service essential to the public, health and welfare.<sup>1</sup> Additionally, this Ordinance is exempt pursuant to CEQA Guidelines §15061(b)(3) because it can be seen with certainty that there is no possibility that the Ordinance may have a significant effect on the environment.

**SECTION 6.** *Sunset Clause.* The Council finds that it is in the best interest of the public safety, welfare and convenience of the City to implement this Ordinance during, at least, the Emergency. To ensure that the City Manager reviews the MPMC as contemplated by this Ordinance, this Ordinance will automatically be repealed and will become ineffective on December 31, 2020, unless the City Council takes additional action to extend the effectiveness of this Ordinance or supersedes it via a subsequently adopted Ordinance amending the MPMC.

**SECTION 7.** *Construction.* This Ordinance must be broadly construed to achieve the purposes stated in this Ordinance. It is the City Council's intent that the provisions of this Ordinance be interpreted or implemented by the City and others in a manner that facilitates the purposes set forth in this Ordinance.

**SECTION 8.** *Severability.* If any part of this Ordinance or its application is deemed invalid by a court of competent jurisdiction, the City Council intends that such invalidity will not affect the effectiveness of the remaining provisions or applications and, to this end, the provisions of this Ordinance are severable.

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<sup>1</sup> CEQA findings regarding an anticipated imminent emergency are valid (*see CalBeach Advocates v. City of Solana Beach* (2002) 103 Cal.App.4th 529).

**SECTION 9. Recordation.** The City Clerk, or his duly appointed deputy, is directed to certify the passage and adoption of this Ordinance; cause it to be entered into the City of Monterey Park's book of original ordinances; make a note of the passage and adoption in the records of this meeting; and, within fifteen (15) days after the passage and adoption of this Ordinance, and cause it to be published or posted in accordance with California law.

**SECTION 10. Declaration of Urgency.** Based on the findings set forth in Section 1, this is an Urgency Ordinance adopted for the immediate preservation of the public peace, health, safety and welfare.

**SECTION 11. Electronic Signatures.** This Ordinance may be executed with electronic signatures in accordance with Government Code §16.5. Such electronic signatures will be treated in all respects as having the same effect as an original signature.

**SECTION 12. Effective Date.** This Ordinance will become effective immediately upon adoption pursuant to Government Code §§ 36934 and 36937 for the immediate preservation of the public peace, health, safety, and welfare. Pursuant to those statutes this Ordinance is adopted by fourth-fifths vote of the City Council.

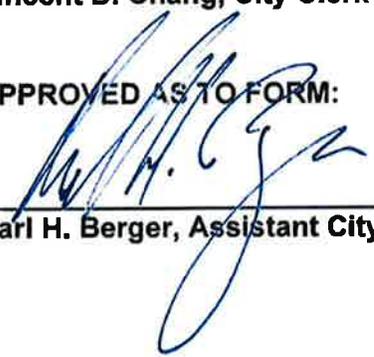
**THIS ORDINANCE WAS DULY PASSED, APPROVED, AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF MONTEREY PARK AT ITS REGULAR MEETING OF JULY 1, 2020.**

\_\_\_\_\_  
**Hans Liang, Mayor**

**ATTEST:**

\_\_\_\_\_  
**Vincent D. Chang, City Clerk**

**APPROVED AS TO FORM:**

  
\_\_\_\_\_  
**Karl H. Berger, Assistant City Attorney**

## EXHIBIT A

### MONTEREY PARK BUSINESS RECOVERY PROGRAM

BRP1 Reg. 010. *Definitions.* Notwithstanding any definition set forth in the Monterey Park Municipal Code ("MPMC") and unless the contrary is stated or clearly appears from the context, the definitions set forth below govern the construction of words and phrases used in the Monterey Park Business Recovery Program. Words and phrases not defined below will be as set forth in the MPMC.

"ABC license" means the license issued by the California Department of Alcoholic Beverage Control.

"Building Official" means the Building Official of the City of Monterey Park as designated by the City Manager.

"City Planner" means the City Planner as designated within the MPMC or such person authorized by the City Manager in writing.

"Discretionary Permit" means any discretionary permit or action required by the MPMC or by any Specific Plan.

"Entertainment or entertainment establishment" means the organized action of providing amusement or enjoyment to invited members of the public. Examples include, without limitation, presentations, readings, performances, or musical renditions. Such entertainment may be provided free of charge or for a fee.

"Licensed Design Professional" means the California Licensed Architect or Engineer, as applicable, identified as such on the building permit application and accompanying plans.

"Outdoor Temporary Event" includes Temporary Outdoor Dining and Temporary Outdoor Retail Sales Events.

"Program" means this Monterey Park Business Recovery Program.

"Public place" means an area open to the public, or an alley, plaza, park, or parking lot, or an automobile, whether moving or not, or a building open to the general public including one that serves food or drink, or provides entertainment.

"Self-Certification," "Self-Certify" or "Self-Certified" means a submittal to the Building Official that is (1) made by a Licensed Design Professional identified in the building permit application; (2) accompanies plans filed with the Building Official by that Licensed Design Professional; and (3) for which the Licensed Design Professional attests such plans (a) do not contain any false information; (b) comply with all applicable law including, without limitation, the MPMC; and (c)

were prepared by or under the direct supervision of, and signed and stamped by, that Licensed Design Professional.

“Temporary Outdoor Dining” means outdoor dining located within the City right of way pursuant to a permit and/or is required to secure off-site parking or other outdoor dining for which the property does not have the required number of on-site parking spaces. Temporary Outdoor Dining is only allowed in conjunction with a permitted restaurant and is only be permitted to utilize Temporary Outdoor Structures/Facilities. Temporary Outdoor Dining requires a permit and is only allowed for such time commensurate with the time that temporary parking is provided.

“Temporary Outdoor Retail Sales Events” means outdoor retail sales events conducted outdoors on the same premises as, and are consistent in character with, an existing retail store use. These events require a permit and may be allowed up to a total of 30 days in any twelve-month period. Temporary Outdoor Retail Sales Events can only be permitted to utilize Temporary Outdoor Structure/Facilities and must comply with the temporary parking requirements.

“Temporary Outdoor Structure/Facilities” includes awnings or canopies made of material or wood, tents, shade umbrellas, and similar types of structures that can be constructed and removed within a seven day period. Temporary Outdoor Structure/Facilities also include lighting and heating improvements that can be constructed and removed within a seven day period. Any applicant for Temporary Outdoor Structure/Facilities must sign an acknowledgement that the Temporary Outdoor Structure/Facilities can be removed within a seven day period. All Temporary Outdoor Structure/Facilities must meet all zoning, building, fire, health and other applicable law.

“Temporary Use Permits” are permits allowing Temporary Outdoor Dining, Temporary Outdoor Retail Sales Events, and temporary parking associated with such uses.

**BRP1 Reg. 020. Outdoor Temporary Event Permits.**

- A. The City Planner is authorized to receive applications, issue and revoke temporary use permits, and otherwise implement the Business Recovery Program as set forth in this Section.
- B. Persons who obtain a permit pursuant to this Section are not also required to obtain separate permits in the MPMC, e.g., encroachment permits.
- C. Permits Required. It is unlawful for any person to conduct, sponsor, or knowingly participate in any outdoor temporary event without a valid permit issued pursuant to this Program. Possessing a valid temporary use permit does not excuse any failure to otherwise comply with this code or other applicable law.

- D. **Nature of the Permit.** Permits issued pursuant to this Program are subject to the following limitations:
1. Permits are personal to the applicant not to the premises upon which the event is conducted. No other individual may conduct an event under the authority of a permit issued to another. For purposes of this Program, a permit is not deemed transferred or assigned if the permittee is a corporation or partnership which remains under the control of the same individual or individuals who controlled it at the time the permit was approved;
  2. Permits cannot be transferred or assigned;
  3. No property rights are conferred to the permittee;
  4. There is no right of renewal; and
  5. Permits are specific to the location for which it is applied. A new permit must be obtained in the event there is a relocation of the permitted activity or a major alteration to the existing facility.
- E. **Fees.** Except as otherwise provided by federal, state, or local laws, or other City Council authorized restrictions, all fees applicable to this Program including, without limitation, fees for using public places, will be established by City Council Resolution.
- F. **Temporary Outdoor Dining Permits.** Temporary Outdoor Dining permits are subject to the following:
1. Permits cannot be issued for outdoor dining in a street or alley;
  2. To provide for adequate pedestrian circulation, temporary outdoor dining must maintain a minimum of four feet of clearance between dining furnishings and any curblin, street furniture, or above ground utilities. A minimum of 50 feet of clearance must be maintained between dining furnishings and the centerline of intersecting perpendicular driveways, alleys or streets to provide for adequate vehicle sight, unless a lesser distance is determined by the City Planner to be adequate for the protection of the public safety.
  3. Tables and chairs used for outdoor dining must be of substantial materials. Tables may be a maximum of three feet in diameter if round and three feet along the longest side if rectilinear. All such furnishings must be stored indoors after hours of operation unless otherwise determined by the City Planner.

4. Temporary Outdoor Structure/Facilities, without lettering, may also be permitted by the City Planner.
5. No outdoor dining, including furnishings and signs, may block visibility of display windows or signage of adjacent businesses unless written consent of any affected adjacent business owner to block visibility is obtained by the applicant and provided to the City Planner.
6. The permittee must maintain the outdoor dining area in a clean and safe condition at all times, including properly disposing of all trash generated by the operation.
7. The City may charge a rental fee for use of public places.
8. An applicant must submit a diagram drawn to scale and dimensioned showing the proposed location of the outdoor dining with all seating and signage.
9. An applicant must submit a graphical depiction, such as sample photographs, depicting the appearance of the chairs, tables, and other equipment proposed to be used in the outdoor dining area.
10. An applicant must submit the proposed days and times of operating the outdoor dining area.

**G. Application for Permit.**

1. Permit applications must be filed by a natural person.
2. Permit applications must be in a form prescribed by the City Planner, signed under penalty of perjury, and, for all permits, will contain all of the following information: the name, mailing address, and daytime and evening telephone numbers of the person filing the application; if the permit is obtained on behalf of an organization, the name, mailing address, and daytime telephone number of the organization; and if requested by the City Planner, written documentation of the authority under which the applicant is applying for the permit on behalf of the organization; the name, mailing address, and daytime and evening telephone number of an alternate person to contact if an emergency arises and the applicant is unavailable; and such additional information required by the City Planner.

**H. Review by City Departments.** After an application is filed, the City Planner will immediately forward the application to the following city departments for review:

1. The fire department;
  2. The police department; and
  3. The public works department.
- I. **Special Conditions.** Upon receiving an application, these departments will consider the application, conduct any necessary investigation, and provide the City Planner with written recommendations regarding:
1. Any special conditions for a permit; and
  2. Any additional recommendations.
  3. The reviewing officers must complete their review within the time that the City Planner must make a decision on the application.
- J. **Time for review.** Except as provided in this Program, completed applications for a permit authorizing an event should be denied, approved, or conditionally approved by the City Planner within 14 business days after receiving the completed application. Unless otherwise provided, the applicant's acceptance of the approval or conditional approval must be received by the City Planner within five business days after the applicant was served with notification of the decision and before any entertainment or outdoor dining may occur.
- K. **Issuing Permits.** The City Planner should issue a permit if
1. The application was complete in accordance with this Program;
  2. There are no grounds for denying the permit; and
  3. The applicant accepts the permit approval or conditional approval in writing.
- L. **Permit Denial.** A permit may be denied for the following reasons:
1. The application is incomplete;
  2. The applicant failed to provide reasonable supplemental application information requested by the City Planner;
  3. Information submitted by the applicant is materially false;
  4. The application is submitted by a person with a suspended permit or whose permit was revoked;

5. The location of the proposed temporary outdoor event does not conform to the requirements of this Program;
6. Issuing the permit would endanger public health, safety, or welfare as determined by the City Planner.

M. General Permit Conditions.

1. Unless suspended or revoked, permits issued pursuant to this Program have a term of 30 days. Should a permit expire, the permittee must comply with this Program to obtain a new permit.
2. Permittees must enter into a hold harmless agreement, in a form approved by the city attorney, with the city which will, in part, indemnify city, its officers, employees, and agents, from any liability arising from a permit issued pursuant to this Program.
3. Insurance Requirements. Permittees must obtain liability insurance in accordance with City Council resolution.

N. Alcohol Related Conditions. For Temporary Outdoor Events with an ABC license, the permit will include the following conditions:

1. The exterior lighting of the parking area must be kept at an intensity of between one and two foot-candles so as to provide adequate lighting for patrons while not disturbing surrounding residential or commercial areas.
2. The applicant must obtain and maintain all licenses required by the Alcohol Beverage Control Act (Business & Professions Code §§ 23300, *et seq.*).
3. The applicant must post a sign in a clear and conspicuous location listing a phone number at which a responsible party may be contacted during all open hours of the entertainment establishment to address any concerns of the community regarding noise at the entertainment establishment. Said contact's name and phone number must also be available through entertainment establishment staff at all times.
4. If complaints are received regarding excessive noise, lighting, building access, or other disturbances associated with alcohol service, the City Planner may, in its discretion, take action to review the permit including, without limitation, adding conditions or revoking the permit.

O. Subsequent Conditions. The City Planner may condition previously issued permits upon learning or discovering facts not previously disclosed or reasonably discoverable.

- P. Display of permits. The permit issued pursuant to this Program must at all times be posted in a conspicuous place and be immediately produced upon the request of any police or code enforcement officer of the city.
- Q. Emergency Suspension of Permit. The City Planner and any sworn public safety officer may temporarily suspend a permit whenever there is an emergency that requires such action to protect public safety.
- R. Appeals. The City Manager's decision is final. There is no right to a City Council appeal. The final decision will inform the appellant that the decision is a final decision and that the time for judicial review is governed by Code of Civil Procedure § 1094.6.

BRP1 Reg. 030. *Self-Certification Program.*

- A. Purpose: To expedite building permit approvals by allowing Licensed Design Professionals to voluntarily self-certify building plans.
- B. Eligible Participants: To participate in the Program, applicants must be registered and be in good standing as a Licensed Design Professional with the State of California.
- C. Insurance Requirements: For a project to be accepted for Self-Certification, the Licensed Design Professional is required to furnish the City Planner insurance in accordance with the City's requirements and not less than the valuation of the permitted project.
- D. Optional Prescreening Process: The Licensed Design Professional who intends on filing an application with a Self-Certification may meet with the City Planner, or designee, for a courtesy prescreening of the proposed project to ensure the submittal is complete.
- E. Submittal Requirements: The Licensed Design Professional who intends on filing an application with a Self-Certification must submit that application to participate in the program to the Building Official. Self-Certified plans must contain all the information listed in the corresponding City of Monterey Park handout regarding building design criteria. A Self-Certification form and a "hold harmless" letter, in a form approved by the City Attorney, must be completed in its entirety and submitted for each project by the design team and the property owner. The Self-Certification program will be all inclusive, i.e., all construction trade work that requires permits for the project must be Self-Certified. Each page of the plans submitted, must be wet stamped and signed by a Licensed Design Professional for each applicable trade.
- F. Non-Building Division Approvals: The Licensed Design Professional who intends

on filing an application with a Self-Certification must provide documentation to the Building Official demonstrating final approvals from any affected City department before the Building Official issues a permit. That Licensed Design Professional must also provide documentation to the Building Official appropriate approvals of any applicable "outside" agency. Those outside agencies include, without limitation, the following: Los Angeles County Health Department and affected school districts.

- G. Fees: All fees required by the Program will be established by City Council resolution.
- H. Permit Issuance: Applications that have met all the criteria of this voluntary Self-Certification program will be issued a building permit the same day of completed and approved application submittal.
- I. Inspection Protocol: All code-required State of California or City of Monterey Park inspections are required.
- J. Audits: All Self-Certified plans are subject to auditing by the Building Official to determine whether plans comply with the applicable California and City of Monterey Park laws, codes, rules, and regulations. If plans are found not to comply, then the Licensed Design Professional who intends on filing an application with a Self-Certification will ensure compliance. If compliance is not obtained within a reasonable amount of time, then the Building Official may report the non-compliance items to the appropriate licensing board with the State of California.

**ORDINANCE NO. XXXX**

**AN UNCODIFIED ORDINANCE ADOPTING NON-LAND USE REGULATIONS FOR IMPLEMENTING THE MONTEREY PARK BUSINESS RECOVERY PROGRAM.**

**THE COUNCIL DOES ORDAIN AS FOLLOWS:**

**SECTION 1.** *Findings.* The City Council finds, determines and declares as follows:

- A. On March 11, 2020, at 7:00 p.m., the City declared a state of local emergency due to the COVID-19 Pandemic (the "Emergency"). That Emergency was ratified by Resolution No. 12142, adopted March 18, 2020; extended on April 15, 2020 by Resolution No. 12151; and further extended on June 3, 2020 by Resolution No. 12164;
- B. An additional local emergency was declared on May 31, 2020 related to the unrest associated with the tragic death of George Floyd in Minneapolis, MN. That emergency was ratified on June 3, 2020 by Resolution No. 12165 (also part of the "Emergency");
- C. The City Council takes notice of the well-documented secondary effects of the Emergency include record-high unemployment rates, bankruptcy, and other disastrous effects upon the national, state, and local economies. It will be many months before the complete extent of this economic devastation is clarified;
- D. The City Council believes that it is in the public interest for the City to implement regulations to facilitate the rapid recovery of the local economy, promote additional economic growth, and mitigate the effects of the Emergency;
- E. Regulations are needed to efficiently implement development projects that will create jobs, invest in the local economy, assist in recovery, and protect the public welfare;
- F. The City Manager and City Planner may recommend changes to this Ordinance – including codification within the Monterey Park Municipal Code – when it is practicable; and
- G. The regulations adopted by this Ordinance are intended to be implemented temporarily in order to accelerate City approvals and promote local businesses. This Ordinance will be uncoded and referred to as the "Monterey Park Business Recovery Program."

**SECTION 3. *Monterey Park Business Recovery Program.*** The Monterey Park Business Recovery Program (the “Program”) attached as Exhibit “A,” and incorporated by reference is adopted by the City Council as if fully set forth.

**SECTION 4. *Conflicts.*** In the event of a conflict between the provisions of this Ordinance and the provisions the MPMC, any other ordinance, or any resolution, the provisions of this Ordinance and the Program govern. The City Planner is authorized to resolve any ambiguities in the manner set forth in the MPMC. Any such determination must be forwarded to the City Council as an informational item when practicable.

**SECTION 5. *Environmental Review.*** This Ordinance was reviewed pursuant to the California Environmental Quality Act (Public Resources Code §§ 21000, *et seq.*, “CEQA”) and the regulations promulgated thereunder (14 Cal. Code of Regulations §§15000, *et seq.*, the “CEQA Guidelines”). Based upon that review, this Ordinance is exempt from further review pursuant to CEQA Guidelines § 15269(a) because the protection of public and private property is necessary to maintain service essential to the public, health and welfare.<sup>1</sup> Additionally, this Ordinance is exempt pursuant to CEQA Guidelines §15061(b)(3) because it can be seen with certainty that there is no possibility that the Ordinance may have a significant effect on the environment.

**SECTION 6. *Sunset Clause.*** The Council finds that it is in the best interest of the public safety, welfare and convenience of the City to implement this Ordinance during, at least, the Emergency. To ensure that the City Manager reviews the MPMC as contemplated by this Ordinance, this Ordinance will automatically be repealed and will become ineffective on December 31, 2020, unless the City Council takes additional action to extend the effectiveness of this Ordinance or supersedes it via a subsequently adopted Ordinance amending the MPMC.

**SECTION 7. *Construction.*** This Ordinance must be broadly construed to achieve the purposes stated in this Ordinance. It is the City Council’s intent that the provisions of this Ordinance be interpreted or implemented by the City and others in a manner that facilitates the purposes set forth in this Ordinance.

**SECTION 8. *Severability.*** If any part of this Ordinance or its application is deemed invalid by a court of competent jurisdiction, the City Council intends that such invalidity will not affect the effectiveness of the remaining provisions or applications and, to this end, the provisions of this Ordinance are severable.

**SECTION 9. *Recordation.*** The City Clerk, or his duly appointed deputy, is directed to certify the passage and adoption of this Ordinance; cause it to be entered into the City of Monterey Park’s book of original ordinances; make a note of the passage and adoption in the records of this meeting; and, within fifteen (15) days after the passage and adoption of this Ordinance, and cause it to be published or posted in accordance with California law.

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<sup>1</sup> CEQA findings regarding an anticipated imminent emergency are valid (see *CalBeach Advocates v. City of Solana Beach* (2002) 103 Cal.App.4th 529).

**SECTION 11.** *Electronic Signatures.* This Ordinance may be executed with electronic signatures in accordance with Government Code §16.5. Such electronic signatures will be treated in all respects as having the same effect as an original signature.

**SECTION 10.** *Effective Date.* This Ordinance will become effective 30 days after its adoption.

**THIS ORDINANCE WAS DULY PASSED, APPROVED, AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF MONTEREY PARK AT ITS REGULAR MEETING OF JULY 15, 2020.**

\_\_\_\_\_  
**Hans Liang, Mayor**

**ATTEST:**

\_\_\_\_\_  
**Vincent D. Chang, City Clerk**

**APPROVED AS TO FORM:**

  
\_\_\_\_\_  
**Karl H. Berger, Assistant City Attorney**

## EXHIBIT A

### MONTEREY PARK BUSINESS RECOVERY PROGRAM

BRP1 Reg. 010. *Definitions.* Notwithstanding any definition set forth in the Monterey Park Municipal Code ("MPMC") and unless the contrary is stated or clearly appears from the context, the definitions set forth below govern the construction of words and phrases used in the Monterey Park Business Recovery Program. Words and phrases not defined below will be as set forth in the MPMC.

"ABC license" means the license issued by the California Department of Alcoholic Beverage Control.

"Building Official" means the Building Official of the City of Monterey Park as designated by the City Manager.

"City Planner" means the City Planner as designated within the MPMC or such person authorized by the City Manager in writing.

"Discretionary Permit" means any discretionary permit or action required by the MPMC or by any Specific Plan.

"Entertainment or entertainment establishment" means the organized action of providing amusement or enjoyment to invited members of the public. Examples include, without limitation, presentations, readings, performances, or musical renditions. Such entertainment may be provided free of charge or for a fee.

"Licensed Design Professional" means the California Licensed Architect or Engineer, as applicable, identified as such on the building permit application and accompanying plans.

"Outdoor Temporary Event" includes Temporary Outdoor Dining and Temporary Outdoor Retail Sales Events.

"Program" means this Monterey Park Business Recovery Program.

"Public place" means an area open to the public, or an alley, plaza, park, or parking lot, or an automobile, whether moving or not, or a building open to the general public including one that serves food or drink, or provides entertainment.

"Self-Certification," "Self-Certify" or "Self-Certified" means a submittal to the Building Official that is (1) made by a Licensed Design Professional identified in the building permit application; (2) accompanies plans filed with the Building Official by that Licensed Design Professional; and (3) for which the Licensed Design Professional attests such plans (a) do not contain any false information; (b) comply with all applicable law including, without limitation, the MPMC; and (c)

were prepared by or under the direct supervision of, and signed and stamped by, that Licensed Design Professional.

"Temporary Outdoor Dining" means outdoor dining located within the City right of way pursuant to a permit and/or is required to secure off-site parking or other outdoor dining for which the property does not have the required number of on-site parking spaces. Temporary Outdoor Dining is only allowed in conjunction with a permitted restaurant and is only be permitted to utilize Temporary Outdoor Structures/Facilities. Temporary Outdoor Dining requires a permit and is only allowed for such time commensurate with the time that temporary parking is provided.

"Temporary Outdoor Retail Sales Events" means outdoor retail sales events conducted outdoors on the same premises as, and are consistent in character with, an existing retail store use. These events require a permit and may be allowed up to a total of 30 days in any twelve-month period. Temporary Outdoor Retail Sales Events can only be permitted to utilize Temporary Outdoor Structure/Facilities and must comply with the temporary parking requirements.

"Temporary Outdoor Structure/Facilities" includes awnings or canopies made of material or wood, tents, shade umbrellas, and similar types of structures that can be constructed and removed within a seven day period. Temporary Outdoor Structure/Facilities also include lighting and heating improvements that can be constructed and removed within a seven day period. Any applicant for Temporary Outdoor Structure/Facilities must sign an acknowledgement that the Temporary Outdoor Structure/Facilities can be removed within a seven day period. All Temporary Outdoor Structure/Facilities must meet all zoning, building, fire, health and other applicable law.

"Temporary Use Permits" are permits allowing Temporary Outdoor Dining, Temporary Outdoor Retail Sales Events, and temporary parking associated with such uses.

BRP1 Reg. 020. *Outdoor Temporary Event Permits.*

- A. The City Planner is authorized to receive applications, issue and revoke temporary use permits, and otherwise implement the Business Recovery Program as set forth in this Section.
- B. Persons who obtain a permit pursuant to this Section are not also required to obtain separate permits in the MPMC, e.g., encroachment permits.
- C. Permits Required. It is unlawful for any person to conduct, sponsor, or knowingly participate in any outdoor temporary event without a valid permit issued pursuant to this Program. Possessing a valid temporary use permit does not excuse any failure to otherwise comply with this code or other applicable law.

- D. Nature of the Permit. Permits issued pursuant to this Program are subject to the following limitations:
1. Permits are personal to the applicant not to the premises upon which the event is conducted. No other individual may conduct an event under the authority of a permit issued to another. For purposes of this Program, a permit is not deemed transferred or assigned if the permittee is a corporation or partnership which remains under the control of the same individual or individuals who controlled it at the time the permit was approved;
  2. Permits cannot be transferred or assigned;
  3. No property rights are conferred to the permittee;
  4. There is no right of renewal; and
  5. Permits are specific to the location for which it is applied. A new permit must be obtained in the event there is a relocation of the permitted activity or a major alteration to the existing facility.
- E. Fees. Except as otherwise provided by federal, state, or local laws, or other City Council authorized restrictions, all fees applicable to this Program including, without limitation, fees for using public places, will be established by City Council Resolution.
- F. Temporary Outdoor Dining Permits. Temporary Outdoor Dining permits are subject to the following:
1. Permits cannot be issued for outdoor dining in a street or alley;
  2. To provide for adequate pedestrian circulation, temporary outdoor dining must maintain a minimum of four feet of clearance between dining furnishings and any curblin, street furniture, or above ground utilities. A minimum of 50 feet of clearance must be maintained between dining furnishings and the centerline of intersecting perpendicular driveways, alleys or streets to provide for adequate vehicle sight, unless a lesser distance is determined by the City Planner to be adequate for the protection of the public safety.
  3. Tables and chairs used for outdoor dining must be of substantial materials. Tables may be a maximum of three feet in diameter if round and three feet along the longest side if rectilinear. All such furnishings must be stored indoors after hours of operation unless otherwise determined by the City Planner.

4. Temporary Outdoor Structure/Facilities, without lettering, may also be permitted by the City Planner.
5. No outdoor dining, including furnishings and signs, may block visibility of display windows or signage of adjacent businesses unless written consent of any affected adjacent business owner to block visibility is obtained by the applicant and provided to the City Planner.
6. The permittee must maintain the outdoor dining area in a clean and safe condition at all times, including properly disposing of all trash generated by the operation.
7. The City may charge a rental fee for use of public places.
8. An applicant must submit a diagram drawn to scale and dimensioned showing the proposed location of the outdoor dining with all seating and signage.
9. An applicant must submit a graphical depiction, such as sample photographs, depicting the appearance of the chairs, tables, and other equipment proposed to be used in the outdoor dining area.
10. An applicant must submit the proposed days and times of operating the outdoor dining area.

**G. Application for Permit.**

1. Permit applications must be filed by a natural person.
2. Permit applications must be in a form prescribed by the City Planner, signed under penalty of perjury, and, for all permits, will contain all of the following information: the name, mailing address, and daytime and evening telephone numbers of the person filing the application; if the permit is obtained on behalf of an organization, the name, mailing address, and daytime telephone number of the organization; and if requested by the City Planner, written documentation of the authority under which the applicant is applying for the permit on behalf of the organization; the name, mailing address, and daytime and evening telephone number of an alternate person to contact if an emergency arises and the applicant is unavailable; and such additional information required by the City Planner.

**H. Review by City Departments.** After an application is filed, the City Planner will immediately forward the application to the following city departments for review:

1. The fire department;
  2. The police department; and
  3. The public works department.
- I. **Special Conditions.** Upon receiving an application, these departments will consider the application, conduct any necessary investigation, and provide the City Planner with written recommendations regarding:
1. Any special conditions for a permit; and
  2. Any additional recommendations.
  3. The reviewing officers must complete their review within the time that the City Planner must make a decision on the application.
- J. **Time for review.** Except as provided in this Program, completed applications for a permit authorizing an event should be denied, approved, or conditionally approved by the City Planner within 14 business days after receiving the completed application. Unless otherwise provided, the applicant's acceptance of the approval or conditional approval must be received by the City Planner within five business days after the applicant was served with notification of the decision and before any entertainment or outdoor dining may occur.
- K. **Issuing Permits.** The City Planner should issue a permit if
1. The application was complete in accordance with this Program;
  2. There are no grounds for denying the permit; and
  3. The applicant accepts the permit approval or conditional approval in writing.
- L. **Permit Denial.** A permit may be denied for the following reasons:
1. The application is incomplete;
  2. The applicant failed to provide reasonable supplemental application information requested by the City Planner;
  3. Information submitted by the applicant is materially false;
  4. The application is submitted by a person with a suspended permit or whose permit was revoked;

5. The location of the proposed temporary outdoor event does not conform to the requirements of this Program;
6. Issuing the permit would endanger public health, safety, or welfare as determined by the City Planner.

M. General Permit Conditions.

1. Unless suspended or revoked, permits issued pursuant to this Program have a term of 30 days. Should a permit expire, the permittee must comply with this Program to obtain a new permit.
2. Permittees must enter into a hold harmless agreement, in a form approved by the city attorney, with the city which will, in part, indemnify city, its officers, employees, and agents, from any liability arising from a permit issued pursuant to this Program.
3. Insurance Requirements. Permittees must obtain liability insurance in accordance with City Council resolution.

N. Alcohol Related Conditions. For Temporary Outdoor Events with an ABC license, the permit will include the following conditions:

1. The exterior lighting of the parking area must be kept at an intensity of between one and two foot-candles so as to provide adequate lighting for patrons while not disturbing surrounding residential or commercial areas.
2. The applicant must obtain and maintain all licenses required by the Alcohol Beverage Control Act (Business & Professions Code §§ 23300, *et seq.*).
3. The applicant must post a sign in a clear and conspicuous location listing a phone number at which a responsible party may be contacted during all open hours of the entertainment establishment to address any concerns of the community regarding noise at the entertainment establishment. Said contact's name and phone number must also be available through entertainment establishment staff at all times.
4. If complaints are received regarding excessive noise, lighting, building access, or other disturbances associated with alcohol service, the City Planner may, in its discretion, take action to review the permit including, without limitation, adding conditions or revoking the permit.

O. Subsequent Conditions. The City Planner may condition previously issued permits upon learning or discovering facts not previously disclosed or reasonably discoverable.

- P. **Display of permits.** The permit issued pursuant to this Program must at all times be posted in a conspicuous place and be immediately produced upon the request of any police or code enforcement officer of the city.
- Q. **Emergency Suspension of Permit.** The City Planner and any sworn public safety officer may temporarily suspend a permit whenever there is an emergency that requires such action to protect public safety.
- R. **Appeals.** The City Manager's decision is final. There is no right to a City Council appeal. The final decision will inform the appellant that the decision is a final decision and that the time for judicial review is governed by Code of Civil Procedure § 1094.6.

**BRP1 Reg. 030. *Self-Certification Program.***

- A. **Purpose:** To expedite building permit approvals by allowing Licensed Design Professionals to voluntarily self-certify building plans.
- B. **Eligible Participants:** To participate in the Program, applicants must be registered and be in good standing as a Licensed Design Professional with the State of California.
- C. **Insurance Requirements:** For a project to be accepted for Self-Certification, the Licensed Design Professional is required to furnish the City Planner insurance in accordance with the City's requirements and not less than the valuation of the permitted project.
- D. **Optional Prescreening Process:** The Licensed Design Professional who intends on filing an application with a Self-Certification may meet with the City Planner, or designee, for a courtesy prescreening of the proposed project to ensure the submittal is complete.
- E. **Submittal Requirements:** The Licensed Design Professional who intends on filing an application with a Self-Certification must submit that application to participate in the program to the Building Official. Self-Certified plans must contain all the information listed in the corresponding City of Monterey Park handout regarding building design criteria. A Self-Certification form and a "hold harmless" letter, in a form approved by the City Attorney, must be completed in its entirety and submitted for each project by the design team and the property owner. The Self-Certification program will be all inclusive, i.e., all construction trade work that requires permits for the project must be Self-Certified. Each page of the plans submitted, must be wet stamped and signed by a Licensed Design Professional for each applicable trade.
- F. **Non-Building Division Approvals:** The Licensed Design Professional who intends

on filing an application with a Self-Certification must provide documentation to the Building Official demonstrating final approvals from any affected City department before the Building Official issues a permit. That Licensed Design Professional must also provide documentation to the Building Official appropriate approvals of any applicable "outside" agency. Those outside agencies include, without limitation, the following: Los Angeles County Health Department and affected school districts.

- G. **Fees:** All fees required by the Program will be established by City Council resolution.
- H. **Permit Issuance:** Applications that have met all the criteria of this voluntary Self-Certification program will be issued a building permit the same day of completed and approved application submittal.
- I. **Inspection Protocol:** All code-required State of California or City of Monterey Park inspections are required.
- J. **Audits:** All Self-Certified plans are subject to auditing by the Building Official to determine whether plans comply with the applicable California and City of Monterey Park laws, codes, rules, and regulations. If plans are found not to comply, then the Licensed Design Professional who intends on filing an application with a Self-Certification will ensure compliance. If compliance is not obtained within a reasonable amount of time, then the Building Official may report the non-compliance items to the appropriate licensing board with the State of California.

**ATTACHMENT 4**  
***DRAFT* regulations for Policies 1-8**

Exhibit A

**DRAFT – SUBJECT TO CITY COUNCIL DIRECTION ON JULY 1, 2020**

**PHASE II**

**BUSINESS RECOVERY PROGRAM**

**TEMPORARY LAND USE REGULATIONS**

BRP2 Reg. 010. **DEFINITIONS.** Notwithstanding any definition set forth in the Monterey Park Municipal Code (“MPMC”) and unless the contrary is stated or clearly appears from the context, the definitions set forth below govern the construction of words and phrases used in the Phase II Monterey Park Business Recovery Program. Words and phrases not defined below will be as set forth in the MPMC.

“Business Recovery Program” means these regulations.

“Noise Disturbance” means any loud, raucous, annoying, or unusual noises that offends the peace and quiet of persons of ordinary sensibilities and interferes with the comfortable enjoyment of life or property and affects at the same time an entire neighborhood or any considerable number of persons. A noise disturbance includes, without limitation, any source of sound exceeding the sound level limitations established by this chapter.

BRP2 Reg. 020. **PARKING.** When considering parking needs for a project, the City Planner may utilize the following methods:

- A. Parking standards set forth in the MPMC;
- B. Parking standards may be included in a development agreement regulated by the BRDZ. Without limitation, such standards may regulate whether on-site parking may be transferred to designated off-site parking locations; tandem parking; or vehicle lift stations.
- C. Where off-site parking is proposed to meet parking standards, the City Planner may accept appropriate alternatives like ride services, micro transit, and valet services to help reduce parking demand. Such services, however, must be mitigated with sufficient pick-up and drop-off areas.
- D. Shared parking agreements for new projects.
- E. Accept unbundled parking for new projects. Unbundled parking allows selling or leasing parking spaces separately, rather than automatically including the parking spaces with the purchase or lease of the commercial or residential use. Unbundling parking manages parking demand by allowing

applicants to only pay for the parking spaces they actually need.

- F. A traffic and parking study prepared by a licensed engineer to mitigate vehicle and parking impacts. The traffic and parking study must be prepared by a state licensed traffic engineer in accordance with Los Angeles County's Traffic Impact Analysis Report Guidelines (January 1997) and Institute of Transportation Engineers, Parking Generation, 4<sup>th</sup> Edition. The traffic engineer preparing the study should define an appropriate approach for determining the amount of trips generated by a proposed project and present this approach in the study.

**BRP2 REG. 030. ADMINISTRATIVE USE PERMIT ("AUP").**

- A. Authorization. The City Planner is authorized to issue an AUP for (1) alcohol licenses which will function as a notice of public convenience and necessity; (2) drive-throughs; and (3) setbacks.
- B. Application and Review. To initiate the review process, an application for an AUP must be filed with the City Planner on forms provided by the City Planner. Within five working days of filing a petition, the City Planner must notify the applicant as to the completeness of the application. The City Planner may request any additional information deemed necessary to evaluate the application. Failure of the City Planner to respond within five working days renders the application complete.
- C. Decision. Within 10 working days from the date an application is deemed complete, the City Planner must issue a written determination as to the approval or denial of the application. The written determination will state the findings for decisions. In approving an application, the City Planner may attach conditions to the approval deemed necessary.
- D. Findings. Before an AUP is granted, the City Planner must find that:
  - 1. There is compatibility of the particular use on the particular site in relationship to other existing and potential uses within the general area in which the use is proposed to be located.
  - 2. The proposed use is consistent and compatible with the purpose of the zone in which the site is located.
  - 3. The proposed location and use and the conditions under which the use would be operated or maintained will not be detrimental to the public health, safety or welfare, or materially injurious to properties or improvements in the vicinity.
  - 4. Potential impacts that could be generated by the proposed use, such

as noise, smoke, dust, fumes, vibration, odors, traffic and hazards have been recognized and mitigated.

5. For alcohol related AUPs, the State Department of Alcohol Beverage Control has issued or will issue a license to sell alcohol to the applicant.
- E. Drive-Throughs. For drive-through AUPs, the City Engineer may:
1. Authorize aisles to exit directly onto a public right-of-way.
  2. Approve drive-through plans submitted by applicants where the underlying zoning allows for such uses. Those plans must be prepared by a design professional (e.g., a traffic engineer or architect). A drive-through plan may provide for setbacks that differ from the underlying zone if needed to accommodate vehicle queuing to help avoid stacking of vehicles onto public roads.
- F. Expeditious Review. An expedited AUP provides for the processing of a completed AUP within a period not to exceed five total working days. The City Planner is authorized to select and utilize the services of a consultant, paid for by the applicant, for purposes of processing the expedited review and written determination.
- G. Planning Commission Review. Except for alcohol AUPs, written determinations on administrative use permits, made by the City Planner must be placed as receive and file items on the next available agenda of the Planning Commission. Before the written determination being placed on a Planning Commission agenda, the City Planner must give public notice, as provided by the MPMC, of the intention of the Planning Commission to receive and file the determination of the City Planner. Any member of the Planning Commission may request that an item be discussed and a decision on the application be made by the Planning Commission instead of received and filed. Except for alcohol AUPs which become final 10 days after being issued by the City Planner, no decision of the City Planner is final until the decision is received and filed or acted upon by the Planning Commission.

**BRP2 Reg. 040. BUSINESS RECOVERY DEVELOPMENT AGREEMENT ZONE (BRDZ)**

- A. Purpose.
1. The purpose of the Business Recovery Development Agreement Zone (BRDZ) is used to identify sites and areas within the city that are subject to the requirements of adopted development agreements in compliance with this code.

2. The BRDZ constitutes a “floating zone” in that once a need is identified, this zone can be activated. This floating zone for the BRDZ area provides flexibility for otherwise strict development or sign regulations that would generally be applicable to the underlying zone.
3. In effect, this zone is not a true “floating zone” in that it does not add more regulations to an underlying zone. Rather, it is a “holding zone” which can be activated and used in place of the underlying zone when combined with a development agreement adopted by the city council in accordance with applicable law including this code.

**B. General Requirements.**

1. **Underlying Zones.** The BRDZ may be combined with any commercial zone established by this code.
2. **Allowed Land Uses.** The land uses that may be allowed on a site within the BRDZ are limited to those specified in the applicable development agreement.
3. **Permit Requirements.** The land use permit requirements of the primary zoning district apply to all proposed development and land uses within the BRDZ, except as otherwise provided by the terms of the applicable development agreement.
4. **Development and Land Use Standards.** Proposed development and land uses within the BRDZ must comply with all applicable development and land use standards and exaction requirements specified in the development agreement and, to the extent that they are not in conflict with the terms of the development agreement, regulations that govern the primary zoning district apply to the site.
5. **Zoning Map Notation.** Upon the effective date of an ordinance placing a property in the BRDZ, the Zoning Map will be amended to show the overlay designation. After execution by all parties, the development agreement will be added to the city's Development Agreement Master List with the effective date and expiration date of the development agreement noted. Upon the expiration or earlier termination of a development agreement, the City Planner will remove the development agreement from the city's Development Agreement Master List. The BRDZ may be removed from the property by way of a Zone Map Amendment.

- C. Approval of the BRDZ and any development agreement associated with the BRDZ rests solely within the City Council's discretion.**

**BRP2 REG. 050. NOISE DISTURBANCES.**

- A. Prohibited. It is unlawful for any person to allow, maintain, or cause any noise disturbance.
- B. Exemptions. The following are not noise disturbances:
  - 1. Sound generated by Motor Vehicles. Sound generated by Motor Vehicles, Trucks and Buses operated on streets and highways, Aircraft, Trains, and other Public Transport. This exemption does not apply to the following:
    - a. Operation of any vehicle, including any equipment attached to any vehicle (such as attached refrigeration and/or heating units or any attached auxiliary equipment), for a period in excess of 10 minutes in any hour while the vehicle is stationary for reasons other than traffic congestion.
    - b. Vehicles equipped with sound amplifiers that are not exempt. No person must operate or drive any vehicle or cause any vehicle to be operated or driven, or otherwise used, on any public street, which vehicle is equipped with a sound amplifying device or other machine or device for the production or reproduction of sound, which causes sound to carry onto private property or causes sound to be heard by others using the public streets or thoroughfares which exceeds the sound level limits established by this chapter.
  - 2. Emergencies. Emergency repairs that deal with health or safety risk and emergency generators or powered equipment used during a power outage or other emergency.
  - 3. Emergency Warning Devices. Emergency warning devices such as fire alarms, burglar alarms, warning devices on emergency vehicles and train horns. This exemption does not apply to burglar or fire alarms any motor vehicle burglar alarms, except for emergency purposes, unless such alarm is terminated within 10 minutes of activation and no more than two false activations within a four-hour period.
  - 4. Public Works Projects. Public works projects performed by public agencies, or their contractors which cannot be performed from 7 a.m. to 6 p.m. Monday through Friday.
  - 5. Use Permits. Any use allowed by a use permit issued pursuant to

this code that specifically allows sound level limits to be exceeded.

- C. **Temporary Noise Permits.** If an applicant can demonstrate that a diligent investigation of available noise abatement techniques indicates that compliance with this chapter would be impractical or unreasonable, the city manager, or designee, may issue a permit to allow an exemption from this chapter with appropriate conditions. Any such permit must be of as short duration as possible not to exceed three months.

**BRP2 REG. 060. CALIFORNIA EXISTING BUILDING CODE (“CEBC”).**

- A. **503.1 (Alterations) General.** Except as provided by Section 302.4, 302.5 or this section, alterations to any building or structure must comply with the requirements of the California Building Code or California Residential Code, as applicable, for new construction. Alterations created within a building or structure cannot cause the building or structure to be more out of compliance with the provisions of the California Building Code or California Residential Code, as applicable, than it was before the alteration was made.

**Exceptions:**

1. An existing stairway is not required to comply with the requirements of Section 1011 of the California Building Code where the existing space and construction does not allow a reduction in pitch or slope.
  2. Handrails otherwise required to comply with Section 1011.11 of the California Building Code are not required to comply with the requirements of Section 1014.6 of the California Building Code regarding full extension of the handrails where such extensions would be hazardous because of plan configuration.
  3. Where provided in below-grade transportation stations, existing and new escalators must have a clear width of less than 32 inches (815 mm).
  4. A site assessment demonstrating, evaluating and certifying conformity with accessibility standards for public buildings, public accommodations, commercial buildings and/or public housing may be submitted by the design professional of record, or a CASp, in a form acceptable to the building official.
- B. **506.1 (Change of Occupancy) Compliance.** A change of occupancy cannot be made in any building unless that building is made to comply with the requirements of the California Building Code for the use or occupancy. Any new occupancy created within a building or structure cannot cause the

building or structure to be more out of compliance with this code than it was before the change was made. Subject to the approval of the code official, changes of occupancy will be permitted without complying with all of the requirements of this code for the new occupancy, provided that the new occupancy is less hazardous, based on the life and fire risk, than the existing occupancy.

**Exceptions:**

1. The building is not required to comply with Chapter 16 of the California Building Code, unless required by Section 506.4.
2. An assessment by the design professional of record in a form acceptable to the building official may serve to certify compliance to this code.



# City Council Staff Report

**DATE:** July 15, 2020

**AGENDA ITEM NO:** Consent Calendar  
Agenda Item 3-C

**TO:** The Honorable Mayor and City Council  
**FROM:** Mark A. McAvoy, Director of Public Works/City Engineer  
**SUBJECT:** Waive further reading and adopt an Ordinance amending Monterey Park Municipal Code ("MPMC") by amending Chapter 3.100 "Public Works Contracts"

## **RECOMMENDATION:**

It is recommended that the City Council consider:

1. Waive second reading and adopt the proposed ordinance; and/or
2. Taking such additional, related, action that may be desirable.

## **EXECUTIVE SUMMARY:**

The Ordinance was introduced at the July 1, 2020 City Council meeting. On July 1, 2020, the City Council conducted the first reading. The original staff report (from July 1, 2020) is attached for reference. Second reading and adoption of this Ordinance is recommended; it will take effect in 30 days.

Respectfully submitted and prepared by:

  
\_\_\_\_\_  
Mark A. McAvoy  
Director of Public Works/City  
Engineer

Approved by:

  
\_\_\_\_\_  
Ron Bow  
City Manager

Reviewed by:

  
\_\_\_\_\_  
Timothy E. Campen  
Deputy City Attorney

Attachments:

1. Draft Ordinance
2. July 1, 2020 Staff Report

# **ATTACHMENT 1**

Draft Ordinance

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE AMENDING CHAPTER 3.100 TO TITLE 3 OF THE  
MONTEREY PARK MUNICIPAL CODE ENTITLED “PUBLIC WORKS  
CONTRACTS.”**

The City Council of the City of Monterey Park does ordain as follows:

SECTION 1: The City Council finds and determines as follows:

- A. By Resolution No. 12182, adopted July 1, 2020, the City opted to become subject to the Uniform Construction Cost Accounting Act (Public Contract Code §§ 22000, *et seq.*);
- B. The City Clerk will notify the California State Controller regarding the City’s adoption of Resolution No. 12182; and
- C. In order to take advantage of the informal bidding procedures set forth in the Act, Public Contract Code (“PCC”) § 22034 requires that the City adopt an ordinance establishing bidding procedures public projects.

SECTION 2: Monterey Park Municipal Code (“MPMC”) Chapter 3.100, entitled “Public Works Contracts” and consisting of §§ 3.100.010 to 3.100.100, is amended in its entirety to read as follows:

**“Chapter 3.100**

**PUBLIC WORKS CONTRACTS**

- 3.100.010: Purpose.**
- 3.100.020: Applicability.**
- 3.100.030: Definitions.**
- 3.100.040: Soliciting Bids and Awarding Contracts.**
- 3.100.050: Qualified Contractors.**
- 3.100.060: Notice Inviting Bids.**
- 3.100.070: Bid Security.**
- 3.100.080: Bid Opening.**
- 3.100.090: Award.**
- 3.100.100: Bonds and Insurance.**

3.100.010: Purpose.

This chapter is adopted pursuant to Public Contract Code § 22034, and any succeeding or related statutes, for the purpose of implementing the informal

bid procedures set forth in the Uniform Public Construction Cost Accounting Act (Public Contract Code §§ 22000, *et seq.*).

**3.100.020: Applicability.**

This chapter may be used for public projects with a value equal to or less than the amounts set forth in Public Contract Code § 22032, and will be increased automatically as authorized in any successor statute or regulation, or, when applicable, as established pursuant to Public Contract Code § 22020.

**3.100.030: Definitions.**

Unless the contrary is stated or clearly appears from the context, the definitions in Public Contract Code § 22002 and set forth below will govern the construction of the words and phrases used in this chapter:

“City Manager” means the city manager or designee. Unless otherwise designated by the city manager in writing, the Public Works Director will constitute the city manager’s designee for purposes of this chapter.

**3.100.040: Soliciting Bids and Awarding Contracts.**

The city manager may solicit bids, award contracts up to \$60,000, and execute contracts for public projects. Contracts for public projects costing \$60,000 or more may be subject to informal bidding procedures and must be awarded by the city council. Contracts for public projects costing \$200,000 or more require formal bidding pursuant to the Public Contract Code.

**3.100.050: Qualified Contractors.**

The public works department will maintain a list of qualified contractors, identified according to categories of work. Any licensed contractor requesting to have its name placed on this list must be included. The list may be periodically revised to remove inactive names. A name may be deemed inactive if:

- A. Letters addressed to the contractor at its last known address are returned without a forwarding address;
- B. The contractor does not obtain plans for, or bid on, a public project for two years;

- C. The contractor's license is revoked or suspended by the California State Licensing Board;
- D. The contractor removes its name; or
- E. For other good cause as determined by the city manager.

Before removing a qualified contractor from the City's bid list, the city manager must make a good faith attempt to notify the contractor regarding the removal.

**3.100.060: Notice Inviting Bids.**

- A. The notice inviting bids must describe the project in general terms, indicate how to obtain more detailed information regarding the project, and state the time and place for submitting bids.
- B. Unless the product or service is proprietary, not less than 10 calendar days before the date set for opening bids, the city manager must notify contractors using one or both of the following methods:
  - 1. Mail notices to each contractor on the list for the category of work to be performed;
  - 2. Mail notices to each of the construction trade journals specified in Public Contract Code § 22036.

**3.100.070: Bid Security.**

- A. Bid Security is required for all bids on public projects when the public works director estimates that the price will exceed \$60,000. Bid security may be a bond issued by a licensed and duly qualified corporate surety, or the equivalent in cash, money order, cashier's check, certified check, unconditional letter of credit, or other form approved by the city attorney. Nothing in this section prevents the city from requiring bid security on public projects less than \$60,000 when the city manager believes such security is needed to protect the city's interests.
- B. Bid security must equal at least 10% of the bid amount.
- C. If the notice inviting bids requires a bid security, noncompliance or defective, inadequate, or incomplete security will render the bid nonresponsive.

- D. Bid security will be forfeited or paid to the city should the bidder fail to execute a contract within the time specified in the notice inviting bids.

**3.100.080: Bid Opening.**

The city clerk, or designee, will publicly open all bids in the presence of one or more witnesses at the time and place specified in the invitation for bids. Late, misplaced, or unsealed bids cannot be considered. If no bids are received, the city may proceed as set forth in Public Contract Code § 22038.

**3.100.090: Award.**

- A. The contract may be awarded to the lowest responsible bidder if the city manager or city council considers the bid to be reasonable, sufficient funds are appropriated for the public project, and the bid is within the limits specified by Public Contract Code § 22032 or, if applicable, Public Contract Code § 22020.
- B. Should all qualified bids exceed the limits in Public Contract Code § 22032, the city council may, by adopting a resolution upon four-fifths vote, award the contract, provided the award is expressly authorized by Public Contract Code § 22034(d).
- C. Nothing in this section restricts the city from taking any action set forth in Public Contract Code § 22038.

**3.100.100: Bonds and Insurance.**

Contractors awarded a contract under this chapter are required to provide sureties and insurance in forms approved by the city attorney and conforming with the contract documents.”

SECTION 3: If any part of this Ordinance or its application is deemed invalid by a court of competent jurisdiction, the City Council intends that such invalidity will not affect the effectiveness of the remaining provisions or applications and, to this end, the provisions of this Ordinance are severable.

SECTION 4: The City Clerk is directed to certify the passage and adoption of this Ordinance; cause it to be entered into the City of Monterey Park’s book of original ordinances; make a note of the passage and adoption in the records of this meeting; and, within fifteen (15) days after the passage and adoption of this Ordinance, cause it to be published or posted in accordance with California law.

Ordinance No.  
Page 5 of 5

SECTION 5: This Ordinance will take effect on the 30<sup>th</sup> day following its final passage and adoption.

PASSED AND ADOPTED this \_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
Hans Liang, Mayor

ATTEST:

\_\_\_\_\_  
Vincent D. Chang, City Clerk

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Timothy E. Campen,  
Deputy City Attorney

**ATTACHMENT 2**  
July 1, 2020 Staff Report



## City Council Staff Report

**DATE:** July 1, 2020

**AGENDA ITEM NO:** New Business  
Agenda Item 5-B

**TO:** The Honorable Mayor and City Council  
**FROM:** Mark A. McAvoy, Director of Public Works/City Engineer  
**SUBJECT:** Consideration and possible action regarding adoption of a resolution electing to become subject to the Uniform Public Construction Cost Accounting Act and amending Chapter 3.100 "Public Works Contracts" of the Monterey Park Municipal Code

### **RECOMMENDATION:**

It is recommended that the City Council consider:

1. Adopting Resolution No. \_\_\_\_ declaring the City's intent to become subject to the Uniform Public Construction Cost Accounting Act.
2. Introducing and waiving first reading of an Ordinance amending Chapter 3.100 to Title 3 of the Monterey Park Municipal Code ("MPMC") to extend the City's election under the Uniform Public Construction Cost Accounting Act to all forms of "public projects" as defined in Public Contract Code section 22002(c); and/or
3. Taking such additional, related, action that may be desirable.

### **CEQA:**

The proposed Ordinance is exempt from additional review under the California Environmental Quality Act (Public Resources Code §§ 21000, et seq., "CEQA" and CEQA Guidelines (14 California Code of Regulations §§ 15000, et seq.) because it establishes rules and procedures in compliance with State law; does not involve any commitment to a specific project which could result in a potentially significant physical impact on the environment; and constitutes an organizational or administrative activity that will not result in direct or indirect physical changes in the environment. Accordingly, the Ordinance does not constitute a "project" that requires environmental review (see specifically CEQA Guidelines § 15378(b)(2, 5).

### **EXECUTIVE SUMMARY:**

If adopted, the resolution will allow the City of Monterey Park to become subject to the Uniform Public Construction Cost Accounting Act. If enacted, the Ordinance will amend Chapter 3.100 of the Monterey Park Municipal Code (MPMC) to increase the thresholds for City Manager spending authority and ability to use informal bidding procedure on "public projects" as defined in Public Contract Code section 22002(c).

## **DISCUSSION:**

The Public Contract Code requires general law cities like Monterey Park to employ a very formal and cumbersome competitive bidding process for all public projects valued at over \$5,000. "Public projects" include the construction, reconstruction, erection, alteration, renovation, improvement, demolition, painting or repainting, and repair of any publicly owned, leased, or operated facility. Pub. Contract Code § 22002(c). The \$5,000 threshold was established decades ago and has not been adjusted for inflation. It can be very difficult to secure lower value contracts through the formal bidding process at reasonable prices because contractors are simply unwilling to expend the time, money and effort necessary to complete all the required paperwork and meet the bonding requirements for such small projects. Consequently, the City will often receive no response at all to solicitations for bids on these lower value projects.

The Uniform Public Construction Cost Accounting Act (UPCCAA), Public Contract Code § 22000 et seq., was established by the Legislature to provide uniform construction cost accounting procedures and bidding thresholds that account for escalating construction costs over time. Agencies can use the informal bidding procedures of the UPCCAA in lieu of the formal bidding procedures of the Public Contract Code provided they subscribe to uniform construction cost account policies and procedures developed by the California Uniform Construction Cost Accounting Commission. To avail itself of these alternative procedures, a local agency must (1) adopt a resolution electing to become subject to the UPCCAA and notify the State Controller of said election, and (2) adopt an ordinance enacting the informal bidding requirements set forth in the UPCCAA. More than 120 cities have elected to adopt the UPCCAA procedures.

On January 1, 2019, AB 2249 became effective. AB 2249 allows the City to authorize the City Manager to approve projects and to by-pass bidding for projects less than \$60,000 (projects may be performed by City employees; by negotiated contract; or by purchase order); allows the City Council to award contracts through informal bidding for projects between \$60,000 and \$200,000; and requires formal bidding procedures for any project over \$200,000.

Staff further recommends that the dollar threshold of the City Manager's contracting authority on public projects be increased to \$60,000. A \$60,000 threshold is commensurate with the City ability to let public contracts under the UPCCAA without any bidding—formal or informal—and would obviate the need for Council involvement in smaller public works contracts and the attendant expense and delay associated with presenting these smaller items to Council for its consideration.

## **FISCAL IMPACT:**

The City should experience modest savings by avoiding some costs associated with the relaxed bidding requirements for projects below the new thresholds, as well as increased efficiency in awarding such contracts.

Respectfully submitted and prepared by:

  
Mark A. McAvoy  
Director of Public Works/City  
Engineer

Approved by:

  
Ron Bow  
City Manager

Reviewed by:

  
Timothy E. Campen  
Deputy City Attorney

Attachment(s)

1. Resolution No. \_\_\_\_\_
2. Ordinance No. \_\_\_\_\_



## City Council Staff Report

**DATE:** July 15, 2020

**AGENDA ITEM NO:** Public Hearing  
Agenda Item 4-A

**TO:** Honorable Mayor and Members of the City Council  
**FROM:** Matt Hallock, Fire Chief  
**SUBJECT:** Consideration of Costs Resulting from Abating Weed Nuisances and Authorizing Collection via Special Assessment (Public Hearing)

### **RECOMMENDATION:**

It is recommended that the City Council consider:

- 1) Opening the public hearing, receiving public comment, closing the public hearing;
- 2) Adopting the attached Resolution approving the Weed Abatement Clearance Charge List and authorizing collection of such costs through special assessment; and/or
- 3) Taking such additional, related, action may be desirable.

### **EXECUTIVE SUMMARY:**

On February 5, 2020, the City Council determined that weeds, brush, rubbish, refuse and dirt maintained on certain private properties in the City constitute a public nuisance. The Los Angeles County Department of Agriculture Commissioner/Weights and Measures ("County") is contracted to provide weed abatement services to the City. The County compiled its annual list of properties within the City which contain, or have the potential to contain, weeds, brush or other flammable materials sufficient to be considered a fire hazard (the "Weed Abatement Declaration List"). Persons identified as owning property on the Weed Abatement Declaration List were provided sufficient notice to either protest their inclusion thereon, or voluntarily remove the nuisance conditions identified on their property. The deadlines for voluntary compliance or protest have passed, and the County has abated the noncompliant properties on the Weed Abatement Declaration List.

The final step in the City's Weed-Abatement process is for the Council to consider approving the County's costs related to abatement and directing that these costs be collected via special assessment.

### **DISCUSSION:**

Before February 1, 2020, the County provided the City's Fire Department (MPFD) with the 2020 Weed Abatement Declaration List ("Declaration List"). Following MPFD's approval of the Declaration List, the County mailed notices to each property owner

identified thereon. The County then sent each identified property owner an annual weed abatement notice informing them of the City's weed abatement program, upcoming meeting dates and times, and required corrective action. On February 5, 2020, the City Council approved the Declaration List (via Resolution No. 12138). On May 15, 2020, the City sent each of the property owners on the Declaration List a second notification. On June 3, 2020, following a public hearing to allow parcel owners to protest their inclusion on the Declaration List<sup>1</sup>, the City Council adopted the Declaration List via Resolution No. 12162. On June 17, 2020, the County abated all noncompliant improved properties identified on the Declaration List.

Government Code §§ 39560–39588 authorize the collection of weed abatement costs by way of special assessment; where each property is assessed individual costs related to the amount of abatement work performed on it. The County has kept an itemized accounting of each properties' abatement costs; this document is attached to the Resolution as Exhibit "A." If the City Council approves the Resolution (including the County's abatement costs), the City Manager will be authorized to facilitate the recordation of a special assessment as to each affected property with the Los Angeles County Recorder's Office. Once recorded, these costs will come due upon the next property tax roll.

For the 2019-2020 weed abatement cycle, four parcels required abatement by the County. The total amount incurred by the County for the abatement of these parcels is \$5,444.48. Of the 1,560 parcels, 1,515 will also be charged the annual inspection fee of \$44.65; the inspection fee is established by the County Board of Supervisors.

**FISCAL IMPACT:**

The City of Monterey Park has been contracting with the County of Los Angeles since 1992 for weed abatement services. No fiscal impacts are anticipated to affect actual expenditures or revenues. Furthermore, no redirection of available staff time, supplies or services will be required. All nuisance abatement costs will be collected from the responsible property owners.

Approved by:

  
\_\_\_\_\_  
Ron Bow  
City Manager

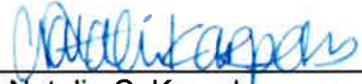
Respectfully submitted by:

  
\_\_\_\_\_  
Matt Hallock  
Fire Chief

<sup>1</sup> The County originally identified 1,562 (improved and unimproved) parcels as public nuisances. On June 3, 2020, the City received protests regarding seven parcels. After a follow-up investigation by the City and County, two parcels were no longer considered to be hazardous and were removed from the Declaration List.

Staff Report  
July 15, 2020  
Page 3

Reviewed by:



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Natalie C. Karpeles  
Deputy City Attorney

**ATTACHMENTS:**

1. Resolution & 2019-2020 Weed Abatement Charge List

**ATTACHMENT 1**  
**Resolution & 2019-2020 Weed Abatement**  
**Charge List**

**RESOLUTION NO. \_\_\_\_\_**

**A RESOLUTION CONFIRMING THE ITEMIZED WEED ABATEMENT CHARGE LIST OF WEED ABATEMENT COSTS AND DIRECTING THE LOS ANGELES COUNTY AGRICULTURAL COMMISSIONER TO COLLECT THESE COSTS THROUGH PROPERTY TAX BILLINGS.**

The City Council does resolve as follows:

**SECTION 1:** The City Council finds as follows:

- A. The City Council authorized the County of Los Angeles Agricultural Commissioner on February 5, 2020 to abate the nuisance caused by rubbish, refuse and waste materials of all kinds upon parkways, streets, and private properties by having rubbish, refuse, waste materials, and weeds removed;
- B. Such nuisances were abated in the manner provided in Chapter 9.87 of the Monterey Park Municipal Code;
- C. The County of Los Angeles Agricultural Commissioner kept an account of the cost of abating said nuisance and has prepared an itemized report showing the cost of removing weeds on and/or in front of the parcels of land, listed in the Weed Abatement Charge List, and did on the 6<sup>th</sup> day of July, 2020, file the report in the office of the City Clerk of the City of Monterey Park;
- D. The legal notice of this hearing was posted at City Hall on July 9, 2020 and Published in the Monterey Park Progress on June 30, 2020, with affidavits of posting and publication on file;
- E. The 15th day of July, 2020, at the hour of 6:30 p.m., in the Council Chambers of this City Council was the time and place fixed in the notice for receiving and considering the report, together with any objections which might have been raised by the property owners liable to be assessed for the work of abating said nuisance; and
- F. At the time and place fixed for submitting, receiving and considering the report and objections thereto, no property owner, or other person or anyone objected to raised any objection to the report or to any of the cost therein contained.

**SECTION 2:** The respective assessments against the respective parcels of land listed in the Weed Abatement Charge List, which is attached as Exhibit "A," and incorporated by reference, are confirmed as true and correct.

**SECTION 3:** In accordance with Government Code §§ 39560 through 39588, the amounts of the cost of abating said nuisance on and/or in front of the various lots and parcels of land described in the report constitute special, assessments and liens against said respective lots or parcels of land and will be added to the next regular tax bill levied against such lots or parcels of land for municipal purposes.

**SECTION 4:** Authorization. The City Manager, or designee, is directed to take such actions that are needed to place these on property tax rolls including, without limitation, forwarding this Resolution to the Los Angeles County Assessor's Office.

**SECTION 5:** Reliance on Record. Each and every one of the findings and determinations in this Resolution are based on the competent and substantial evidence, both oral and written, contained in the entire record relating to the project. The findings and determinations constitute the independent findings and determinations of the City Council in all respects and are fully and completely supported by substantial evidence in the record as a whole.

**SECTION 6:** Summaries of Information. All summaries of information in the findings, which precede this section, are based on the substantial evidence in the record. The absence of any particular fact from any such summary is not an indication that a particular finding is not based in part on that fact.

**SECTION 7:** Effectiveness. This Resolution will become effective immediately upon adoption.

**SECTION 8:** The City Clerk of the City of Monterey Park is directed to certify a copy of this resolution and cause such certified copy thereof to be filed with the Los Angeles County Agricultural Commissioner together with a certified copy of said report, attached hereto.

**SECTION 9:** The City Clerk is directed to certify to the adoption of this Resolution and enter it into the book of original Resolutions.

PASSED, APPROVED AND ADOPTED this 15<sup>th</sup> day of July, 2020.

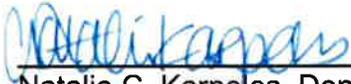
\_\_\_\_\_  
Hans Liang, Mayor

ATTEST:

\_\_\_\_\_  
Vincent D. Chang, City Clerk

Resolution No. \_\_\_\_\_  
Page 3 of 3

APPROVED AS TO FORM:

By:   
Natalie C. Karpeles, Deputy City Attorney

State of California )  
County of Los Angeles ) ss.  
City of Monterey Park )

I, Vincent D. Chang, City Clerk of the City of Monterey Park, California, do hereby certify that the foregoing Resolution No. 12023 was duly and regularly adopted by the City Council of the City of Monterey Park at a meeting held on the 15<sup>th</sup> day of July 2020, by the following vote:

Ayes:	Council Members:
Nays:	Council Members:
Absent:	Council Members:
Abstain:	Council Members:

Dated this 15<sup>th</sup> day of July, 2020.

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Vincent D. Chang, City Clerk  
Monterey Park, California

**Exhibit A****CITY OF MONTEREY PARK  
WEED ABATEMENT CHARGES**

July 6, 2020

Key	MAPBOOK	PAGE	PARCEL	ZONE	CITY CODE	CHARGES
J	5225	019	020	5	490	44.65
J	5225	031	016	5	490	44.65
*J	5225	031	018	5	490	44.65
J	5225	031	019	5	490	44.65
*J	5237	008	027	5	490	44.65
*J	5237	012	001	5	490	44.65
*J	5237	012	002	5	490	44.65
*J	5237	012	003	5	490	44.65
*J	5237	012	004	5	490	44.65
*J	5237	012	005	5	490	44.65
*J	5237	012	006	5	490	44.65
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CITY OF MONTEREY PARK  
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July 6, 2020

Key	MAPBOOK	PAGE	PARCEL	ZONE	CITY CODE	CHARGES
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CITY OF MONTEREY PARK  
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CITY OF MONTEREY PARK  
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Key	MAPBOOK	PAGE	PARCEL	ZONE	CITY CODE	CHARGES
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*J	5252	034	011	5	490	44.65
*J	5252	034	013	5	490	44.65
*J	5252	035	001	5	490	44.65
*J	5252	036	001	5	490	44.65
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*J	5252	037	001	5	490	44.65
*J	5252	037	002	5	490	44.65
*J	5252	037	003	5	490	44.65
*J	5252	037	004	5	490	44.65
*J	5252	037	005	5	490	44.65
*J	5252	037	012	5	490	44.65
*J	5252	037	013	5	490	44.65
J	5252	038	003	5	490	44.65
*J	5252	038	009	5	490	44.65
*J	5252	040	011	5	490	44.65
*J	5252	040	018	5	490	44.65
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*J	5252	041	015	5	490	44.65
*J	5252	041	021	5	490	44.65
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*J	5252	041	029	5	490	44.65
*J	5252	041	032	5	490	44.65
*J	5252	041	033	5	490	44.65
*J	5252	041	034	5	490	44.65
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*J	5252	041	040	5	490	44.65
*J	5252	041	041	5	490	44.65
*J	5252	041	042	5	490	44.65
*J	5252	041	043	5	490	44.65
*J	5252	041	044	5	490	44.65
*J	5252	041	045	5	490	44.65

CITY OF MONTEREY PARK  
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Key	MAPBOOK	PAGE	PARCEL	ZONE	CITY CODE	CHARGES
*J	5252	041	046	5	490	44.65
*J	5252	042	009	5	490	44.65
*J	5252	042	010	5	490	44.65
*J	5252	042	011	5	490	44.65
*J	5252	042	012	5	490	44.65
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*J	5252	043	012	5	490	44.65
*J	5252	043	014	5	490	44.65
*J	5252	043	015	5	490	44.65
*J	5252	043	020	5	490	44.65
*J	5252	043	021	5	490	44.65
*J	5252	043	023	5	490	44.65
*J	5252	043	038	5	490	44.65
*J	5252	043	041	5	490	44.65
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*J	5252	044	001	5	490	44.65
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J	5253	002	022	5	490	44.65
*J	5253	005	003	5	490	44.65
*J	5253	006	013	5	490	44.65
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*J	5253	006	019	5	490	44.65
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Key	MAPBOOK	PAGE	PARCEL	ZONE	CITY CODE	CHARGES
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*J	5253	006	027	5	490	44.65
J	5253	006	028	5	490	44.65
*J	5253	006	040	5	490	44.65
*J	5253	006	041	5	490	44.65
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*J	5253	006	062	5	490	44.65
*J	5253	006	063	5	490	44.65
J	5253	007	005	5	490	44.65
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J	5253	007	024	5	490	44.65
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*J	5253	007	027	5	490	44.65
J	5253	007	028	5	490	44.65
J	5253	008	023	5	490	44.65
J	5253	008	024	5	490	44.65
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*J	5253	008	027	5	490	44.65
*J	5253	008	028	5	490	44.65
*J	5253	008	029	5	490	44.65
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*J	5253	008	031	5	490	44.65
*J	5253	008	032	5	490	44.65
*J	5253	008	033	5	490	44.65
*J	5253	008	034	5	490	44.65
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J	5253	008	036	5	490	44.65
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*J	5253	008	042	5	490	44.65
*J	5253	008	043	5	490	44.65
*J	5253	008	044	5	490	44.65
*J	5253	008	045	5	490	44.65
*J	5253	008	046	5	490	44.65

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Key	MAPBOOK	PAGE	PARCEL	ZONE	CITY CODE	CHARGES
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*J	5253	008	048	5	490	44.65
*J	5253	008	049	5	490	44.65
*J	5253	008	050	5	490	44.65
*J	5253	008	052	5	490	44.65
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*J	5253	008	055	5	490	44.65
*J	5253	008	060	5	490	44.65
J	5253	008	061	5	490	44.65
*J	5253	009	019	5	490	44.65
J	5253	010	031	5	490	44.65
*J	5253	010	036	5	490	44.65
*J	5253	010	037	5	490	44.65
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*J	5253	012	019	5	490	44.65
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*J	5253	013	026	5	490	44.65
*J	5253	013	027	5	490	44.65
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*J	5253	013	029	5	490	44.65
*J	5253	013	031	5	490	44.65
*J	5253	014	018	5	490	44.65
*J	5253	024	003	5	490	44.65
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*J	5253	024	006	5	490	44.65
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*J	5253	028	007	5	490	44.65
*J	5253	029	004	5	490	44.65
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Key	MAPBOOK	PAGE	PARCEL	ZONE	CITY CODE	CHARGES
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*J	5253	030	014	5	490	44.65
*J	5253	034	046	5	490	44.65
*J	5253	034	047	5	490	44.65
*J	5253	034	048	5	490	44.65
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*J	5253	034	052	5	490	44.65
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*J	5253	034	055	5	490	44.65
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*J	5253	035	020	5	490	44.65
*J	5253	035	021	5	490	44.65
*J	5253	036	002	5	490	44.65
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*J	5253	036	034	5	490	44.65
*J	5253	036	035	5	490	44.65
*J	5253	036	036	5	490	44.65
*J	5253	036	038	5	490	44.65
*J	5253	037	001	5	490	44.65

CITY OF MONTEREY PARK  
WEED ABATEMENT CHARGES

July 6, 2020

Key	MAPBOOK	PAGE	PARCEL	ZONE	CITY CODE	CHARGES
*J	5253	037	002	5	490	44.65
*J	5253	037	003	5	490	44.65
*J	5253	037	004	5	490	44.65
*J	5253	037	013	5	490	44.65
*J	5253	037	014	5	490	44.65
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*J	5253	038	015	5	490	44.65
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*J	5253	039	001	5	490	44.65
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*J	5253	039	013	5	490	44.65
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*J	5253	040	028	5	490	44.65
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J	5254	002	029	5	490	44.65
*J	5254	003	005	5	490	44.65
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J	5254	003	018	5	490	44.65
J	5254	003	019	5	490	44.65
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*J	5254	004	009	5	490	44.65

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Key	MAPBOOK	PAGE	PARCEL	ZONE	CITY CODE	CHARGES
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*J	5254	004	040	5	490	44.65
*J	5254	004	041	5	490	44.65
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*J	5254	004	046	5	490	44.65
*J	5254	004	052	5	490	44.65
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*J	5254	005	034	5	490	44.65
*J	5254	005	045	5	490	44.65
*J	5254	005	046	5	490	44.65
*J	5254	006	020	5	490	44.65
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*J	5254	008	001	5	490	44.65
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J	5254	009	023	5	490	381.39
*J	5254	009	026	5	490	44.65
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*J	5254	010	001	5	490	44.65
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*J	5254	012	050	5	490	44.65
*J	5254	012	051	5	490	44.65
*J	5254	015	043	5	490	44.65
*J	5254	015	045	5	490	44.65
*J	5254	015	046	5	490	44.65

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Key	MAPBOOK	PAGE	PARCEL	ZONE	CITY CODE	CHARGES
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*J	5254	016	019	5	490	44.65
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*J	5254	016	021	5	490	44.65
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*J	5254	019	093	5	490	44.65
*J	5254	019	094	5	490	44.65
*J	5254	019	095	5	490	44.65
*J	5254	019	096	5	490	44.65
*J	5254	019	098	5	490	44.65

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Key	MAPBOOK	PAGE	PARCEL	ZONE	CITY CODE	CHARGES
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*J	5254	019	106	5	490	44.65
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*J	5254	019	109	5	490	44.65
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J	5257	015	002	5	490	44.65
J	5257	015	004	5	490	44.65
J	5257	015	005	5	490	44.65
*J	5257	017	005	5	490	44.65
*J	5258	007	096	5	490	44.65
J	5258	013	030	5	490	44.65
J	5259	007	064	5	490	44.65
J	5259	007	065	5	490	44.65
J	5260	009	009	5	490	44.65
*J	5260	011	016	5	490	44.65
*J	5260	011	017	5	490	44.65
*J	5260	011	018	5	490	44.65
*J	5260	011	023	5	490	44.65
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CITY OF MONTEREY PARK  
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July 6, 2020

Key	MAPBOOK	PAGE	PARCEL	ZONE	CITY CODE	CHARGES
*J	5260	014	016	5	490	44.65
*J	5260	014	017	5	490	44.65
*J	5260	014	018	5	490	44.65
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*J	5260	014	023	5	490	44.65
*J	5260	014	025	5	490	44.65
*J	5260	014	026	5	490	44.65
*J	5260	014	027	5	490	44.65
*J	5260	014	028	5	490	44.65
*J	5260	014	034	5	490	44.65
*J	5260	014	035	5	490	44.65
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*J	5260	019	031	5	490	44.65
*J	5260	020	001	5	490	44.65
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*J	5260	023	007	5	490	44.65
J	5260	024	024	5	490	44.65
*J	5260	024	031	5	490	44.65
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*J	5260	024	033	5	490	44.65
*J	5260	025	035	5	490	44.65
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*J	5260	025	062	5	490	44.65
J	5260	025	063	5	490	44.65
J	5260	025	064	5	490	44.65
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*J	5260	026	016	5	490	44.65
*J	5260	026	017	5	490	44.65
*J	5260	027	004	5	490	44.65
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*J	5260	027	024	5	490	44.65
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CITY OF MONTEREY PARK  
WEED ABATEMENT CHARGES

July 6, 2020

Key	MAPBOOK	PAGE	PARCEL	ZONE	CITY CODE	CHARGES
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*J	5260	027	032	5	490	44.65
*J	5260	027	033	5	490	44.65
*J	5260	027	034	5	490	44.65
*J	5261	001	040	5	490	44.65
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*J	5261	009	032	5	490	44.65
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J	5261	010	075	5	490	44.65
*J	5261	011	016	5	490	44.65

CITY OF MONTEREY PARK  
WEED ABATEMENT CHARGES

July 6, 2020

Key	MAPBOOK	PAGE	PARCEL	ZONE	CITY CODE	CHARGES
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*J	5261	011	020	5	490	44.65
*J	5261	011	032	5	490	44.65
*J	5261	011	033	5	490	44.65
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*J	5261	011	046	5	490	44.65
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*J	5261	012	019	5	490	44.65
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*J	5261	012	021	5	490	44.65
*J	5261	012	022	5	490	44.65
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CITY OF MONTEREY PARK  
WEED ABATEMENT CHARGES

July 6, 2020

Key	MAPBOOK	PAGE	PARCEL	ZONE	CITY CODE	CHARGES
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*J	5261	015	045	5	490	44.65
*J	5261	015	046	5	490	44.65
*J	5261	015	047	5	490	44.65
*J	5261	015	053	5	490	44.65
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J	5261	015	087	5	490	44.65
J	5261	015	088	5	490	44.65
*J	5261	018	009	5	490	44.65
*J	5261	019	043	5	490	44.65
*J	5261	019	046	5	490	44.65
*J	5261	019	048	5	490	44.65
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*J	5261	020	069	5	490	44.65
*J	5262	020	028	5	490	44.65

CITY OF MONTEREY PARK  
WEED ABATEMENT CHARGES

July 6, 2020

Key	MAPBOOK	PAGE	PARCEL	ZONE	CITY CODE	CHARGES
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*J	5262	021	018	5	490	44.65
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*J	5262	022	008	5	490	44.65
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CITY OF MONTEREY PARK  
WEED ABATEMENT CHARGES

July 6, 2020

Key	MAPBOOK	PAGE	PARCEL	ZONE	CITY CODE	CHARGES
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J	5263	003	022	5	490	44.65
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CITY OF MONTEREY PARK  
WEED ABATEMENT CHARGES

July 6, 2020

Key	MAPBOOK	PAGE	PARCEL	ZONE	CITY CODE	CHARGES
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CITY OF MONTEREY PARK  
WEED ABATEMENT CHARGES

July 6, 2020

Key	MAPBOOK	PAGE	PARCEL	ZONE	CITY CODE	CHARGES
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CITY OF MONTEREY PARK  
WEED ABATEMENT CHARGES

July 6, 2020

Key	MAPBOOK	PAGE	PARCEL	ZONE	CITY CODE	CHARGES
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*J	5263	039	001	5	490	44.65
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CITY OF MONTEREY PARK  
WEED ABATEMENT CHARGES

July 6, 2020

Key	MAPBOOK	PAGE	PARCEL	ZONE	CITY CODE	CHARGES
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CITY OF MONTEREY PARK  
WEED ABATEMENT CHARGES

July 6, 2020

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CITY OF MONTEREY PARK  
WEED ABATEMENT CHARGES

July 6, 2020

Key	MAPBOOK	PAGE	PARCEL	ZONE	CITY CODE	CHARGES
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CITY OF MONTEREY PARK  
WEED ABATEMENT CHARGES

July 6, 2020

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CITY OF MONTEREY PARK  
WEED ABATEMENT CHARGES

July 6, 2020

Key	MAPBOOK	PAGE	PARCEL	ZONE	CITY CODE	CHARGES
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CITY OF MONTEREY PARK  
WEED ABATEMENT CHARGES

July 6, 2020

Key	MAPBOOK	PAGE	PARCEL	ZONE	CITY CODE	CHARGES
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J	5276	020	018	5	490	44.65
*J	5276	020	023	5	490	44.65
J	5286	010	018	5	490	44.65
J	5286	019	013	5	490	44.65

**CITY OF MONTEREY PARK  
WEED ABATEMENT CHARGES**

July 6, 2020

Key	MAPBOOK	PAGE	PARCEL	ZONE	CITY CODE	CHARGES
*J	5354	002	041	5	490	44.65
TOTAL IMPROVED PARCELS =			0	TOTAL CHARGES		\$0.00
TOTAL UNIMPROVED PARCELS =			4	TOTAL CHARGES		\$5,444.48
TOTAL INSPECTION FEE ONLY PCLS =			1515	TOTAL CHARGES		\$67,644.75
GRAND TOTAL			1519	GRAND TOTAL		\$73,089.23



# City Council Staff Report

**DATE: July 15, 2020**

**AGENDA ITEM NO: Public Hearing  
Agenda Item 4-B**

**TO:** The Honorable Mayor and City Council  
**FROM:** Ron Bow, City Manager  
**SUBJECT:** Consideration and possible action regarding implementing Phase II of the 2020 Monterey Park Business Recovery Program for restarting the local economy

## **RECOMMENDATION:**

It is recommended that the City Council consider:

1. Opening a public hearing regarding Phase II of the 2020 Monterey Park Business Recovery Program (the "Program");
2. After receiving verbal and written testimony, close the public hearing;
3. After discussing the evidence, adopt an urgency ordinance implementing the Program immediately upon a 4/5s vote;
4. Introduce and waive first reading of an ordinance implementing the Program. Second reading and adoption would occur on August 5, 2020;
5. If appropriate, provide direction to the City Manager for placing additional items to be integrated into the Program on a future City Council meeting agenda; and
6. Take such additional, related, action that may be desirable.

## **CEQA:**

The proposed Program was reviewed pursuant to the California Environmental Quality Act (Public Resources Code §§ 21000, *et seq.*, "CEQA") and the regulations promulgated thereunder (14 Cal. Code of Regulations §§15000, *et seq.*, the "CEQA Guidelines"). Based upon that review, these Ordinances are exempt from further review pursuant to CEQA Guidelines § 15269(a) because the protection of public and private property is necessary to maintain service essential to the public, health and welfare.<sup>1</sup> Additionally,

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<sup>1</sup> CEQA findings regarding an anticipated imminent emergency are valid (*see CalBeach Advocates v. City of Solana Beach* (2002) 103 Cal.App.4th 529).

these Ordinances are exempt pursuant to CEQA Guidelines §15061(b)(3) because it can be seen with certainty that there is no possibility that the Ordinances, by themselves, may have a significant effect on the environment. Any project utilizing the Program will undergo separate CEQA review.

### **EXECUTIVE SUMMARY:**

On July 1, 2020, the City Council implemented Phase I of the 2020 Monterey Park Business Recovery Program. It also directed that seven different policies be considered during a public hearing scheduled for July 15, 2020. Those policies are integrated into the proposed ordinances which, if adopted, would implement Phase II of the 2020 Monterey Park Business Recovery Program.

### **DISCUSSION**

During its July 1<sup>st</sup> meeting, the City Council directed that several policies be considered during a public hearing. Those policies are included as separate items in the draft urgency and regular ordinance that, if adopted, would implement Phase II of the 2020 Monterey Park Business Recovery Program (the "Program"). These Ordinances are structured so that each policy is a separate attachment. This will allow the City Council to pick and choose which (if any) policy it wishes to implement as part of the Program. If a policy should be omitted, then the motion should specifically identify which policy is not part of the Program. Each of these is discussed below.

#### *➤ House-keeping Item regarding Design Review*

As an initial matter, the Program includes changes to the Monterey Park Municipal Code ("MPMC") that are needed to fully implement the Planning Agency restructure that occurred on July 1<sup>st</sup>. Section 4 of each Ordinance makes certain amendments to the MPMC to reflect that the DRB is now advisory to the Planning Commission and that the Planning Commission is primarily responsible for all design review decision-making (with advice from the DRB). Projects approved by the Planning Commission or City Council do not require separate DRB approvals. These changes simply amend the MPMC to reflect this change.

#### *➤ Parking*

As briefly discussed during previous City Council meetings, one common complaint from developers is the MPMC's various restrictions on parking. The MPMC provides multiple requirements regarding the number, placement, and size of parking spaces for various developments. Yet, it provides almost no flexibility for decision-makers when confronted with developments that do not neatly fit into a cookie cutter design. Past experience, such as the proposed Raising Cane's on South Atlantic Blvd; the proposed (but subsequently withdrawn) Starbucks on South Atlantic Blvd; several proposed projects along the Garvey Ave corridor; and many projects that never "get off the ground" since parking requirements

result in those proposals being non-starters, show that many developments either were rejected or significantly changed because of the MPMC's stringent parking requirements.

The Program would grant authority to the City Planner to be more flexible regarding parking. While the MPMC is an option that could be utilized in assessing a project, an applicant could also provide alternative parking plans for consideration. This would include allowing an applicant to submit a parking study demonstrating that a development requires fewer – or different – parking to meet the City's parking expectations. Such a study could include, for example, a plan for tandem parking. Any alternative would require the City Planner to issue an administrative use permit ("AUP") which would be included on the Planning Commission (or City Council) agenda as a receive and file item. An AUP could be discussed and altered by the Planning Commission (or City Council) if desirable.

➤ *Administrative Use Permit – Alcohol Licenses.*

Currently, persons seeking an alcohol license must, in addition to obtaining the license from the California Department of Alcohol Beverage Control ("ABC"), request a conditional use permit ("CUP") from the City (via the Planning Commission). The CUP acts as the City's consent for ABC to issue an alcohol license (also known as a public convenience and necessity letter or "PCN"). A CUP, however, is not required by California law; a PCN can be issued administratively.

The Program would authorize the City Planner to issue an AUP to function as the City's PCN. While this decision could be appealed to the Planning Commission, the AUP itself would function as the City's final decision; no additional review would be required by the Planning Commission or City Council.

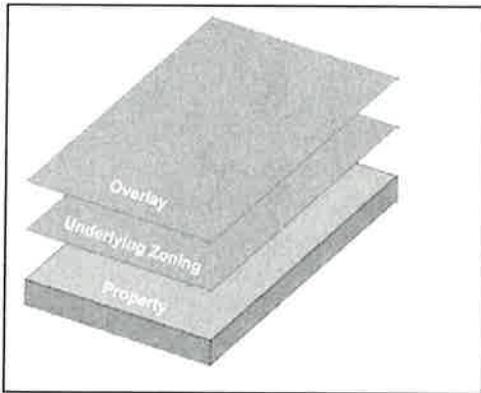
➤ *Administrative Use Permit - Drive-throughs.*

The MPMC's zoning regulations already designate which areas within the City may accommodate drive-throughs. For example, the South Garfield Village Specific Plan; the Market Place Precise Plan; and most commercial zones (excepting Mixed Use Overlay zones), all provide drive-throughs as an accessory use to restaurants. In all these areas, the General Plan and City Council already made a policy decision to allow drive-throughs.

Accordingly, the Program would authorize the City Engineer to review and approve drive-through plans submitted by applicants where the underlying zoning allows for such uses. Those plans must be prepared by a design professional (e.g., a traffic engineer or architect) and would require the City Engineer to issue an AUP approving the drive-through. Among other things, such an AUP could allow for relaxed setbacks if needed to accommodate vehicle queuing to help avoid stacking of vehicles onto public roads. Like the parking AUP, any drive-through AUP would require it to be placed on a Planning Commission (or City Council) agenda as a receive and file item. It desirable, the AUP could be modified by the Planning Commission (or City Council).

➤ *Business Recovery Development agreement Zone (“BRDZ”).*

The Program would create a new overlay zone entitled “Business Recover Development agreement Zone (BRDZ).” The BRDZ would allow projects at certain sites and areas within the City to be subject to a development agreement to alter requirements of the underlying zone. A recent example of a project that used an overlay zone is the Chandler Senior Housing project, located at 130-206 South Chandler Ave, that utilized the City’s existing senior citizen housing overlay zone. Since not all projects fit neatly into the MPMC’s zoning regulations, the BRDZ provides flexibility for otherwise strict development regulations applicable to the underlying zone. The development agreement would implement those changes to the underlying zone through an overlay zone. The BRDZ is considered a “floating zone” because once the need is identified, this zone can be activated for a specific property. The graphic below provides an image of the concept: the green layer represents the BRDZ overlay zone. That overlay would be reconciled with the blue layer which represents the underlying zone (e.g., commercial).



Other requirements proposed as part of the BRDZ include: 1) combining the BRDZ with any underlying zone; 2) specifying the allowable land uses on a site within the BRDZ; 3) applying the same land use permit requirements of the primary zone within the BRDZ, unless otherwise specified in the applicable development agreement; 4) establishing development and land use standards on a site within the BRDZ in the applicable development agreement; and 5) amending the Zoning Map to show the overlay designation once the BRDZ is

activated.

This policy provides flexibility to existing zoning and land use regulations and will help streamline the development process for future developments within the City. Some projects may be more desirable to the City and the needs of such projects can be accomplished with the BRDZ. Approval of the BRDZ and any development agreement associated with the BRDZ rests solely within the City Council’s discretion.

➤ *Noise Disturbances.*

Before the COVID-19 Pandemic, the City’s code enforcement division dealt with several noise complaints involving existing businesses. These complaints posed two primary challenges to the City: (1) the MPMC’s noise regulations currently govern noise based only upon decibel readings not a more general “annoyance” level; and (2) in order to gain compliance from the alleged offender, the City needed to first find certified equipment to properly record the decibels and then work with the offender – over several months – to try correcting the problem while at the same time trying to satisfy the complainant.

The Program would provide a general definition of “noise” (rather than relying exclusively upon decibel readings) which would allow more efficient enforcement. Additionally, the City could issue temporary use permits (not more than three months) that would allow noise generation that might exceed the MPMC decibel readings. This would help local development from the standpoint of (a) allowing for accelerated construction schedules (i.e., allowing construction projects to temporarily exceed the MPMC’s limits); and (b) facilitate the City’s monitoring (and enforcement) of nuisance noise.

➤ *California Building Code (“CBC”).*

Most structures in the City were constructed before the current version of the CBC became effective (the CBC is adopted in three-year cycles; it was last adopted in 2019). When business owners and developers seek new permits for, e.g., renovations or expansions, of existing buildings, they frequently are required to make changes elsewhere within the building in order to comply with the current CBC. This is particularly true for upgrades required to meet disabled access requirements. The proposed temporary amendments to the CBC would allow design professionals to submit studies to the Building Official for approval demonstrating that the current structures meet the minimum requirements of the current CBC, or that the proposed construction satisfies these requirements that are being triggered by the alterations or change in use or occupancy. This would help streamline the City’s process for issuing building permits, and provide flexibility to property owners, businesses, and developers.

These policies are the ones that were approved by the City Council to be considered during the July 15<sup>th</sup> public hearing. This list, however, is not exclusive.

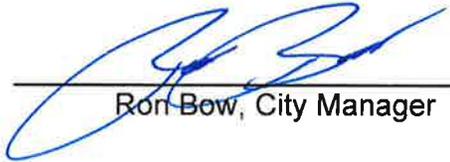
If the City Council identifies other policies that should be integrated into the Program, then – separately from the two Ordinances proposed tonight – it should identify those policies and direct that they be considered during a future City Council meeting.

Pursuant to previous City Council discussion, the Program would automatically expire on December 31, 2020. This would give me sufficient time to report to the City Council regarding whether the Program was being successfully implemented. If appropriate and desirable, the City Council could – in December – decide whether to extend the Program and/or make certain of these policies permanent, i.e., amend the MPMC to add such policies into the City’s regulations.

**FISCAL IMPACT:**

There are no direct foreseeable costs associated with adopting the Program.

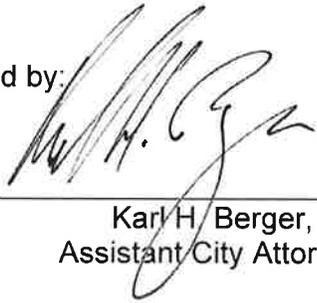
Respectfully submitted and prepared by:



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Ron Bow, City Manager

Reviewed by:



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Karl H. Berger,  
Assistant City Attorney

Attachment(s):

1. Urgency and Regular Ordinance implementing Phase II of the 2020 Monterey Park Business Recovery Program.

**ATTACHMENT 1**  
Draft Ordinances

ORDINANCE NO. \_\_\_\_\_

**AN URGENCY ORDINANCE ADOPTING THE 2020 MONTEREY PARK BUSINESS RECOVERY PROGRAM AND IMPLEMENTING VARIOUS TEMPORARY LAND USE REGULATIONS INCLUDING, WITHOUT LIMITATION, A NEW BUSINESS RECOVERY DEVELOPMENT AGREEMENT ZONE PURSUANT TO CITY COUNCIL DIRECTION ON JULY 1, 2020.**

The City Council does ordain as follows:

**SECTION 1.** *Findings.* The City Council finds, determines and declares as follows:

- A. On March 11, 2020, at 7:00 p.m., the City declared a state of local emergency due to the COVID-19 Pandemic (the “Emergency”). That Emergency was ratified by Resolution No. 12142, adopted March 18, 2020; extended on April 15, 2020 by Resolution No. 12151; and further extended on June 3, 2020 by Resolution No. 12164;
- B. An additional local emergency was declared on May 31, 2020 related to the unrest associated with the tragic death of George Floyd in Minneapolis, MN. That emergency was ratified on June 3, 2020 by Resolution No. 12165 (also part of the “Emergency”);
- C. The City Council takes notice of the well-documented secondary effects of the Emergency include record-high unemployment rates, bankruptcy, and other disastrous effects upon the national, state, and local economies. It will be many months before the complete extent of this economic devastation is clarified;
- D. The City Council believes that it is in the public interest for the City to implement regulations to facilitate the rapid recovery of the local economy, promote additional economic growth, and mitigate the effects of the Emergency;
- E. Regulations are needed to efficiently implement development projects that will create jobs, invest in the local economy, assist in recovery, and protect the public welfare;
- F. The City Manager and City Planner may recommend changes to this Ordinance – including codification within the Monterey Park Municipal Code – when it is practicable;
- G. On July 1, 2020, the City Council adopted Urgency Ordinance Nos. 2177 (Planning Agency restructure) and 2178 (Non-Land Use Regulations) which implemented Phase I of the Monterey Park Business Recovery Program (“Phase I”).

- H. Also on July 1, 2020, the City Council directed that the temporary regulations identified in this Ordinance be considered during a noticed public hearing scheduled for July 15, 2020 as part of Phase II for the Monterey Park Business Recovery Program (“Phase II”). Together, Phase I and Phase II are collectively part of the 2020 Monterey Park Business Recovery Program.
- I. Because of the findings set forth above, the City Council finds that this Ordinance should be adopted on an urgency basis to preserve the public health, safety, and welfare in accordance with Government Code §§ 36934 and 36937(b); and
- J. The regulations adopted by this Ordinance are intended to be implemented temporarily in order to accelerate City approvals and promote local businesses. This Ordinance will be uncodified is part of the “2020 Monterey Park Business Recovery Program.”

**SECTION 2.** *Environmental Assessment.* This Ordinance was reviewed pursuant to the California Environmental Quality Act (Public Resources Code §§ 21000, *et seq.*, “CEQA”) and the regulations promulgated thereunder (14 Cal. Code of Regulations §§15000, *et seq.*, the “CEQA Guidelines”). Adopting this Ordinance is exempt from further environmental review because it establishes rules and procedures for operation of existing facilities; minor temporary use of land; minor alterations in land use; new construction of small structures; and minor structures accessory to existing commercial facilities. The Ordinance, therefore, is categorically exempt from further CEQA review under CEQA Guidelines §§ 15301; 15303, 15304(e); 15305; and 15311. Further, the adopting the ordinance is also exempt from review under CEQA pursuant to CEQA Guidelines § 15061(b)(3) because the ordinance is for general policies and procedure-making. It can be seen with certainty that there is no possibility that the Ordinance may have a significant effect on the environment. Individual projects utilizing the 2020 Monterey Park Business Recovery Program will each be separately subject to an environmental assessment. Finally, this Ordinance is exempt from further review pursuant to CEQA Guidelines § 15269(a) because the protection of public and private property is necessary to maintain service essential to the public, health and welfare.<sup>1</sup>

**SECTION 3.** *Zoning Findings.* Pursuant to Ordinance No. 2177 and MPMC § 21.38.050, the City Council finds that the changes implemented by this Ordinance will promote public health, safety and general welfare by, among other things, encouraging the most appropriate use of land, and conservation and stabilization of property value, all in accordance with the General Plan. The proposed changes to the MPMC do not affect any particular property. Rather, they are of citywide application and are intended to enhance property values while balancing property rights. The changes implemented by this Ordinance will streamline the development process and will contribute to the City's commitment of being business friendly.

---

<sup>1</sup> CEQA findings regarding an anticipated imminent emergency are valid (see *CalBeach Advocates v. City of Solana Beach* (2002) 103 Cal.App.4th 529).

**SECTION 4.** *General Plan Findings.* Pursuant to Government Code § 65860 and Ordinance No. 2177, the changes implemented by this Ordinance are consistent with the General Plan. Among other things, this Ordinance will help implement the following goals and policies of the General Plan Land Use Element<sup>2</sup>:

- A. GOAL 1: Commercial districts that allow a variety of retail, service, and entertainment uses and that accommodate flexibility over time.
  - 1. Policy 1.1 Flexibility. Ensure zoning regulations provide flexibility regarding allowed uses.
  - 2. Policy 1.2 Local Businesses. Advocate for and support local businesses and small business owners.
  - 3. Policy 1.3 Economic Development. Maintain a proactive economic development program that promotes the benefits of Monterey Park for both local businesses and national and international companies.
  
- B. GOAL 2: Dynamic mix of businesses, uses, and employment that sustain a strong local economy and contributes to a fiscally sustainable tax base
  - 1. Policy 2.1 Flexibility. Provide flexible and clear development standards to allow commercial, professional, industrial, institutional, and hospitality businesses and uses to expand and thrive economically.
  - 2. Policy 2.2. Business Growth. Facilitate the growth of a diverse business sector resilient to change over time and compatible with a broad range of skills and workers.
  - 3. Policy 2.3 Innovation. Create a culture of innovation and growth, encouraging emerging businesses to attract high-quality jobs.

**SECTION 5.** *2020 Monterey Park Business Recovery Program.* The Land Use Regulations set forth below and in the attached Exhibits are incorporated by reference and adopted to implement the 2020 Monterey Park Business Recovery Program.

- A. Temporary Parking Regulations – Exhibit A.
- B. Temporary Administrative Use Permit Regulations – Exhibit B.
- C. Business Recovery Development Agreement Zone (“BRDZ”) – Exhibit C.

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<sup>2</sup> As adopted by Resolution No. 12172 June 17, 2020 and submitted to the November 3, 2020 ballot via Resolution No. 12179 on July 1, 2020.

- D. Temporary Noise Regulations – Exhibit D.
- E. Temporary California Building Code Regulations – Exhibit E.

**SECTION 6.** *Phase I Planning Agency Reconciliation.* To reconcile the changes implemented by Ordinance No. 2177 with the design review requirements of Monterey Park Municipal Code (“MPMC”) Chapter 21.36, the City Council repeals MPMC §§ 21.36.040, 21.36.070, 21.36.080, 21.36.100, and 21.36.120. All references to the Planning Commission (as implemented by Ordinance No. 2177) in MPMC §§ 21.36.060, 21.36.080, and 21.36.130 are changed to “City Planner.”

**SECTION 7.** *Construction.* This Ordinance must be broadly construed to achieve the purposes stated in this Ordinance. It is the City Council’s intent that the provisions of this Ordinance be interpreted or implemented by the City and others in a manner that facilitates the purposes set forth in this Ordinance.

**SECTION 8.** *Enforceability.* Repeal of any provision of the MPMC does not affect any penalty, forfeiture, or liability incurred before, or preclude prosecution and imposition of penalties for any violation occurring before this Ordinance’s effective date. Any such repealed part will remain in full force and effect for sustaining action or prosecuting violations occurring before the effective date of this Ordinance.

**SECTION 9.** *Validity of Previous Code Sections.* If this entire Ordinance or its application is deemed invalid by a court of competent jurisdiction, any repeal or amendment of the MPMC or other city ordinance by this Ordinance will be rendered void and cause such previous MPMC provision or other the city ordinance to remain in full force and effect for all purposes.

**SECTION 10.** *Reliance on Record.* Each and every one of the findings and determinations in this Ordinance are based on the competent and substantial evidence, both oral and written, contained in the entire record relating to the project. The findings and determinations constitute the independent findings and determinations of the City Council in all respects and are fully and completely supported by substantial evidence in the record as a whole.

**SECTION 11.** *Severability.* If any part of this Ordinance or its application is deemed invalid by a court of competent jurisdiction, the City Council intends that such invalidity will not affect the effectiveness of the remaining provisions or applications and, to this end, the provisions of this Ordinance are severable.

**SECTION 12.** *Recording.* The City Clerk, or her duly appointed deputy, is directed to certify the passage and adoption of this Ordinance; cause it to be entered into the City of Monterey Park’s book of original ordinances; make a note of the passage and adoption in the records of this meeting; and, within 15 days after the passage and adoption of this Ordinance, cause it to be published or posted in accordance with California law.

**SECTION 13.** *Declaration of Urgency.* Based on the findings set forth in Section 1, this is an Urgency Ordinance adopted for the immediate preservation of the public peace, health, safety and welfare.

**SECTION 14.** *Electronic Signatures.* This Ordinance may be executed with electronic signatures in accordance with Government Code §16.5. Such electronic signatures will be treated in all respects as having the same effect as an original signature.

**SECTION 15.** *Sunset Clause.* The Council finds that it is in the best interest of the public safety, welfare and convenience of the City to implement this Ordinance during, at least, the Emergency. To ensure that the City Manager reviews the MPMC as contemplated by this Ordinance, this Ordinance will automatically be repealed and will become ineffective on December 31, 2020, unless the City Council takes additional action to extend the effectiveness of this Ordinance or supersedes it via a subsequently adopted Ordinance amending the MPMC.

**SECTION 16.** *Effective Date.* This Ordinance will become effective immediately upon adoption pursuant to Government Code §§ 36934 and 36937 for the immediate preservation of the public peace, health, safety, and welfare. Pursuant to those statutes this Ordinance is adopted by fourth-fifths vote of the City Council.

PASSED AND ADOPTED this \_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
Hans Liang, Mayor

ATTEST:

\_\_\_\_\_  
Vincent D. Chang, City Clerk

APPROVED AS TO FORM:

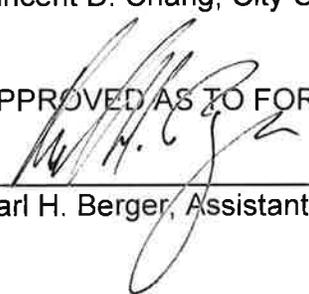
  
\_\_\_\_\_  
Karl H. Berger, Assistant City Attorney

Exhibit A

**PHASE II**

**BUSINESS RECOVERY PROGRAM**

**TEMPORARY PARKING REGULATIONS**

BRP2Parking. 010. **PARKING.** When considering parking needs for a project, the City Planner may utilize the following methods:

- A. Parking standards set forth in the MPMC.
- B. Where off-site parking is proposed to meet parking standards, the City Planner may accept appropriate alternatives like ride services, micro transit, and valet services to help reduce parking demand. Such services, however, must be mitigated with sufficient pick-up and drop-off areas.
- C. Shared parking agreements for new projects.
- D. Accept unbundled parking for new projects. Unbundled parking allows selling or leasing parking spaces separately, rather than automatically including the parking spaces with the purchase or lease of the commercial or residential use. Unbundling parking manages parking demand by allowing applicants to only pay for the parking spaces they actually need.
- E. A traffic and parking study prepared by a licensed engineer to mitigate vehicle and parking impacts. The traffic and parking study must be prepared by a state licensed civil or traffic engineer in accordance with the Institute of Transportation Engineers, Parking Generation, 5<sup>th</sup> Edition. The engineer preparing the study should define an appropriate approach for determining the number of trips generated by a proposed project and present this approach in the study. The study may, in addition to any other parking arrangement or number of spaces, propose alternative parking methods such as tandem parking.

Exhibit B

**PHASE II**

**BUSINESS RECOVERY PROGRAM**

**TEMPORARY ADMINISTRATIVE USE PERMIT REGULATIONS**

**BRP2AUP. 010. ADMINISTRATIVE USE PERMIT (“AUP”).**

- A. Authorization. The City Planner is authorized to issue an AUP for (1) alcohol licenses which will function as a notice of public convenience and necessity; (2) drive-throughs; and (3) setbacks.
- B. Application and Review. To initiate the review process, an application for an AUP must be filed with the City Planner on forms provided by the City Planner. Within five working days of filing a petition, the City Planner must notify the applicant as to the completeness of the application. The City Planner may request any additional information deemed necessary to evaluate the application. Failure of the City Planner to respond within five working days renders the application complete.
- C. Decision. Within 10 working days from the date an application is deemed complete, the City Planner must issue a written determination as to the approval or denial of the application. The written determination will state the findings for decisions. In approving an application, the City Planner may attach conditions to the approval deemed necessary.
- D. Findings. Before an AUP is granted, the City Planner must find that:
  - 1. There is compatibility of the particular use on the particular site in relationship to other existing and potential uses within the general area in which the use is proposed to be located.
  - 2. The proposed use is consistent and compatible with the purpose of the zone in which the site is located.
  - 3. The proposed location and use and the conditions under which the use would be operated or maintained will not be detrimental to the public health, safety or welfare, or materially injurious to properties or improvements in the vicinity.
  - 4. Potential impacts that could be generated by the proposed use, such as noise, smoke, dust, fumes, vibration, odors, traffic and hazards have been recognized and mitigated.

5. For alcohol related AUPs, the State Department of Alcohol Beverage Control has issued or will issue a license to sell alcohol to the applicant.
- E. Drive-Throughs. For drive-through AUPs, the City Engineer may:
1. Authorize aisles to exit directly onto a public right-of-way.
  2. Approve drive-through plans submitted by applicants where the underlying zoning allows for such uses. Those plans must be prepared by a design professional (e.g., a traffic engineer or architect). A drive-through plan may provide for setbacks that differ from the underlying zone if needed to accommodate vehicle queuing to help avoid stacking of vehicles onto public roads.
- F. Expeditious Review. An expedited AUP provides for the processing of a completed AUP within a period not to exceed five total working days. The City Planner is authorized to select and utilize the services of a consultant, paid for by the applicant, for purposes of processing the expedited review and written determination.
- G. Planning Commission Review. Except for alcohol AUPs, written determinations on administrative use permits, made by the City Planner must be placed as receive and file items on the next available agenda of the Planning Commission. Before the written determination being placed on a Planning Commission agenda, the City Planner must give public notice with the city council agenda, by mailing to interested parties requesting such notice, and electronic posting on the City's website, of the intention of the Planning Commission to receive and file the determination of the City Planner. Any member of the Planning Commission may request that an item be discussed and a decision on the application be made by the Planning Commission instead of received and filed. Except for alcohol AUPs which become final 10 days after being issued by the City Planner, no decision of the City Planner is final until the decision is received and filed or acted upon by the Planning Commission.

Exhibit C

PHASE II

**BUSINESS RECOVERY PROGRAM**

**BUSINESS RECOVERY DEVELOPMENT AGREEMENT ZONE  
("BRDZ")**

**BRP2BRDZ. 010. Purpose.**

- A. The purpose of the Business Recovery Development Agreement Zone (BRDZ) is used to identify sites and areas within the city that are subject to the requirements of adopted development agreements in compliance with this code.
- B. The BRDZ constitutes a "floating zone" in that once a need is identified, this zone can be activated. This floating zone for the BRDZ area provides flexibility for otherwise strict development or sign regulations that would generally be applicable to the underlying zone.
- C. In effect, this zone is not a true "floating zone" in that it does not add more regulations to an underlying zone. Rather, it is a "holding zone" which can be activated and used in place of the underlying zone when combined with a development agreement adopted by the city council in accordance with applicable law including this code.

**BRP2BRDZ. 020. General Requirements.**

- A. **Underlying Zones.** The BRDZ may be combined with any commercial zone established by this code.
- B. **Allowed Land Uses.** The land uses that may be allowed on a site within the BRDZ are limited to those specified in the applicable development agreement.
- C. **Parking standards** may be included in a development agreement regulated by the BRDZ. Without limitation, such standards may regulate whether on-site parking may be transferred to designated off-site parking locations; tandem parking; or vehicle lift stations.
- D. **Permit Requirements.** The land use permit requirements of the primary zoning district apply to all proposed development and land uses within the BRDZ, except as otherwise provided by the terms of the applicable development agreement.

- E. Development and Land Use Standards. Proposed development and land uses within the BRDZ must comply with all applicable development and land use standards and exaction requirements specified in the development agreement and, to the extent that they are not in conflict with the terms of the development agreement, regulations that govern the primary zoning district apply to the site.
- F. Zoning Map Notation. Upon the effective date of an ordinance placing a property in the BRDZ, the Zoning Map will be amended to show the overlay designation. After execution by all parties, the development agreement will be added to the city's Development Agreement Master List with the effective date and expiration date of the development agreement noted. Upon the expiration or earlier termination of a development agreement, the City Planner will remove the development agreement from the city's Development Agreement Master List. The BRDZ may be removed from the property by way of a Zone Map Amendment.
- G. Approval of the BRDZ and any development agreement associated with the BRDZ rests solely within the City Council's discretion.

Exhibit D

**PHASE II**

**BUSINESS RECOVERY PROGRAM**

**TEMPORARY NOISE REGULATIONS**

BRP2Noise. 010. **DEFINITIONS.** Notwithstanding any definition set forth in the Monterey Park Municipal Code (“MPMC”) and unless the contrary is stated or clearly appears from the context, the definitions set forth below govern the construction of words and phrases used in the Phase II Monterey Park Business Recovery Program. Words and phrases not defined below will be as set forth in the MPMC.

“Noise Disturbance” means any loud, raucous, annoying, or unusual noises that offends the peace and quiet of persons of ordinary sensibilities and interferes with the comfortable enjoyment of life or property and affects at the same time an entire neighborhood or any considerable number of persons. A noise disturbance includes, without limitation, any source of sound exceeding the sound level limitations established by this chapter.

BRP2NOISE. 020. **NOISE DISTURBANCES.**

- A. Prohibited. It is unlawful for any person to allow, maintain, or cause any noise disturbance.
- B. Exemptions. The following are not noise disturbances:
  - 1. Sound generated by Motor Vehicles. Sound generated by Motor Vehicles, Trucks and Buses operated on streets and highways, Aircraft, Trains, and other Public Transport. This exemption does not apply to the following:
    - a. Operation of any vehicle, including any equipment attached to any vehicle (such as attached refrigeration and/or heating units or any attached auxiliary equipment), for a period in excess of 10 minutes in any hour while the vehicle is stationary for reasons other than traffic congestion.
    - b. Vehicles equipped with sound amplifiers that are not exempt. No person must operate or drive any vehicle or cause any vehicle to be operated or driven, or otherwise used, on any public street, which vehicle is equipped with a sound amplifying device or other machine or device for the production or reproduction of sound, which causes sound to carry onto private property or causes sound to be heard by

others using the public streets or thoroughfares which exceeds the sound level limits established by this chapter.

2. Emergencies. Emergency repairs that deal with health or safety risk and emergency generators or powered equipment used during a power outage or other emergency.
3. Emergency Warning Devices. Emergency warning devices such as fire alarms, burglar alarms, warning devices on emergency vehicles and train horns. This exemption does not apply to burglar or fire alarms any motor vehicle burglar alarms, except for emergency purposes, unless such alarm is terminated within 10 minutes of activation and no more than two false activations within a four-hour period.
4. Public Works Projects. Public works projects performed by public agencies, or their contractors which cannot be performed from 7 a.m. to 6 p.m. Monday through Friday.
5. Use Permits. Any use allowed by a use permit issued pursuant to this code that specifically allows sound level limits to be exceeded.

BRP2Noise. 030. **TEMPORARY NOISE PERMITS.** If an applicant can demonstrate that a diligent investigation of available noise abatement techniques indicates that compliance with this chapter would be impractical or unreasonable, the City Planner may issue a permit to allow an exemption from this chapter with appropriate conditions. Any such permit must be of as short duration as possible not to exceed three months.

Exhibit E

**PHASE II**

**BUSINESS RECOVERY PROGRAM**

**TEMPORARY CALIFORNIA BUILDING CODE REGULATIONS**

**BRP2CBC. 010. CALIFORNIA EXISTING BUILDING CODE (“CEBC”).**

- A. 503.1 (Alterations) General. Except as provided by Section 302.4, 302.5 or this section, alterations to any building or structure must comply with the requirements of the California Building Code or California Residential Code, as applicable, for new construction. Alterations created within a building or structure cannot cause the building or structure to be more out of compliance with the provisions of the California Building Code or California Residential Code, as applicable, than it was before the alteration was made.

Exceptions:

1. An existing stairway is not required to comply with the requirements of Section 1011 of the California Building Code where the existing space and construction does not allow a reduction in pitch or slope.
  2. Handrails otherwise required to comply with Section 1011.11 of the California Building Code are not required to comply with the requirements of Section 1014.6 of the California Building Code regarding full extension of the handrails where such extensions would be hazardous because of plan configuration.
  3. Where provided in below-grade transportation stations, existing and new escalators must have a clear width of less than 32 inches (815 mm).
  4. A site assessment demonstrating, evaluating and certifying conformity with accessibility standards for public buildings, public accommodations, commercial buildings and/or public housing may be submitted by the design professional of record, or a CASp, in a form acceptable to the building official.
- B. 506.1 (Change of Occupancy) Compliance. A change of occupancy cannot be made in any building unless that building is made to comply with the requirements of the California Building Code for the use or occupancy. Any new occupancy created within a building or structure cannot cause the building or structure to be more out of compliance with this code than it was

before the change was made. Subject to the approval of the code official, changes of occupancy will be permitted without complying with all of the requirements of this code for the new occupancy, provided that the new occupancy is less hazardous, based on the life and fire risk, than the existing occupancy.

Exceptions:

1. The building is not required to comply with Chapter 16 of the California Building Code, unless required by Section 506.4.
2. An assessment by the design professional of record in a form acceptable to the building official may serve to certify compliance to this code.

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE ADOPTING THE 2020 MONTEREY PARK BUSINESS RECOVERY PROGRAM AND IMPLEMENTING VARIOUS TEMPORARY LAND USE REGULATIONS INCLUDING, WITHOUT LIMITATION, A NEW BUSINESS RECOVERY DEVELOPMENT AGREEMENT ZONE PURSUANT TO CITY COUNCIL DIRECTION ON JULY 1, 2020.**

The City Council does ordain as follows:

**SECTION 1.** *Findings.* The City Council finds, determines and declares as follows:

- A. On March 11, 2020, at 7:00 p.m., the City declared a state of local emergency due to the COVID-19 Pandemic (the “Emergency”). That Emergency was ratified by Resolution No. 12142, adopted March 18, 2020; extended on April 15, 2020 by Resolution No. 12151; and further extended on June 3, 2020 by Resolution No. 12164;
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- E. Regulations are needed to efficiently implement development projects that will create jobs, invest in the local economy, assist in recovery, and protect the public welfare;
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- I. The regulations adopted by this Ordinance are intended to be implemented temporarily in order to accelerate City approvals and promote local businesses. This Ordinance will be uncodified and is part of the "2020 Monterey Park Business Recovery Program."

**SECTION 2. *Environmental Assessment.*** This Ordinance was reviewed pursuant to the California Environmental Quality Act (Public Resources Code §§ 21000, *et seq.*, "CEQA") and the regulations promulgated thereunder (14 Cal. Code of Regulations §§15000, *et seq.*, the "CEQA Guidelines"). Adopting this Ordinance is exempt from further environmental review because it establishes rules and procedures for operation of existing facilities; minor temporary use of land; minor alterations in land use; new construction of small structures; and minor structures accessory to existing commercial facilities. The Ordinance, therefore, is categorically exempt from further CEQA review under CEQA Guidelines §§ 15301; 15303, 15304(e); 15305; and 15311. Further, the adopting the ordinance is also exempt from review under CEQA pursuant to CEQA Guidelines § 15061(b)(3) because the ordinance is for general policies and procedure-making. It can be seen with certainty that there is no possibility that the Ordinance may have a significant effect on the environment. Individual projects utilizing the 2020 Monterey Park Business Recovery Program will each be separately subject to an environmental assessment. Finally, this Ordinance is exempt from further review pursuant to CEQA Guidelines § 15269(a) because the protection of public and private property is necessary to maintain service essential to the public, health and welfare.<sup>1</sup>

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**SECTION 4. *General Plan Findings.*** Pursuant to Government Code § 65860 and Ordinance No. 2177, the changes implemented by this Ordinance are consistent with the General Plan. Among other things, this Ordinance will help implement the following

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<sup>1</sup> CEQA findings regarding an anticipated imminent emergency are valid (*see CalBeach Advocates v. City of Solana Beach* (2002) 103 Cal.App.4th 529).

goals and policies of the General Plan Land Use Element<sup>2</sup>:

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  - 2. Policy 1.2 Local Businesses. Advocate for and support local businesses and small business owners.
  - 3. Policy 1.3 Economic Development. Maintain a proactive economic development program that promotes the benefits of Monterey Park for both local businesses and national and international companies.
  
- B. GOAL 2: Dynamic mix of businesses, uses, and employment that sustain a strong local economy and contributes to a fiscally sustainable tax base
  - 1. Policy 2.1 Flexibility. Provide flexible and clear development standards to allow commercial, professional, industrial, institutional, and hospitality businesses and uses to expand and thrive economically.
  - 2. Policy 2.2. Business Growth. Facilitate the growth of a diverse business sector resilient to change over time and compatible with a broad range of skills and workers.
  - 3. Policy 2.3 Innovation. Create a culture of innovation and growth, encouraging emerging businesses to attract high-quality jobs.

**SECTION 5.** *2020 Monterey Park Business Recovery Program.* The Land Use Regulations set forth below and in the attached Exhibits are incorporated by reference and adopted to implement the 2020 Monterey Park Business Recovery Program.

- A. Temporary Parking Regulations – Exhibit A.
- B. Temporary Administrative Use Permit Regulations – Exhibit B.
- C. Business Recovery Development Agreement Zone (“BRDZ”) – Exhibit C.
- D. Temporary Noise Regulations – Exhibit D.
- E. Temporary California Building Code Regulations – Exhibit E.

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<sup>2</sup> As adopted by Resolution No. 12172 June 17, 2020 and submitted to the November 3, 2020 ballot via Resolution No. 12179 on July 1, 2020.

**SECTION 6.** *Phase I Planning Agency Reconciliation.* To reconcile the changes implemented by Ordinance No. 2177 with the design review requirements of Monterey Park Municipal Code (“MPMC”) Chapter 21.36, the City Council repeals MPMC §§ 21.36.040, 21.36.070, 21.36.080, 21.36.100, and 21.36.120. All references to the Planning Commission (as implemented by Ordinance No. 2177) in MPMC §§ 21.36.060, 21.36.080, and 21.36.130 are changed to “City Planner.”

**SECTION 7.** *Construction.* This Ordinance must be broadly construed to achieve the purposes stated in this Ordinance. It is the City Council’s intent that the provisions of this Ordinance be interpreted or implemented by the City and others in a manner that facilitates the purposes set forth in this Ordinance.

**SECTION 8.** *Enforceability.* Repeal of any provision of the MPMC does not affect any penalty, forfeiture, or liability incurred before, or preclude prosecution and imposition of penalties for any violation occurring before this Ordinance’s effective date. Any such repealed part will remain in full force and effect for sustaining action or prosecuting violations occurring before the effective date of this Ordinance.

**SECTION 9.** *Validity of Previous Code Sections.* If this entire Ordinance or its application is deemed invalid by a court of competent jurisdiction, any repeal or amendment of the MPMC or other city ordinance by this Ordinance will be rendered void and cause such previous MPMC provision or other the city ordinance to remain in full force and effect for all purposes.

**SECTION 10.** *Reliance on Record.* Each and every one of the findings and determinations in this Ordinance are based on the competent and substantial evidence, both oral and written, contained in the entire record relating to the project. The findings and determinations constitute the independent findings and determinations of the City Council in all respects and are fully and completely supported by substantial evidence in the record as a whole.

**SECTION 11.** *Severability.* If any part of this Ordinance or its application is deemed invalid by a court of competent jurisdiction, the City Council intends that such invalidity will not affect the effectiveness of the remaining provisions or applications and, to this end, the provisions of this Ordinance are severable.

**SECTION 12.** *Recording.* The City Clerk, or her duly appointed deputy, is directed to certify the passage and adoption of this Ordinance; cause it to be entered into the City of Monterey Park’s book of original ordinances; make a note of the passage and adoption in the records of this meeting; and, within 15 days after the passage and adoption of this Ordinance, cause it to be published or posted in accordance with California law.

**SECTION 13.** *Electronic Signatures.* This Ordinance may be executed with electronic signatures in accordance with Government Code §16.5. Such electronic signatures will be treated in all respects as having the same effect as an original

signature.

**SECTION 14.** *Sunset Clause.* The Council finds that it is in the best interest of the public safety, welfare and convenience of the City to implement this Ordinance during, at least, the Emergency. To ensure that the City Manager reviews the MPMC as contemplated by this Ordinance, this Ordinance will automatically be repealed and will become ineffective on December 31, 2020, unless the City Council takes additional action to extend the effectiveness of this Ordinance or supersedes it via a subsequently adopted Ordinance amending the MPMC.

**SECTION 15.** *Effective Date.* This Ordinance will become effective 30 days after its adoption and remain effective unless superseded or repealed.

PASSED AND ADOPTED this \_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
Hans Liang, Mayor

ATTEST:

\_\_\_\_\_  
Vincent D. Chang, City Clerk

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Karl H. Berger, Assistant City Attorney

Exhibit A

**PHASE II**

**BUSINESS RECOVERY PROGRAM**

**TEMPORARY PARKING REGULATIONS**

BRP2Parking. 010. **PARKING.** When considering parking needs for a project, the City Planner may utilize the following methods:

- A. Parking standards set forth in the MPMC.
- B. Where off-site parking is proposed to meet parking standards, the City Planner may accept appropriate alternatives like ride services, micro transit, and valet services to help reduce parking demand. Such services, however, must be mitigated with sufficient pick-up and drop-off areas.
- C. Shared parking agreements for new projects.
- D. Accept unbundled parking for new projects. Unbundled parking allows selling or leasing parking spaces separately, rather than automatically including the parking spaces with the purchase or lease of the commercial or residential use. Unbundling parking manages parking demand by allowing applicants to only pay for the parking spaces they actually need.
- E. A traffic and parking study prepared by a licensed engineer to mitigate vehicle and parking impacts. The traffic and parking study must be prepared by a state licensed civil or traffic engineer in accordance with the Institute of Transportation Engineers, Parking Generation, 5<sup>th</sup> Edition. The engineer preparing the study should define an appropriate approach for determining the number of trips generated by a proposed project and present this approach in the study. The study may, in addition to any other parking arrangement or number of spaces, propose alternative parking methods such as tandem parking.

Exhibit B

**PHASE II**

**BUSINESS RECOVERY PROGRAM**

**TEMPORARY ADMINISTRATIVE USE PERMIT REGULATIONS**

**BRP2AUP. 010. ADMINISTRATIVE USE PERMIT (“AUP”).**

- A. Authorization. The City Planner is authorized to issue an AUP for (1) alcohol licenses which will function as a notice of public convenience and necessity; (2) drive-throughs; and (3) setbacks.
- B. Application and Review. To initiate the review process, an application for an AUP must be filed with the City Planner on forms provided by the City Planner. Within five working days of filing a petition, the City Planner must notify the applicant as to the completeness of the application. The City Planner may request any additional information deemed necessary to evaluate the application. Failure of the City Planner to respond within five working days renders the application complete.
- C. Decision. Within 10 working days from the date an application is deemed complete, the City Planner must issue a written determination as to the approval or denial of the application. The written determination will state the findings for decisions. In approving an application, the City Planner may attach conditions to the approval deemed necessary.
- D. Findings. Before an AUP is granted, the City Planner must find that:
  - 1. There is compatibility of the particular use on the particular site in relationship to other existing and potential uses within the general area in which the use is proposed to be located.
  - 2. The proposed use is consistent and compatible with the purpose of the zone in which the site is located.
  - 3. The proposed location and use and the conditions under which the use would be operated or maintained will not be detrimental to the public health, safety or welfare, or materially injurious to properties or improvements in the vicinity.
  - 4. Potential impacts that could be generated by the proposed use, such as noise, smoke, dust, fumes, vibration, odors, traffic and hazards have been recognized and mitigated.

5. For alcohol related AUPs, the State Department of Alcohol Beverage Control has issued or will issue a license to sell alcohol to the applicant.
- E. Drive-Throughs. For drive-through AUPs, the City Engineer may:
1. Authorize aisles to exit directly onto a public right-of-way.
  2. Approve drive-through plans submitted by applicants where the underlying zoning allows for such uses. Those plans must be prepared by a design professional (e.g., a traffic engineer or architect). A drive-through plan may provide for setbacks that differ from the underlying zone if needed to accommodate vehicle queuing to help avoid stacking of vehicles onto public roads.
- F. Expeditious Review. An expedited AUP provides for the processing of a completed AUP within a period not to exceed five total working days. The City Planner is authorized to select and utilize the services of a consultant, paid for by the applicant, for purposes of processing the expedited review and written determination.
- G. Planning Commission Review. Except for alcohol AUPs, written determinations on administrative use permits, made by the City Planner must be placed as receive and file items on the next available agenda of the Planning Commission. Before the written determination being placed on a Planning Commission agenda, the City Planner must give public notice with the city council agenda, by mailing to interested parties requesting such notice, and electronic posting on the City's website, of the intention of the Planning Commission to receive and file the determination of the City Planner. Any member of the Planning Commission may request that an item be discussed and a decision on the application be made by the Planning Commission instead of received and filed. Except for alcohol AUPs which become final 10 days after being issued by the City Planner, no decision of the City Planner is final until the decision is received and filed or acted upon by the Planning Commission.

Exhibit C

**PHASE II**

**BUSINESS RECOVERY PROGRAM**

**BUSINESS RECOVERY DEVELOPMENT AGREEMENT ZONE  
("BRDZ")**

**BRP2BRDZ. 010. Purpose.**

- A. The purpose of the Business Recovery Development Agreement Zone (BRDZ) is used to identify sites and areas within the city that are subject to the requirements of adopted development agreements in compliance with this code.
- B. The BRDZ constitutes a "floating zone" in that once a need is identified, this zone can be activated. This floating zone for the BRDZ area provides flexibility for otherwise strict development or sign regulations that would generally be applicable to the underlying zone.
- C. In effect, this zone is not a true "floating zone" in that it does not add more regulations to an underlying zone. Rather, it is a "holding zone" which can be activated and used in place of the underlying zone when combined with a development agreement adopted by the city council in accordance with applicable law including this code.

**BRP2BRDZ. 020. General Requirements.**

- A. **Underlying Zones.** The BRDZ may be combined with any commercial zone established by this code.
- B. **Allowed Land Uses.** The land uses that may be allowed on a site within the BRDZ are limited to those specified in the applicable development agreement.
- C. **Parking standards** may be included in a development agreement regulated by the BRDZ. Without limitation, such standards may regulate whether on-site parking may be transferred to designated off-site parking locations; tandem parking; or vehicle lift stations.
- D. **Permit Requirements.** The land use permit requirements of the primary zoning district apply to all proposed development and land uses within the BRDZ, except as otherwise provided by the terms of the applicable development agreement.

- E. Development and Land Use Standards. Proposed development and land uses within the BRDZ must comply with all applicable development and land use standards and exaction requirements specified in the development agreement and, to the extent that they are not in conflict with the terms of the development agreement, regulations that govern the primary zoning district apply to the site.
- F. Zoning Map Notation. Upon the effective date of an ordinance placing a property in the BRDZ, the Zoning Map will be amended to show the overlay designation. After execution by all parties, the development agreement will be added to the city's Development Agreement Master List with the effective date and expiration date of the development agreement noted. Upon the expiration or earlier termination of a development agreement, the City Planner will remove the development agreement from the city's Development Agreement Master List. The BRDZ may be removed from the property by way of a Zone Map Amendment.
- G. Approval of the BRDZ and any development agreement associated with the BRDZ rests solely within the City Council's discretion.

Exhibit D

**PHASE II**

**BUSINESS RECOVERY PROGRAM**

**TEMPORARY NOISE REGULATIONS**

BRP2Noise. 010. **DEFINITIONS.** Notwithstanding any definition set forth in the Monterey Park Municipal Code (“MPMC”) and unless the contrary is stated or clearly appears from the context, the definitions set forth below govern the construction of words and phrases used in the Phase II Monterey Park Business Recovery Program. Words and phrases not defined below will be as set forth in the MPMC.

“Noise Disturbance” means any loud, raucous, annoying, or unusual noises that offends the peace and quiet of persons of ordinary sensibilities and interferes with the comfortable enjoyment of life or property and affects at the same time an entire neighborhood or any considerable number of persons. A noise disturbance includes, without limitation, any source of sound exceeding the sound level limitations established by this chapter.

BRP2NOISE. 020. **NOISE DISTURBANCES.**

- A. Prohibited. It is unlawful for any person to allow, maintain, or cause any noise disturbance.
- B. Exemptions. The following are not noise disturbances:
  - 1. Sound generated by Motor Vehicles. Sound generated by Motor Vehicles, Trucks and Buses operated on streets and highways, Aircraft, Trains, and other Public Transport. This exemption does not apply to the following:
    - a. Operation of any vehicle, including any equipment attached to any vehicle (such as attached refrigeration and/or heating units or any attached auxiliary equipment), for a period in excess of 10 minutes in any hour while the vehicle is stationary for reasons other than traffic congestion.
    - b. Vehicles equipped with sound amplifiers that are not exempt. No person must operate or drive any vehicle or cause any vehicle to be operated or driven, or otherwise used, on any public street, which vehicle is equipped with a sound amplifying device or other machine or device for the production or reproduction of sound, which causes sound to carry onto private property or causes sound to be heard by

others using the public streets or thoroughfares which exceeds the sound level limits established by this chapter.

2. Emergencies. Emergency repairs that deal with health or safety risk and emergency generators or powered equipment used during a power outage or other emergency.
3. Emergency Warning Devices. Emergency warning devices such as fire alarms, burglar alarms, warning devices on emergency vehicles and train horns. This exemption does not apply to burglar or fire alarms any motor vehicle burglar alarms, except for emergency purposes, unless such alarm is terminated within 10 minutes of activation and no more than two false activations within a four-hour period.
4. Public Works Projects. Public works projects performed by public agencies, or their contractors which cannot be performed from 7 a.m. to 6 p.m. Monday through Friday.
5. Use Permits. Any use allowed by a use permit issued pursuant to this code that specifically allows sound level limits to be exceeded.

BRP2Noise. 030. **TEMPORARY NOISE PERMITS.** If an applicant can demonstrate that a diligent investigation of available noise abatement techniques indicates that compliance with this chapter would be impractical or unreasonable, the City Planner may issue a permit to allow an exemption from this chapter with appropriate conditions. Any such permit must be of as short duration as possible not to exceed three months.

Exhibit E

**PHASE II**

**BUSINESS RECOVERY PROGRAM**

**TEMPORARY CALIFORNIA BUILDING CODE REGULATIONS**

**BRP2CBC. 010. CALIFORNIA EXISTING BUILDING CODE (“CEBC”).**

- A. 503.1 (Alterations) General. Except as provided by Section 302.4, 302.5 or this section, alterations to any building or structure must comply with the requirements of the California Building Code or California Residential Code, as applicable, for new construction. Alterations created within a building or structure cannot cause the building or structure to be more out of compliance with the provisions of the California Building Code or California Residential Code, as applicable, than it was before the alteration was made.

Exceptions:

1. An existing stairway is not required to comply with the requirements of Section 1011 of the California Building Code where the existing space and construction does not allow a reduction in pitch or slope.
  2. Handrails otherwise required to comply with Section 1011.11 of the California Building Code are not required to comply with the requirements of Section 1014.6 of the California Building Code regarding full extension of the handrails where such extensions would be hazardous because of plan configuration.
  3. Where provided in below-grade transportation stations, existing and new escalators must have a clear width of less than 32 inches (815 mm).
  4. A site assessment demonstrating, evaluating and certifying conformity with accessibility standards for public buildings, public accommodations, commercial buildings and/or public housing may be submitted by the design professional of record, or a CASp, in a form acceptable to the building official.
- B. 506.1 (Change of Occupancy) Compliance. A change of occupancy cannot be made in any building unless that building is made to comply with the requirements of the California Building Code for the use or occupancy. Any new occupancy created within a building or structure cannot cause the building or structure to be more out of compliance with this code than it was

before the change was made. Subject to the approval of the code official, changes of occupancy will be permitted without complying with all of the requirements of this code for the new occupancy, provided that the new occupancy is less hazardous, based on the life and fire risk, than the existing occupancy.

Exceptions:

1. The building is not required to comply with Chapter 16 of the California Building Code, unless required by Section 506.4.
2. An assessment by the design professional of record in a form acceptable to the building official may serve to certify compliance to this code.