

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

AGENDA

REGULAR CITY COUNCIL MEETING

**Wednesday
October 7, 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 may include 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 24 hours before the meeting via email to mpclerk@montereypark.ca.gov and, when feasible, read into the record during public comment. Written communications are 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: 948 8244 8635 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

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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 – NONE.

[2.] OLD BUSINESS – NONE.

[3.] CONSENT CALENDAR ITEMS NOS. 3A-3H

3-A. MINUTES

It is recommended that the City Council, and the City Council acting on behalf of the Successor Agency:

- (1) Approve the minutes from the special and regular meetings of August 5, 2020 and August 19, 2020; and
- (2) Take such additional, related, action that may be desirable.

3-B. WAIVE FURTHER READING AND ADOPT AN OMNIBUS ORDINANCE AMENDING VARIOUS CHAPTERS AND SECTIONS OF THE MONTEREY PARK MUNICIPAL CODE

It is recommended that the City Council consider:

- (1) Waiving second reading and adopting the proposed ordinance; and
- (2) Take such additional, related, action that may be desirable.

3-C. WAIVE FURTHER READING AND ADOPT AN ORDINANCE AMENDING MONTEREY PARK MUNICIPAL CODE (“MPMC”) §§ 4.10.080 AND 21.04.475, AND CHAPTERS 21.32 AND 4.30 TO REGULATE HOMEOWNERS’ ASSOCIATIONS WITHIN THE CITY

It is recommended that the City Council consider:

- (1) Waiving second reading and adopting the proposed ordinance; and
- (2) Take such additional, related, action that may be desirable.

3-D. WAIVE FURTHER READING AND ADOPT AN ORDINANCE ADDING A NEW CHAPTER 21.50 ENTITLED “ACCESSORY DWELLING UNITS” TO THE MONTEREY PARK MUNICIPAL CODE PURSUANT TO GOVERNMENT CODE §§ 65852.2 AND 65852.22

It is recommended that the City Council consider:

- (1) Waiving the second reading and adopting the proposed ordinance; and/or
- (2) Taking such additional, related action that may be desirable.

3-E. WAIVE FURTHER READING AND ADOPT AN ORDINANCE AMENDING MONTEREY PARK MUNICIPAL CODE (“MPMC”) CHAPTER 21.44 REGULATING DEVELOPMENT AGREEMENTS AND CODIFYING THE BUSINESS RECOVERY DEVELOPMENT AGREEMENT ZONE (“BRDZ”) INTO MPMC CHAPTER 21.45

It is recommended that the City Council consider:

- (1) Waiving second reading and adopting the proposed ordinance; and
- (2) Take such additional, related, action that may be desirable.

3-F. A RESOLUTION DECLARING THE MONTH OF OCTOBER AS BREAST CANCER AWARENESS MONTH

It is recommended that the City Council consider:

- (1) Adopting a resolution declaring the month of October as Breast Cancer Awareness Month, and
- (2) Taking such additional, related, action that may be desirable.

3-G. TREE MEMORIAL PROGRAM RECOMMENDATION FOR 2020

It is recommended that the City Council:

- (1) Approve to honor Mr. David Kwok with a memorial tree;
- (2) Approve to honor Mr. Takeshi Yabiku on the Veterans War Memorial Monument; and
- (3) Taking such additional, related, action that may be desirable.

3-H. EMERGENCY REPAIRS OF WATER MAIN AND ROADWAY ON VERDE VISTA DRIVE

It is recommended that the City Council consider:

- (1) Adopting a resolution declaring an emergency and authorizing contracting without the need for bidding pursuant to Public Contracts Code §§ 20168 and 22050;
- (2) Authorizing the City Manager, or designee, to (a) execute a public works contract between the City of Monterey Park and a qualified contractor(s), for roadway and asphalt repairs on Verde Vista Drive, in a form approved by the City Attorney; and (b) Appropriate funds from the Water Capital accounts from the current fiscal year budget to cover the cost of these repairs;
- (3) Authorizing the Interim Director of Public Works to approve change orders and contingency as appropriate up to 15% of the contract amount for this project; and
- (4) Taking such additional, related, action that may be desirable.

CEQA (California Environmental Quality Act):

The emergency and extended repairs are categorically exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to 14 California Code of Regulations § 15269 (emergency repair to this public facility is necessary to maintain service essential to the public, health and welfare) and § 15301 (Existing Facilities). The extended repairs would result in minor alterations to existing public facilities involving no significant expansion of the existing use. The project is not anticipated to have any significant impacts with regard to traffic, noise, air quality, or water quality. There are adequate utilities and public services to serve the project.

[4.] PUBLIC HEARING – NONE.

[5.] NEW BUSINESS

5-A. PENSION OBLIGATION BOND UPDATE

It is recommended that the City Council:

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

5-B. CONSIDERATION AND POSSIBLE ACTION TO APPROVE A RESOLUTION APPROVING THE FINE SCHEDULE FOR VIOLATIONS OF THE MONTEREY PARK MUNICIPAL CODE

It is recommended that the City Council consider:

- (1) Adopting a resolution establishing fines for misdemeanor and infraction violations of the Monterey Park Municipal Code; or
- (2) Take such additional, related, action that may be desirable.

CEQA (California Environmental Quality Act):

Adoption of this Resolution is exempt from the California Environmental Quality Act ("CEQA") under CEQA Guidelines § 15061(b)(3) because it can be seen with certainty that there is no possibility that the Resolution may have a significant effect on the environment.

5-C. ADOPTION OF ORDINANCES AMENDING THE MONTEREY PARK MUNICIPAL CODE TO REGULATE SPECIAL EVENT PERMITS WITHIN THE CITY

It is recommended that the City Council consider:

- (1) Adopting an urgency Ordinance regulating special event permits within the City;
- (2) Waive first reading and introducing an Ordinance regulating special event permits within the City; and
- (3) Take such additional, related, action that may be desirable.

5-D. THE GREATER MONTEREY PARK CHAMBER OF COMMERCE LEASE AGREEMENT OF EL ENCANTO – UPDATE

It is recommended that the City Council consider:

- (1) Receiving and filing this report;
- (2) If desirable, providing direction to the City Manager and City Attorney regarding the use of El Encanto;
- (3) If desirable, providing direction to the City Manager and City Attorney regarding future promotion of businesses within the City including, without limitation, the potential creation of a community development corporation; and
- (4) Taking such additional, related, action that may be desirable.

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

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

ADJOURN



City Council Staff Report

DATE: October 7, 2020

AGENDA ITEM NO: Consent Calendar
Agenda Item 3-A

TO: The Honorable Mayor and City Council
FROM: Vincent D. Chang, City Clerk
SUBJECT: Minutes

RECOMMENDATION:

It is recommended that the City Council and the City Council (acting on behalf of the Successor Agency)

- (1) Approve the minutes from the regular meetings of August 5, 2020 and August 19, 2020 and the special meetings of August 5, 2020 and August 19, 2020; and
- (2) Take such additional, related, action that may be desirable.

EXECUTIVE SUMMARY:

None.

BACKGROUND:

None.

FISCAL IMPACT:

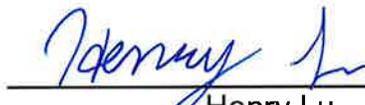
None.

Respectfully submitted,

Prepared by:



 Vincent D. Chang
 City Clerk



 Henry Lu
 Minutes Clerk

Approved By:



 Ron Bow
 City Manager

Attachments: Minutes

ATTACHMENT 1

Minutes

**MINUTES
MONTEREY PARK CITY COUNCIL
SUCCESSOR AGENCY (SA)
SPECIAL MEETING
AUGUST 5, 2020**

The City Council of the City of Monterey Park held a Special Teleconference Meeting on Wednesday, August 5, 2020 at 5:00 p.m. The special meeting was conducted pursuant to Section 3 of Executive Order No. N-29-20 issued on March 17, 2020. Accordingly, Council Members were provided a meeting login number and conference call number and were not physically present at Council Chambers.

The minutes include 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

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Via Telephone

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CALL TO ORDER:

Mayor Liang called the meeting to order at 5:00 p.m.

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

ROLL CALL:

Deputy City Clerk Trang called the roll:

Council Members Present: Peter Chan, Hans Liang, Henry Lo, Fred Sornoso,
Yvonne Yiu

Council Members Absent: None

ALSO PRESENT: City Manager Ron Bow, Assistant City Attorney Karl Berger, Director of Management Services Martha Garcia, Deputy City Clerk Cindy Trang

ORAL AND WRITTEN COMMUNICATIONS

None.

CLOSED SESSION

The City Council adjourned to closed session at 5:05 p.m.

1. CONFERENCE WITH LABOR NEGOTIATORS, PURSUANT TO CALIFORNIA GOVERNMENT CODE § 54957.6

City Negotiators: Ron Bow, City Manager; Danielle Tellez, Interim Human Resources Director; Kristi Recchia, Liebert, Cassidy, Whitmore

Employee Organizations: Bargaining Units General Employees - Confidential Employee Association and Mid-Management Association

RECONVENE & ADJOURNMENT

The City Council reconvened from Closed Session with all Council Members present. The meeting was adjourned at 5:57 p.m.

Action Taken: No reportable action taken in Closed Session.

Vincent D. Chang
City Clerk

**MINUTES
MONTEREY PARK CITY COUNCIL
SUCCESSOR AGENCY (SA)
AUGUST 5, 2020**

The City Council of the City of Monterey Park held a Regular Teleconference Meeting via Zoom on Wednesday, August 5, 2020 at 6:30 p.m. The regular meeting was conducted pursuant to Section 3 of Executive Order No. N-29-20 issued on March 17, 2020. Accordingly, Council Members were provided a meeting login number and conference call number and were not physically present at Council Chambers.

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MISSION STATEMENT

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CALL TO ORDER:

Mayor Liang called the meeting to order at 6:31 p.m.

ROLL CALL:

City Clerk Vincent Chang called the roll:

Council Members Present: Peter Chan, Hans Liang, Henry Lo, Fred Sornoso,
Yvonne Yiu

Council Members Absent: None

ALSO PRESENT: City Manager Ron Bow, Assistant City Attorney Karl Berger, City Treasurer Joseph Leon, Fire Chief Matt Hallock, Police Chief Kelly Gordon, Director of Public Works Mark McAvoy, Director of Management Services Martha Garcia, Director of Recreation & Community Services Inez Alvarez, Interim Director of Human Resources Danielle Tellez, City Librarian Diana Garcia, Economic Development Manager Joseph Torres, Recreation & Community Services Manager Robert Aguirre, Senior Librarian Reference Deborah Niblick, Deputy City Clerk Cindy Trang, Assistant Deputy City Clerk Helena Cho, Housing Consultant Debbie Sottek, Housing Consultant Priscila Davila

AGENDA ADDITIONS, DELETIONS, CHANGES AND ADOPTIONS

None.

PUBLIC COMMUNICATIONS

Public Speaker Disclaimer: Meetings are held virtually and the information listed for the speakers may or may not reflect the correct spelling of their respective name.

- Inez Alvarez, Director of Recreation & Community Services, informed the public about the 2020 Census update.
- Lee Kane, program coordinator of the San Gabriel Valley Consortium, thanked the City of Monterey Park for their leadership on project Room Key and spoke about homelessness. She invited the public to attend the monthly San Gabriel Valley Consortium meeting held on the second Wednesday of the month at 9:00 a.m.
- John Velasco thanked the City Council for their support of Project Room Key.
- Anne Miskey, Chief Executive Officer of Union Station Homeless Services, spoke about Project Room Key and homelessness. She urged the City Council to continue Project Room Key.
- City Clerk Chang received, filed, and read into the record one written communication from Bill Lam. Mr. Lam spoke about the NextGen bus study by Metro.

- Carol Daily, Foothills Kitchen, thanked Monterey Park for supporting Project Room Key.
- Rebecca Menagro thanked the City Council for Project Room Key.
- Jose Sanchez spoke about homelessness and thanked Monterey Park for supporting Project Room Key.
- Edward Rendon, Executive Director of the San Gabriel Valley Civic Alliance, stated that he supports Project Room Key and spoke about Project Home Key.
- Alex Qiran expressed his support for Project Room Key.
- Latine McKenzie, representing Youth Empower to Advocate for Housing (YEAH), voiced her support for Project Room Key.

1. PRESENTATION

1A. COUNTY OF LOS ANGELES IN CONJUNCTION WITH THE LOS ANGELES HOMELESS SERVICES AUTHORITY (LAHSA) DISCUSS PROJECT ROOM KEY

Elizabeth Ben-Ishai, Los Angeles County Chief Executive Office, and Jose Delgado, Los Angeles Homeless Services Authority, presented an update on Project Room Key.

Public Speakers:

- City Clerk Chang received, filed, and read into the record thirteen written communications. All thirteen communications were in support of Project Room Key from: Kevin C. Ezeh, Michelle Freridge, Rae Huang, Calvin Chan, Sean McMorris, Ryan Kigawa, Scott Chamberlain, David Diaz, Aristotle Acevedo, Emily Pham, Thomas Wong, Amy Paffrath, and Travis Kaya.

2. OLD BUSINESS

2A. REQUEST BY THE MANTA RAY PARENTS ASSOCIATION FOR TEMPORARY USE OF THE SWIMMING POOL AT GEORGE ELDER PARK

The Manta Ray Parents Association is a non-profit, 501(c)(3) organization (attachment 1, attached to the staff report, – Bylaws and Non-Profit Status Letter) that operates the Monterey Park Manta Ray (MPMR) USA Swim Team. MPMR has requested to rent the pool to resume swim practices. Based upon the COVID-19 emergency, however, all City facilities were closed in March; they have not been reopened. Recreational facilities, such as swimming pools, are not on any

timetable for reopening to the public. Since the March closures, the City has saved in operational costs related to utilities and pool chemical usage.

Since MPMR's request, staff has worked with MPMR to find a feasible solution to allow private use. Notably, MPMR is the only user group ready to resume swimming activities and use the pool facility.

Public Speakers:

- Ben Wong, President of the Monterey Park Manta Rays, was available to answer questions.

- City Clerk Chang received and filed into the record seven written communications. All seven communications spoke in support of temporarily leasing the George Elder Park swimming pool to the Monterey Park Manta Rays: Tiffany Kao, Analyn Skabelund Smith, Teresa Gallardo, Corpuz Family, Isa Naoko, Yen Lam, and Daniel Gallardo.

Action Taken: The City Council authorized the City Manager to execute a license agreement, in a form approved by the City Attorney, for the Manta Ray Parents Association to use the swimming pool at George Elder Park.

Motion: Moved by Mayor Pro Tem Chan and seconded by Council Member Lo motion carried by the following vote:

Ayes: Council Members: Yiu, Lo, Sornoso, Chan, Liang
Noes: Council Members: None
Absent: Council Members: None
Abstain: Council Members: None

2B. CODE OF CONDUCT; MEETING PROCEDURES; HEALTHY WORKPLACE ENVIRONMENT

During the City Council's strategic planning meeting on July 11, 2020, the Council determined that it wished to consider a Code of Conduct and Healthy Workplace Environment policy. These were originally considered by the City Council in August 2019. A copy of that staff report (without the attachments) is attached to the staff report for reference.

Action Taken: The City Council adopted Resolution No. 12184 amending the City Council's existing policies and procedures to: (a) Add a Code of Conduct for elected and appointed public officials; (b) Adopt a Healthy Workplace Environment policy as amended to modify Section 8 (D)(3) changing approval by two-thirds vote to unanimous vote.

Motion: Moved by Mayor Liang and seconded by Mayor Pro Tem Chan motion carried by the following vote:

Ayes: Council Members: Yiu, Lo, Sornoso, Chan, Liang
Noes: Council Members: None
Absent: Council Members: None
Abstain: Council Members: None

Resolution No. 12184, entitled:

A RESOLUTION ESTABLISHING A CODE OF CONDUCT AND RULES FOR CONDUCTING CITY COUNCIL MEETINGS IN ACCORDANCE WITH GOVERNMENT CODE § 36813

3. CONSENT CALENDAR ITEMS NOS. 3A-3J

Matters listed under consent calendar are considered to be routine, ongoing business and are enacted by one motion unless specified.

Action Taken: The City Council and the City Council, acting on behalf of the Successor Agency, approved and adopted Items Nos. 3A-3D, 3H, and 3I on Consent Calendar, excluding Items Nos. 3E, 3F, 3G, and 3J which were pulled for discussion and separate motion, reading resolutions and ordinances by the title only and waiving further reading thereof.

Motion: Moved by Mayor Pro Tem Chan and seconded by Council Member Sornoso motion carried by the following vote:

Ayes: Council Members: Yiu, Lo, Sornoso, Chan, Liang
Noes: Council Members: None
Absent: Council Members: None
Abstain: Council Members: None

3A. MINUTES

Approve the minutes from the joint regular and special meeting of May 20, 2020 and the special meetings of May 26, 2020 and May 27, 2020.

Action Taken: The City Council approved the minutes from the joint regular and special meeting of May 20, 2020 and the special meetings of May 26, 2020 and May 27, 2020 on Consent Calendar.

3B. WAIVE FURTHER READING AND ADOPT ORDINANCES REGARDING IMPLEMENTING PHASE II OF THE 2020 MONTEREY PARK BUSINESS RECOVERY PROGRAM FOR RESTARTING THE LOCAL ECONOMY

The Ordinance was introduced at the July 15, 2020 City Council meeting. On July 15, 2020, the City Council conducted the first reading. The original staff report (from July 15, 2020) is attached to the staff report for reference. Second reading and adoption of this Ordinance is recommended; it will take effect in 30 days.

Public Speakers:

- City Clerk Chang received, filed, and read into the record four written communications. One communication spoke in support from Dora Leung. Three communications spoke in opposition from: Maria J. Mejia, Rafael Casillas, and Gina Casillas.

Action Taken: The City Council waived second reading and adopted Ordinance No. 2185 implementing Phase II of the 2020 Monterey Park Business Recovery Program on Consent Calendar.

Ordinance No. 2185, entitled:

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

3C. FIREFIGHTER AND FIRE DEPARTMENT UNIFORMS PURCHASE – APPROVAL OF AGREEMENT

In accordance with the Memorandum of Understanding between the City of Monterey Park and the Monterey Park Firefighters' Association, the Firefighters are contractually entitled to new uniform purchases each fiscal year. In preparation for the upcoming fiscal year, staff recently solicited bids for the purchase of firefighter uniforms and accessories as well as Fire Department uniforms, including Fire Prevention and Code Enforcement uniform items. Staff seeks City Council approval to award a contract to Galls, LLC.

Action Taken: The City Council authorized the City Manager to execute an agreement, in a form approved by the City Attorney, with to Galls, LLC for an amount not to exceed \$47,981.00 per fiscal year, for the purchase of firefighter and fire department uniforms on Consent Calendar.

3D. CONTINUANCE REGARDING CONSIDERATION OF A RESOLUTION TO RECORD A NOTICE OF SPECIAL ASSESSMENT FOR NUISANCE ABATEMENT AT 229 E. MARKLAND DRIVE (APN 5265-007-007)

The proposed special assessment for City incurred costs and fees in the amount of \$52,510.03.

Action Taken: The City Council continued consideration of the Resolution to the August 19, 2020 City Council meeting on Consent Calendar.

3E. LEGAL SERVICES AGREEMENTS WITH HANNA, BROPHY, MACLEAN, MCALEER & JENSEN, LLP (WORKERS COMPENSATION)

The City uses the services of outside, specialized legal counsel for assistance with litigated workers compensation claims. David Thomas has been with Hanna, Brophy, MacLean, McAleer & Jensen, LLP since 2003 and is listed as an office managing partner. Mr. Thomas handles Workers Compensation matters for other member cities of the Independent Cities Risk Management Authority (ICRMA), of which Monterey Park is a member city. Staff recommends that the City Council authorize the City Manager to execute a standard retainer agreement with this firm to confirm their representation of the City of Monterey Park for selected workers compensation claims.

Action Taken: The City Council authorized the City Manager to execute standard legal retainer with Hanna, Brophy, MacLean, McAleer & Jensen, LLP in a form approved by the City Attorney for on-call legal services.

Motion: Moved by Council Member Yiu and seconded by Mayor Liang motion carried by the following vote:

Ayes: Council Members: Yiu, Lo, Sornoso, Chan, Liang
Noes: Council Members: None
Absent: Council Members: None
Abstain: Council Members: None

3F. DELEGATION OF SETTLEMENT AUTHORITY

A review of the City's existing claims processing procedures suggests that the City Council should delegate authority to the City Manager for administering, compromising, and settling claims up to \$50,000 in accordance with Government Code § 935.4.

Under the City's current procedures, filed claims are forwarded to the ICRMA's third-party claims investigators, Carl Warren & Company. That company reviews each claim and makes a recommendation to the City regarding whether the claim should be rejected or not. Based upon that recommendation, the City Manager's

office either rejects the claim or seeks to pay it if the amount sought is less than \$25,000. For all cases, the City Council retains authority to settle cases up to \$500,000 in its sole discretion.

If a claim is rejected, a claimant may file a complaint against the City with the court. Under such circumstances, the complaint is generally forwarded to the ICRMA for defense and indemnification. If the ICRMA assumes the defense and indemnification for an action, the City does not generally have any role in settling cases.

The proposed Resolution would be a clear delegation of authority to the City Manager, or designee, to reject or resolve claims. It would also place certain limitations on the City Manager's ability to settle claims including the dollar limitation of \$50,000. Any settlement between \$50,000 and \$500,000 would be approved by the City Council (anything above \$500,000 would be assumed by ICRMA). Finally, it would establish certain procedures for claims investigations and service of complaints.

Action Taken: The City Council adopted Resolution No. 12185 delegating authority for processing and settling claims filed against the City and directed the City Manager to provide a quarterly report to the City Council on all settlement that are \$50,000 or below.

Motion: Moved by Mayor Pro Tem Chan and seconded by Mayor Liang motion carried by the following vote:

Ayes: Council Members: Yiu, Lo, Sornoso, Chan, Liang
Noes: Council Members: None
Absent: Council Members: None
Abstain: Council Members: None

Resolution No. 12185, entitled:

A RESOLUTION AUTHORIZING THE CITY MANAGER, OR DESIGNEE, TO ADMINISTER, COMPROMISE, OR SETTLE CLAIMS IN ACCORDANCE WITH GOVERNMENT CODE §§ 910 ET SEQ. AND MONTEREY PARK MUNICIPAL CODE §§ 13.12.010 ET SEQ.

3G. SAFE, CLEAN WATER PROGRAM FUND TRANSFER AGREEMENT

In November 2018, voters approved the Safe, Clean Water (SCW) Program, also known as Measure W, a special parcel tax based on impermeable areas within the jurisdiction of the Flood Control District (District). Prior to receipt of the funds, the City must submit an annual plan of eligible expenditures and enter into a fund Transfer Agreement with the District. The City's estimated FY 2020-21 Measure W funds is estimated to be \$740,000. There is no fiscal impact to General Fund.

Action Taken: The City Council authorized the City Manager to execute a Safe, Clean Water Program Fund Transfer Agreement for the City's Storm Water Program.

Motion: Moved by Council Member Lo and seconded by Council Member Sornoso motion carried by the following vote:

Ayes: Council Members: Yiu, Lo, Sornoso, Chan, Liang
Noes: Council Members: None
Absent: Council Members: None
Abstain: Council Members: None

3H. TRAFFIC SIGNAL MAINTENANCE – AWARD OF CONTRACT

The City's traffic signal maintenance contract expires on August 31, 2020. Staff prepared a Request for Proposals (RFPs) and solicited proposals for traffic signal maintenance services pursuant to Monterey Park Municipal Code Chapter 3.20. On June 30, 2020, two companies submitted proposals. Staff reviewed all proposals and is recommending that a new three year maintenance contract be awarded to Bear Electrical Solutions, Inc. from Alviso, CA.

Action Taken: The City Council authorized the City Manager to execute a three-year agreement, in a form approved by the City Attorney, with Bear Electrical Solutions, Inc., in an amount not to exceed \$324,000 or \$108,000/year, for the maintenance of the City's traffic signals on Consent Calendar.

3I. PARCEL MAP NO. 76041 (620 CADIZ STREET) – SUBDIVISION AGREEMENT AND APPROVAL OF PARCEL MAP

Tentative Parcel Map No. 76041 was approved by the Planning Commission on September 26, 2017 (via Resolution No. 10-17); the tentative parcel map was due to expire on September 26, 2019. On August 19, 2019, the applicant timely filed a one-year time extension to record the parcel map – this request was approved by the City Council on September 9, 2019 (via Resolution No. 12101). The parcel map was reviewed by the City's consultant surveyor, Boghossian & Associates, for mathematical accuracy; survey analysis; title information; and compliance with the Subdivision Map Act, Conditions of Approval and applicable Monterey Park Municipal Code provisions. Because not all public improvements are complete, the developer, Jack Lau, manager of the Oro-Ashi, LLC, must enter into a Subdivision Improvement Agreement (secured with appropriate bonds) in order for the Final Parcel Map to be approved.

CEQA (California Environmental Quality Act):

On September 26, 2017, the Planning Commission found that the Project was categorically exempt from the requirements of CEQA pursuant to CEQA

Guidelines §§ 15315 as a Class 15 categorical exemption (Minor Land Division). The findings and conclusions made by the Planning Commission are incorporated into the attached Resolution by reference.

Action Taken: The City Council adopted Resolution No. 12186 approving Final Parcel Map No. 76041 and authorized the City Manager to execute a Subdivision Improvement Agreement for Parcel Map No. 76041 in a form approved by the City Attorney on Consent Calendar.

Resolution No. 12186, entitled:

A RESOLUTION APPROVING PARCEL MAP NO. 76041 FOR TWO SINGLE-FAMILY RESIDENTIAL LOTS AT 620 CADIZ STREET

3J. GARVEY RESERVOIR AREAS 2, 3, & 4 DRAINAGE IMPROVEMENTS – AUTHORIZATION TO ADVERTISE

On June 19, 2019, City Council authorized the City Manager to execute three Memoranda of Understanding between the City of Monterey Park and the Metropolitan Water District (MWD) of Southern California for El Niño Preparedness projects at three areas near Garvey Reservoir. On December 18, 2019, City Council authorized the City Manager to execute extensions to the three Memoranda of Understanding through December 31, 2020.

Staff prepared bid specifications for the Garvey Reservoir Areas 2, 3, & 4 Drainage Improvements project and is requesting the City Council's authorization to advertise the project for construction bids.

CEQA (California Environmental Quality Act):

The proposed project is categorically exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to 14 California Code of Regulations § 15301 as a Class 1 categorical exemption (Existing Facilities). The project results in minor alterations to existing public facilities involving no significant expansion of the existing use. The project is not anticipated to have any significant impacts with regard to traffic, noise, air quality, or water quality. There are adequate utilities and public services to serve the project.

Action Taken: The City Council adopted Resolution No. 12187 approving the design and plans for the Garvey Reservoir Areas 2, 3, & 4 Drainage Improvements and authorized solicitation of bids. Mayor Pro Tem Chan and Council Member Lo recused themselves and were placed into the Zoom waiting room due to a potential Conflict of Interest, as their residence resides within 500 feet of the subject site.

Motion: Moved by Mayor Liang and seconded by Council Member Yiu motion carried by the following vote:

Ayes: Council Members: Yiu, Sornoso, Liang
Noes: Council Members: None
Absent: Council Members: Chan, Lo
Abstain: Council Members: None

Resolution No. 12187, entitled:

A RESOLUTION APPROVING THE DESIGN AND PLANS FOR THE GARVEY RESERVOIR AREAS 2, 3 & 4 DRAINAGE IMPROVEMENTS PROJECT PURSUANT TO GOVERNMENT CODE § 830.6 AND ESTABLISHING A PROJECT PAYMENT ACCOUNT

4. PUBLIC HEARING

4A. A PUBLIC HEARING TO CONSIDER THE PROPOSED FIVE-YEAR CONSOLIDATED PLAN FOR FISCAL YEARS 2020-2024 AND ONE-YEAR ACTION PLAN FOR COMMUNITY DEVELOPMENT BLOCK GRANT, AND HOME INVESTMENT PARTNERSHIPS PROGRAMS FOR FISCAL YEARS YEAR 2020-2021

The City of Monterey Park is a federal entitlement grant recipient of CDBG and HOME funds from HUD. As part of the process to receive funding, the City must undertake development of a Consolidated Plan every five (5) years and an Annual Action Plan each year. The City's current Consolidated Plan expired on June 30, 2020. As required by federal requirements, the City will submit its Five-Year Con Plan and One-Year Annual Action Plan to the U.S. Department of Housing and Urban Development (HUD) by the statutory deadline of August 16, 2020.

On an annual basis, the City receives Community Development Block Grant (CDBG) and HOME Investment Partnership Program funds. To receive these grant funds, the City must adopt a Consolidated Plan. The Consolidated Plan serves as the City's 5-year planning document for the use of the funds. The Consolidated Plan is carried out each fiscal year (July 1- June 30) through an Annual Action Plan. The Annual Action Plan provides a concise summary of the actions, activities, and the specific resources that will be used each year to address the priority needs and specific goals identified by the Consolidated Plan.

Action Taken: The City Council (1) opened the public hearing at 8:43 p.m. to receive testimonial and documentary evidence, noting that there are no public speakers, closed the public hearing at 8:56 p.m.; (2) approved the Five-Year Consolidated Plan (Con Plan) for Fiscal Years 2020-24, One-Year Action Plan (Action Plan) for Fiscal Years 2020-2021 for the Community Development Block Grant (“CDBG”), and HOME Investment Partnerships (“HOME”) Programs; (3) directed staff to prepare and transmit the final documents to the U.S. Department of Housing and Urban Development (“HUD”) as amended to modify page 33 to correct a typographical error from “19.4 percent White” to “5.2 percent White”, modify page 111 to add a bullet point to emphasize “Job training and Employment Opportunities” and add “trade association and job training apprenticeship program” to paragraph 3, and modify page 140 to remove bullet point 5; and (4) authorized the City Manager, or his designee, to take all actions necessary or desirable to implement the Five-year Consolidated Plan, Annual Action Plan, and Subrecipient Agreements.

Motion: Moved by Mayor Pro Tem Chan and seconded by Council Member Sornoso motion carried by the following vote:

Ayes: Council Members: Yiu, Lo, Sornoso, Chan, Liang
Noes: Council Members: None
Absent: Council Members: None
Abstain: Council Members: None

5. NEW BUSINESS

5A. **CONSIDERATION AND POSSIBLE ACTION TO INTRODUCE AND WAIVE FIRST READING OF AN ORDINANCE AMENDING MONTEREY PARK MUNICIPAL CODE (“MPMC”) §2.80.060 TO CHANGE THE DATE THE BRUGGEMEYER LIBRARY BOARD OF TRUSTEES MUST SUBMIT ITS ANNUAL REPORT TO THE CITY COUNCIL**

The draft Ordinance proposes changing the date the Library Board of Trustees must submit its annual report to the City Council to coincide with the date this same information must be submitted to the State Librarian.

Action Taken: The City Council introduced and waived first reading of an ordinance amending Monterey Park Municipal Code (“MPMC”) § 2.80.060 to change the date the Bruggemeyer Library Board of Trustees must submit its annual report to the City Council as amended to correct a typographical error in Section 1 changing “November 31st” to “November 30th”.

Motion: Moved by Council Member Sornoso and seconded by Council Member Lo motion carried by the following vote:

Ayes: Council Members: Yiu, Lo, Sornoso, Chan, Liang
Noes: Council Members: None
Absent: Council Members: None
Abstain: Council Members: None

Ordinance, 1st Reading, entitled:

AN ORDINANCE AMENDING MONTEREY PARK MUNICIPAL CODE ("MPMC") § 2.80.060 TO CHANGE THE DATE THE BRUGGEMEYER LIBRARY BOARD OF TRUSTEES MUST SUBMIT ITS ANNUAL REPORT TO THE CITY COUNCIL

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

Council Member Yiu introduced her Traffic Commissioner Paul Perez and Commissioner on Aging Betty Wang.

Council Member Lo inquired about National Night Out.

Council Member Sornoso reported that the Community Clean Up Day on July 18, 2020 was successful.

Mayor Pro Tem Chan stated that he attended various events. On July 18, 2020, he attended William Sanchez 102nd birthday. On July 25, 2020, he participated in a presentation hosted by Anthony Chan, a professor of Santa Monica College, and spoke on the Chinese Exclusion Act. On July 29, 2020, he attended the Change of Command Ceremony by the US Army Recruiting Center. He stated that the Metro Service Council will have a meeting on August 24, 2020 and that they are receiving suggestion for the Next Gen Bus routes.

Mayor Liang attended William Sanchez 102nd birthday.

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

ADJOURNMENT

There being no further business for consideration, the meeting was adjourned at 9:16 p.m.

Vincent D. Chang
City Clerk

**MINUTES
MONTEREY PARK CITY COUNCIL
SUCCESSOR AGENCY (SA)
SPECIAL MEETING
AUGUST 19, 2020**

The City Council of the City of Monterey Park held a Special Teleconference Meeting on Wednesday, August 19, 2020 at 5:00 p.m. The special meeting was conducted pursuant to Section 3 of Executive Order No. N-29-20 issued on March 17, 2020. Accordingly, Council Members were provided a meeting login number and conference call number and were not physically present at Council Chambers.

The minutes include 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 was allowed in the following ways:

Via Email

Public comment was accepted up to an hour before the meeting via email to 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: 961 7685 7381 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 Liang called the meeting to order at 5:00 p.m.

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

ROLL CALL:

Deputy City Clerk Trang called the roll:

Council Members Present: Peter Chan, Hans Liang, Henry Lo, Fred Sornoso,
Yvonne Yiu

Council Members Absent: None

ALSO PRESENT: City Manager Ron Bow, Assistant City Attorney Karl Berger, Director of Management Services Martha Garcia, Deputy City Clerk Cindy Trang

ORAL AND WRITTEN COMMUNICATIONS

None.

OPEN SESSION

1. IDENTIFYING A TAX RATE FOR COLLECTING VOTER AUTHORIZED PROPERTY TAXES FOR EMPLOYEE RETIREMENT BENEFITS BASED ON THE ASSESSED VALUATION ESTABLISHED BY THE COUNTY ASSESSOR'S OFFICE

The City of Monterey Park's retirement costs are funded by a special voter-approved property tax. Each year the City is required to establish a tax rate to generate the retirement property tax based on the assessed valuation established by the County Assessor's Office.

Recommendation: It is recommended that the City Council:

- (1) Continue this item until the 6:30 p.m. open session and then adopt a Resolution identifying the amount of tax revenue required to fulfill the voters' intent in funding the City's retirement system; and
- (2) Take such additional, related, action that may be desirable.

Action Taken: By consensus, the City Council continued this Agenda Item to the Regular City Council Meeting of August 19, 2020 at 6:30 p.m.

Draft Resolution, entitled:

A RESOLUTION IDENTIFYING THE AMOUNT OF TAX REVENUE REQUIRED TO FULFILL THE VOTERS' INTENT IN FUNDING THE CITY'S RETIREMENT SYSTEM DURING FISCAL YEAR 2020-2021 AND AUTHORIZING THE LEVY OF APPROPRIATE TAXES

2. APPOINT LABOR NEGOTIATOR FOR CONTRACT NEGOTIATIONS WITH CITY MANAGER: KARL H. BERGER, ASSISTANT CITY ATTORNEY

Appoint Labor Negotiator for Contract Negotiations with City Manager: Karl H. Berger, Assistant City Attorney.

Action Taken: The City Council appointed Labor Negotiator for Contract negotiation with City Manager: Karl H. Berger, Assistant City Attorney.

Motion: Moved by Mayor Pro Tem Chan and seconded by Council Member Yiu

Ayes: Council Members: Yiu, Lo, Sornoso, Chan, Liang
Noes: Council Members: None
Absent: Council Members: None
Abstain: Council Members: None

CLOSED SESSION

The City Council adjourned to closed session at 5:07 p.m.

3. PUBLIC EMPLOYEE PERFORMANCE EVALUATION (REGULAR) AND APPOINTMENT (Pursuant to Government Code § 54957)

Title: City Attorney

4. PUBLIC EMPLOYEE PERFORMANCE EVALUATION (REGULAR) (Government Code § 54957)

Title: City Manager

RECONVENE & ADJOURNMENT

The City Council reconvened from Closed Session with all Council Members present. The meeting was adjourned at 5:55 p.m.

Action Taken: By consensus, Mayor Liang reported out of Closed Session the appointed of Karl Berger as the City Attorney and Mark Hensley as the Assistant City Attorney.

Vincent D. Chang
City Clerk

**MINUTES
MONTEREY PARK CITY COUNCIL
SUCCESSOR AGENCY (SA)
AUGUST 19, 2020**

The City Council of the City of Monterey Park held a Regular Teleconference Meeting via Zoom on Wednesday, August 19, 2020 at 6:30 p.m. The regular meeting was conducted pursuant to Section 3 of Executive Order No. N-29-20 issued on March 17, 2020. Accordingly, Council Members were provided a meeting login number and conference call number and were not physically present at Council Chambers.

The minutes include 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 was allowed in the following ways:

Via Email

Public comment were accepted up to an hour before the meeting via email to mpclerk@montereypark.ca.gov and, when feasible, read into the record during public comment. Written communications are 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: 974 3441 5629 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.

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

CALL TO ORDER:

Mayor Liang called the meeting to order at 6:31 p.m.

ROLL CALL:

City Clerk Vincent Chang called the roll:

Council Members Present: Peter Chan, Hans Liang, Henry Lo, Fred Sornoso,
Yvonne Yiu

Council Members Absent: None

ALSO PRESENT: City Manager Ron Bow, City Attorney Karl Berger, City Treasurer Joseph Leon, Fire Chief Matt Hallock, Police Chief Kelly Gordon, Director of Public Works Mark McAvoy, Director of Management Services Martha Garcia, Director of Recreation & Community Services Inez Alvarez, City Librarian Diana Garcia, Economic Development Manager Joseph Torres, Deputy City Clerk Cindy Trang, Assistant Deputy City Clerk Helena Cho

AGENDA ADDITIONS, DELETIONS, CHANGES AND ADOPTIONS

City Manager Bow reported that the City Council, by consensus, carried over Agenda Item No. 1 from the City Council Special meeting held at 5:00 p.m. for consideration.

Mayor Liang reported out of Closed Session of the City Council Special meeting held at 5:00 p.m. that the City Council, by consensus, appointed Karl Berger as the City Attorney and Mark Hensley as the Assistant City Attorney.

PUBLIC COMMUNICATIONS

- Inez Alvarez, Director of Recreation & Community Service, spoke about the MPK Count Census 2020 Campaign and informed the public that the deadline for the Census 2020 has been moved to September 30, 2020. She encouraged the public to complete the 2020 Census.
- Matt Hallock, Fire Chief, provided an update regarding the Assistance to Firefighter Grant awarded to the Fire Department.

1. PRESENTATION

1A. MAYOR'S OUTGOING ADDRESS

Outgoing Mayor Liang presented his outgoing speech. He thanked city staff and Council for all their hard work and collaborations. He stated that he was pleased that he was able to move forward with the Code of Conduct for the City Council.

1B. REORGANIZATION OF MONTEREY PARK CITY COUNCIL

Discussion: The City Council discussed changing the sequence of the Mayoral Rotation.

Action Taken: The City Council appointed Peter Chan as Mayor and Yvonne Yiu as Mayor Pro Tem in accordance with City Council resolution No. 11507 and directed staff to bring back a Resolution at the next City Council meeting to change the sequence of the Mayoral Rotation.

Motion: Moved by Mayor Liang and seconded by Council Member Lo motion carried by the following vote:

Ayes: Council Members: Yiu, Lo, Sornoso, Chan, Liang
Noes: Council Members: None
Absent: Council Members: None
Abstain: Council Members: None

S1. IDENTIFYING A TAX RATE FOR COLLECTING VOTER AUTHORIZED PROPERTY TAXES FOR EMPLOYEE RETIREMENT BENEFITS BASED ON THE ASSESSED VALUATION ESTABLISHED BY THE COUNTY ASSESSOR'S OFFICE

The City of Monterey Park's retirement costs are funded by a special voter-approved property tax. Each year the City is required to establish a tax rate to generate the retirement property tax based on the assessed valuation established by the County Assessor's Office.

This item was carried over from the 5:00 p.m. City Council special meeting, Open Session.

Action Taken: The City Council adopted Resolution No. 12188 identifying the amount of tax revenue required to fulfill the voters' intent in funding the City's retirement system.

Motion: Moved by Council Member Liang and seconded by Mayor Chan motion carried by the following vote:

Ayes: Council Members: Liang, Sornoso, Lo, Yiu, Chan
Noes: Council Members: None
Absent: Council Members: None
Abstain: Council Members: None

Resolution No. 12188, entitled:

A RESOLUTION IDENTIFYING THE AMOUNT OF TAX REVENUE REQUIRED TO FULFILL THE VOTERS' INTENT IN FUNDING THE CITY'S RETIREMENT SYSTEM DURING FISCAL YEAR 2020-2021 AND AUTHORIZING THE LEVY OF APPROPRIATE TAXES

2. OLD BUSINESS

2A. CONSIDERATION AND POSSIBLE ACTION TO ADOPT A RESOLUTION TO RECORD A NOTICE OF SPECIAL ASSESSMENT FOR NUISANCE ABATEMENT AT 299 E. MARKLAND DRIVE (APN 5265-007-007)

Pursuant to Monterey Park Municipal Code ("MPMC") § 4.30.150, the City may recover abatement costs and administrative citation fines by recording a special assessment upon real property. A public nuisance at 229 E. Markland Drive, was abated by the City. As a result, the City incurred a total of \$52,510.03 (which includes legal fees). The property owner was provided with an opportunity to either remit payment to the City or contest the costs incurred and fine. As of the preparation of this report, the owner has not done either one or the other.

CEQA (California Environmental Quality Act):

Adoption of this Resolution is exempt from the California Environmental Quality Act ("CEQA") under CEQA Guidelines § 15061 (b)(3) because it can be seen with certainty that there is no possibility that the Resolution may have a significant effect on the environment.

Action Taken: The City Council adopted Resolution No. 12189 to record a Notice of Special Assessment for Nuisance Abatement at 229 E. Markland Drive (APN 5265-007-007).

Motion: Moved by Mayor Chan and seconded by Council Member Liang motion carried by the following vote:

Ayes:	Council Members:	Liang, Sornoso, Lo, Yiu, Chan
Noes:	Council Members:	None
Absent:	Council Members:	None
Abstain:	Council Members:	None

Resolution No. 12189, entitled:

A RESOLUTION TO RECORD A NOTICE OF SPECIAL ASSESSMENT FOR NUISANCE ABATEMENT AT 229 E. MARKLAND DRIVE (APN 5265-007-007)

3. CONSENT CALENDAR ITEMS NOS. 3A-3F

Matters listed under consent calendar are considered to be routine, ongoing business and are enacted by one motion unless specified.

Action Taken: The City Council and the City Council, acting on behalf of the Successor Agency, approved and adopted Items Nos. 3A, 3C, 3D, and 3F on Consent Calendar, excluding Items Nos. 3B and 3E which were pulled for discussion and separate motion, reading resolutions and ordinances by the title only and waiving further reading thereof.

Motion: Moved by Council Member Lo and seconded by Mayor Pro Tem Yiu motion carried by the following vote:

Ayes: Council Members: Liang, Sornoso, Lo, Yiu, Chan
Noes: Council Members: None
Absent: Council Members: None
Abstain: Council Members: None

3A. 2019-2020 ANNUAL INVESTMENT REPORT [SA]

The City's Investment Policy requires an annual investment report and a statement of investment policy to be submitted to the City Council for review within 60 days of the fiscal year-end. The annual report attached to the staff report shows that all investment activities during 2019-20 were conducted according to the City's Investment Policy.

Action Taken: The City Council received and filed the 2019-20 Annual Investment report and adopted Resolution No. 12190 / SA-179 authorizing the Treasurer to implement the City's Investment Policy for FY 2020-21 on Consent Calendar.

Resolution No. 12190 / SA-179, entitled:
A JOINT RESOLUTION OF THE CITY OF MONTEREY PARK AND SUCCESSOR AGENCY TO THE MONTEREY PARK REDEVELOPMENT AGENCY ADOPTING AN INVESTMENT POLICY AND AUTHORIZING THE TREASURER TO IMPLEMENT THE POLICY

3B. MONTHLY INVESTMENT REPORT – JULY 2020

As of July 31, 2020 invested funds for the City of Monterey Park is \$93,127,167.50.

Action Taken: The City Council received and filed the monthly investment report.

Motion: Moved by Council Member Liang and seconded by Mayor Pro Tem Yiu motion carried by the following vote:

Ayes: Council Members: Liang, Sornoso, Lo, Yiu, Chan
Noes: Council Members: None
Absent: Council Members: None
Abstain: Council Members: None

3C. FIRST AMENDMENT TO CONTRACT BETWEEN THE CITY OF MONTEREY PARK AND BANK OF THE WEST

The City contracts with financial institutions for the processing of collections, disbursements, online banking services/reporting, reconciliation services, and investment transactions. To ensure that the City's banking services are of the highest quality and cost effectiveness, in March 2012, staff sent banking services requests for proposals to various banks. Seven proposals were received and on July 18, 2012, City Council authorized the City Manager to execute an agreement with Bank of the West.

Action Taken: The City Council authorized the City Manager to execute an Amendment, in a form approved by the City Attorney, to a banking services contract with Bank of the West on Consent Calendar.

3D. WAIVE FURTHER READING AND ADOPT AN ORDINANCE AMENDING MONTEREY PARK MUNICIPAL CODE ("MPMC") § 2.80.060 TO CHANGE THE DATE THE BRUGGEMEYER LIBRARY BOARD OF TRUSTEES MUST SUBMIT ITS ANNUAL REPORT TO THE CITY COUNCIL

The Ordinance was introduced at the August 5, 2020 City Council meeting. On August 5, 2020, the City Council conducted the first reading. The original staff report is attached to the staff report for reference. Second reading and adoption of this Ordinance is recommended; it will take effect in 30 days.

Action Taken: The City Council waived second reading and adopted Ordinance No. 2186 to change the date the Bruggemeyer Library Board of Trustees must submit its annual report to the City Council on Consent Calendar.

Ordinance No. 2186, entitled:

AN ORDINANCE AMENDING MONTEREY PARK MUNICIPAL CODE ("MPMC") § 2.80.060 TO CHANGE THE DATE THE BRUGGEMEYER LIBRARY BOARD OF TRUSTEES MUST SUBMIT ITS ANNUAL REPORT TO THE CITY COUNCIL

3E. DEMOLITION & RECONSTRUCTION OF FIRE STATION 62 – UPDATE ON AWARD OF CONTRACT

On May 20, 2020, the City Council gave direction to City Manager to terminate the control of the previous contractor over the agreement for Demolition & Reconstruction of Fire Station 62 ("project") due to non-performance; and adopted Resolution No. 12157 declaring an emergency and authorizing contracting without the need for formal bidding pursuant to Public Contracts Code §2205 and Monterey Park Municipal Code ("MPMC) Chapter 2.52.

Staff solicited bids informally and the lowest bidder was Robert Clapper (RC) Construction Services, Inc. On July 13, 2020, the City Manager has now executed a public works contract with RC Construction Services, Inc. in the amount of \$5,128,000, which is just over \$269,000 less than the original contract.

Action Taken: The City Council received and filed the status on the Demolition & Reconstruction of Fire Station 62 project.

Motion: Moved by Council Member Liang and seconded by Council Member Sornoso motion carried by the following vote:

Ayes: Council Members: Liang, Sornoso, Lo, Yiu, Chan
Noes: Council Members: None
Absent: Council Members: None
Abstain: Council Members: None

3F. ONE-YEAR TIME EXTENSION (EX-20-02) FOR TENTATIVE MAP NO. 71473 (TM-17-01) TO SUBDIVIDE ONE LOT INTO FOUR LOTS – SOUTHEAST CORNER OF SOUTH ORANGE AVENUE AND PEPPER STREET

On May 7, 2020, the City Manager executed an Administrative Order that – retroactively to March 11, 2020 – suspended the timelines within the Monterey Park Municipal Code (“MPMC”) regarding automatic extensions, etc., on subdivision maps and applications.

On June 20, 2020, Paul Cheung of Goldstar Development Inc., submitted an application pursuant to MPMC Title 20 requesting approval of a one-year time extension for Tentative Map No. 71473 (TM-17-01) to subdivide one lot into four lots at southeast corner of South Orange Avenue and Pepper Street (“Project”). Pursuant to MPMC § 20.10.020, the City Council “shall grant the extension and any subsequent extensions; provided, that it finds good cause for doing so and that such extensions do not exceed an aggregate of three years.” It is recommended that the City Council determine whether good cause for the extension exists.

CEQA (California Environmental Quality Act):

The Project is categorically exempt from additional environmental review pursuant to CEQA Guidelines § 15315 as a Class 15 categorical exemption (Minor Land Divisions). The Project consists of the division of property in an urbanized area that is zoned for residential use. The Project conforms to the General Plan because, according to the Land Use Element, the Single-Family Residential land use category allows for low density residential units, traditionally single-family homes with one dwelling permitted per legal lot. The Project is the subdivision of one lot into four lots for the construction of four new single-family residential dwelling units. The Project is consistent with zoning. Furthermore, the Project does not require any variances or exceptions, all services and access to the proposed parcels are

available (to the City's standards), the parcel was not involved in a division of a larger parcel within the previous two years, and the parcel does not have an average slope greater than 20 percent.

Action Taken: The City Council adopted Resolution No. 12191 approving a time extension (EX-20-02) for Tentative Map No. 71473 (TM-17-01) which includes amendments and additions to the Conditions of Approval on Consent Calendar.

Resolution No. 12191, entitled:

A RESOLUTION APPROVING A ONE-YEAR EXTENSION (EX-20-02) FOR TENTATIVE MAP NO. 71473 (TM-17-01) TO SUBDIVIDE ONE LOT INTO FOUR LOTS AT THE SOUTHEAST CORNER OF SOUTH ORANGE AVENUE AND PEPPER STREET (ASSESSOR'S PARCEL NUMBER: 5276-008-045)

4. **PUBLIC HEARING**

None.

5. **NEW BUSINESS**

5A. **CONSIDERATION AND POSSIBLE ACTION TO INTRODUCE AND WAIVE FIRST READING OF AN ORDINANCE AMENDING SECTION 3.90.050 OF THE MONTEREY PARK MUNICIPAL CODE ("MPMC") REGARDING SIGNATURE AUTHORITY FOR THE CITY MANAGER AND DEPARTMENT DIRECTORS WHEN EXECUTING CONTRACTS ON THE CITY'S BEHALF**

Government Code § 40602 generally requires that the City's contracts be signed by the Mayor in order to become binding. It also provides, however, that the City Council may, by ordinance, authorize a city officer to sign contracts on behalf of the City. Monterey Park Municipal Code § 3.90.050 currently authorizes the City Manager and Department Directors to sign contracts for purchasing services and supplies under specified dollar amounts; \$25,000 and \$2,500, respectively. By increasing the signature authority thresholds, Purchasing and Contracts Administration staff will be able to focus on improving turn-around performance, training, strategic procurement, and other valued areas, while improving project-management oversight. Additionally, staff will be able to shift time to the larger, more complex contracts in an effort to further reduce turn-around time.

Action Taken: The City Council introduced and waived first reading of an Ordinance amending section 3.90.050 of the Monterey Park Municipal Code ("MPMC") regarding signature authority for the City Manager and Department Directors when executing contracts on the City's behalf and directed the City Manager to provide quarterly reports for contracts that are under \$60,000 and \$25,000.

Motion: Moved by Council Member Lo and seconded by Council Member Sornoso motion carried by the following vote:

Ayes: Council Members: Liang, Sornoso, Lo, Yiu, Chan
Noes: Council Members: None
Absent: Council Members: None
Abstain: Council Members: None

Ordinance, 1st Reading, entitled:

AN ORDINANCE AMENDING SECTION 3.90.050 OF THE MONTEREY PARK MUNICIPAL CODE ("MPMC") REGARDING SIGNATURE AUTHORITY FOR THE CITY MANAGER AND DEPARTMENT DIRECTORS WHEN EXECUTING CONTRACTS ON THE CITY'S BEHALF

5B. ADOPT A RESOLUTION RATIFYING CERTAIN ACTIONS COMPLETED BY THE CITY MANAGER REGARDING COVID-19 PANDEMIC AND CONTINUE TO EXTEND THE EXISTENCE OF A LOCAL EMERGENCY

On March 18, 2020, the City Council adopted Resolution No. 12142 which declared a local emergency resulting from the COVID-19 Pandemic (the "COVID-19 Pandemic"). Pursuant to Resolution No. 12142 and Monterey Park Municipal Code ("MPMC"), the City Manager implemented certain emergency policies and procedures ("EP&P") to protect public health and safety. Generally, these relate to designation of quarantine sites; protection of public employees; and continuity of government.

On April 15, the City Council adopted Resolution No.12151 ratifying certain actions completed by the City Manager and extending the existence of a local emergency. On June 3, the City Council adopted Resolution No.12164 ratifying certain actions completed by the City Manager and extending the existence of a local emergency.

Pursuant to the Governor's March 4, 2020 Proclamation of Emergency (see paragraph 8), the reporting and extension requirements of Government Code § 8630 are suspended for the duration of this emergency. However, the City is regularly updating the City Council regarding the ongoing emergency and seeks City Council ratification for the exercise of emergency powers. Based upon readily available information, it does not appear that the Pandemic will end any time soon.

CEQA (California Environmental Quality Act):

The Resolution itself and the actions anticipated by the Resolution 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, this action 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.¹

Action Taken: The City Council adopted Resolution No. 12192 ratifying certain actions completed by the City Manager.

Motion: Moved by Council Member Sornoso and seconded by Mayor Pro Tem Yiu motion carried by the following vote:

Ayes: Council Members: Liang, Sornoso, Lo, Yiu, Chan
Noes: Council Members: None
Absent: Council Members: None
Abstain: Council Members: None

Resolution No. 12192, entitled:

A RESOLUTION ADOPTED BY THE CITY COUNCIL FOR THE CITY OF MONTEREY PARK RATIFYING CERTAIN ACTIONS COMPLETED BY THE CITY MANAGER AND EXTENDING THE EXISTENCE OF A LOCAL EMERGENCY

5C. CONSIDERATION AND POSSIBLE ACTION TO INTRODUCE AND WAIVE FIRST READING OF AN ORDINANCE AMENDING TITLE 20 (SUBDIVISIONS) OF THE MONTEREY PARK MUNICIPAL CODE IN ITS ENTIRETY IN ACCORDANCE WITH THE SUBDIVISION MAP ACT (GOVERNMENT CODE §§ 66410, ET SEQ.)

The City's Subdivision Ordinance (Ordinance No. 1444) was adopted in 1977.¹ The draft Ordinance is intended to update the Monterey Park Municipal Code ("MPMC") to implement various changes in California law and codify some of the City's current practices.

Action Taken: The City Council introduced and waived first reading of an Ordinance amending Title 20 (Subdivisions) of the Monterey Park Municipal Code in its entirety in accordance with the Subdivision Map Act (Government Code §§ 66410, et seq.)

Motion: Moved by Council Member Liang and seconded by Council Member Lo motion carried by the following vote:

Ayes: Council Members: Liang, Sornoso, Lo, Yiu, Chan
Noes: Council Members: None
Absent: Council Members: None
Abstain: Council Members: None

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

¹ While some sections of MPMC Title 20 were amended as recently as 2007 (see Ordinance No. 2051), a large majority of Title 20 has remained unchanged since 1977.

Ordinance, 1st Reading, entitled:

AN ORDINANCE AMENDING TITLE 20 OF THE MONTEREY PARK MUNICIPAL CODE IN ITS ENTIRETY REGULATING SUBDIVISIONS IN ACCORDANCE WITH THE SUBDIVISION MAP ACT (GOVERNMENT CODE §§ 66410, ET SEQ.)

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

6A. **A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MONTEREY PARK RESPONDING TO THE TRUMP ADMINISTRATION'S ATTEMPT TO EXCLUDE UNDOCUMENTED PERSONS FROM THE 2020 CENSUS COUNT APPORTIONMENT BASE AND RECOGNIZING THE IMPORTANCE OF COUNTING ALL PERSONS IN THE 2020 CENSUS – REQUESTED BY COUNCIL MEMBER LO**

Action Taken: The City Council adopted Resolution No. 12193 responding to the Trump administration's attempt to exclude undocumented persons from the 2020 census count apportionment base and recognizing the importance of counting all persons in the 2020 census.

Motion: Moved by Council Member Lo and seconded by Council Member Liang motion carried by the following vote:

Ayes: Council Members: Liang, Lo, Sornoso, Lo, Yiu, Chan
Noes: Council Members: None
Absent: Council Members: None
Abstain: Council Members: None

Resolution No. 12193, entitled:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MONTEREY PARK RESPONDING TO THE TRUMP ADMINISTRATION'S ATTEMPT TO EXCLUDE UNDOCUMENTED PERSONS FROM THE 2020 CENSUS COUNT APPORTIONMENT BASE AND RECOGNIZING THE IMPORTANCE OF COUNTING ALL PERSONS IN THE 2020 CENSUS

COUNCIL COMMUNICATIONS

Council Member Liang attended the ground breaking ceremony for Fire Station 62.

Council Member Sornoso congratulated Peter Chan as Mayor and Yvonne Yiu as Mayor Pro Tem. He advised the public to drink plenty of water and stay protected throughout the heat waves.

Council Member Lo attended the Ground Breaking Ceremony for Fire Station 62 and reminded the community to complete the 2020 Census.

Mayor Pro Tem Yiu reported that on August 14, 2020, she hosted a Meet and Greet via Zoom. She introduced her Community Participation Commissioner Orianna Chan and Recreations and Parks Commissioner Johnny Kwok.

Mayor Chan reported that he attended the Ground Breaking Ceremony for Fire Station 62 and attended the Greater Monterey Park Chamber of Commerce zoom meeting.

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

ADJOURNMENT

There being no further business for consideration, the meeting was adjourned at 8:03 p.m.

Vincent D. Chang
City Clerk



City Council Staff Report

DATE: October 7, 2020

AGENDA ITEM NO: Consent Calendar
Agenda Item 3-B

TO: The Honorable Mayor and City Council

FROM: Ron Bow, City Manager

SUBJECT: Waive further reading and adopt an Omnibus Ordinance amending various chapters and sections of the Monterey Park Municipal Code

RECOMMENDATION:

It is recommended that the City Council consider:

1. Waiving second reading and adopting the proposed ordinance; and
2. Taking such additional, related, action that may be desirable.

EXECUTIVE SUMMARY:

The first reading and introduction of the Ordinance took place at the September 16, 2020 City Council meeting. The original staff report (from September 16, 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

Attachments:

1. Draft Ordinance
2. September 16, 2020 Staff Report

ATTACHMENT 1
Draft Ordinance

ORDINANCE NO. _____

AN OMNIBUS ORDINANCE AMENDING AND REPEALING VARIOUS CHAPTERS AND SECTIONS OF THE MONTEREY PARK MUNICIPAL CODE AS SPECIFIED.

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

SECTION 1. MPMC Chapter 2.24, entitled "CITY OFFICES," is amended to read as follows:

"Chapter 2.24 CITY ~~OFFICES~~ADMINISTRATION

2.24.010 Council chambers.

~~The city council chambers are room designated as the council chambers located in the building located city hall at 320 West Newmark Avenue. shall be the council chamber of the city council and a~~Unless otherwise provided in accordance with applicable law, all meetings of the city council shall will be held therein within the city council chambers.

2.24.020 City clerk—City treasurer.

The offices of the city clerk and of the city treasurer ~~shall be~~are located ~~and maintained~~ at 320 West Newmark Avenue ~~in the city.~~

2.24.030 ~~Other city offices~~Administrative Code.

~~The City Council may, upon recommendation by the City Manager, adopt a resolution establishing various City departments and divisions. Such resolution will constitute the City's Administrative Code and should be reviewed at least every two years. offices of the city engineer, the street department, the street superintendent, the building department, the building official, the water department, the water superintendent, the sewer department, the sewer inspector, the park department, the park superintendent, and the city manager shall be located and maintained at 320 West Newmark Avenue in the city.~~

2.24.040 Hours and holidays.

~~Unless otherwise provided by city council resolution action, The city offices mentioned in this chapter shall will be closed on Saturdays, Sundays and on all holidays, as defined in Section 7 of Rule XI of the Personnel System Rules and Regulations. Except as otherwise provided by city council resolution or direction by the city manager, The city offices~~

~~shall be~~ are open to the public for business from eight a.m. to five p.m. on all business days. ~~other days of the year.~~"

SECTION 2. MPMC § 2.90.030, establishing responsibilities of the Traffic Commission, is amended to read as follows:

"2.90.030 Responsibilities.

A. The duty of the commission will be to review ~~each~~ request for changes in traffic control conditions as submitted by the city engineer. ~~they now exist or may exist in the future in this city. All requests received by the city regarding traffic conditions will be transmitted to t~~The city engineer who ~~shall~~ will maintain the files and records of the commission. The actions taken by the commission will be reflected in written recommendations to the city ~~traffic~~ engineer, with copies to the city manager. Implementation ~~shall~~ may be accomplished by the city council in accordance with ~~the procedures specified in Title 10 of this code~~applicable law including, without limitation, this code.

B. The commission may also make recommendations to the city council for amendments to this code to ~~depart from established policy or to establish new policies,~~ which may ease traffic congestion and help facilitate transportation throughout the city."

SECTION 3. MPMC § 12.06.010, authorizing reservations at City parks, is amended to read as follows:

"12.06.010 Reservations.

The ~~city manager, or designee, will~~ director of parks and recreation shall develop a written policy and procedure to provide for advance reservations for park bench picnic facilities located at Barnes Park, Elder Park, Garvey Ranch Park, Highlands Parks, and Sierra Vista Park. The reservation policy ~~shall~~ should provide that reservations ~~shall~~ may be taken no earlier than ~~ninety~~ 90 days ~~prior to~~ before the requested date. ~~Persons who receive an advance reservation shall have the exclusive right to use such bench picnic facilities subject to all the terms and conditions set forth in the reservation policy. The reservation policy shall be approved by the parks and recreation commission and the city council. This policy shall be effective April 1, 1996.~~"

SECTION 4. MPMC § 14.08.010 is amended to read as follows:

"14.08.010 Definitions.

For the purpose of this chapter, and Chapter 14.12, certain words and phrases are defined and certain provisions ~~shall~~ will be construed as set

forth in this section, unless it is apparent from the context that a different meaning is intended.

“Water department” means the ~~water department of the city~~public works department.

~~“Water superintendent” means the city of Monterey Park water utility manager.~~

“Within the city” or “within the city limits,” means within the corporate limits of the city as they now exist, or may hereafter be made to exist, by subsequent exclusion or addition.”

SECTION 5. MPMC Chapters 2.12 (“Superintendent of Streets”); 2.16 (“Building Inspector”); 9.07 (“Formation Flying”); 9.33 (“Flag and Emblem Display”); 9.45 (“Impersonating Officer”); 9.48 (“Inhalation of Certain Substances”); 10.08 (“Traffic Engineer”); 10.49 (“Administrative Civil Review Procedure”) are repealed. MPMC §§ 1.04.110 (“Definitions”); 5.20.020 (“Possession Unlawful”); 9.39.010 (“Gambling”); 10.12.020 (“Compliance Required”); 10.20.030 (“Unauthorized traffic direction – Prohibited”); 10.20.050 (“Exemptions to certain vehicles”); and 10.56.020 (“Crosswalk – Use Required”) are repealed.

SECTION 6. Existing terms within the MPMC are changed throughout the MPMC as follows:

- A. “City traffic engineer” to “city engineer.”
- B. “Building inspector” to “building official.”
- C. “Superintendent of streets,” “street superintendent,” “superintendent of water,” “water superintendent,” “water utility manager,” and “parks superintendent” to “Public Works Director, or designee.”
- D. “Parks and recreation director” or “director of parks and recreation” to read “Director of Recreation and Community Services.”
- E. “Parks and Recreation Commission” to “Recreation and Parks Commission.”

SECTION 7. To codify Ordinance No. 1933 (adopted by voters on April 14, 1998), existing Chapter 21.14, entitled “Overlay Zones-P-D-Planned Development District Zone,” of the MPMC is renumbered as Chapter 21.15. Additionally, Chapter 21.12, entitled “O-P Office Professional Zone,” is renamed “O-P Office Professional Non-McCaslin Business Park Zone.” Chapter 21.14 is amended in its entirety as set forth in attached Exhibit “A,” which is incorporated by reference. The City’s Zoning Map is

amended to reflect the zone name changes implemented by this Section. Finally, a new Section 21.14.200 is added to the MPMC to read as follows:

“21.14.200 [Conditional Uses].¹

Use	Zone in which allowed subject to Conditional Use Permit
Auditorium, not within 300 feet of a R-zone	O-P
Buildings exceeding height limit	O-P
Business college (office or medical, dental)	O-P
Child care center, not within 300 feet of a R-zone	O-P
Commercial office or service units which are shared by more than one independently owned business enterprise	O-P
Commercial developments of five or more units or with an area of more than one acre, and within 300 feet of a R-zone	O-P
Financial institution (retail banking)	O-P
Floor area ratio not to exceed 1.0	O-P
Government or public facility, except those owned or operated by the City of Monterey Park	O-P
Gymnasium, reducing salon and health center	O-P
Hotel	O-P
Lot size over an acre	O-P
Places of entertainment, except as otherwise provided in this title	O-P”

SECTION 8. To codify Ordinance No. 1731D (adopted by voters on October 20, 1987), Section 21.32.015 is added to the MPMC to read as follows:

“21.32.015 Height Variances (Voter Enacted).

No height variance shall be granted within the City of Monterey Park which would permit the construction of an additional story above the number of stories which is permitted by the Monterey Park Zoning Code or would allow construction to exceed the maximum heights permitted by the Monterey Park Zoning Code by more than six (6) feet.”

SECTION 9. *Environmental Review.* This Ordinance is exempt from review under the California Environmental Quality Act (California Public Resources Code §§ 21000, *et seq.*, “CEQA”) and CEQA Guidelines (14 California Code of Regulations (“CCR”) §§

¹ Ordinance No. 1933 codified these conditional uses at MPMC § 21.70.030. That section was superseded by MPMC Chapter 21.32 which contains general regulations governing conditional use permits. All conditional uses for various zones are now codified within the MPMC for those zones (rather than being listed in one section).

15000, *et seq.*) because it establishes rules and procedures to clarify existing policies and practices related to government organization; 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, this Resolution does not constitute a “project” that requires environmental review (see specifically 14 CCR § 15378(b)(4-5)).

SECTION 10. *Technical Changes.* The City Manager, or designee, is authorized to make technical corrections, in a form approved by the City Attorney, to the MPMC, maps, diagrams, tables, and other, similar, documents that may be required to implement the changes made by this Ordinance and other, unrelated, City Council action.

SECTION 11. *Ongoing Effectiveness.* Repeal of any provision of the MPMC will 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 12. *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 governs. The City Manager 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 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. *Construction.* This Ordinance must be broadly construed in order 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 15. *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 16. *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 15 days after the

passage and adoption of this Ordinance, and cause it to be published or posted in accordance with California law.

SECTION 17. *Effective Date.* This Ordinance will take effect on the 30th day following its final passage and adoption.

PASSED AND ADOPTED this _____ day of _____, 2020.

Peter Chan, Mayor

ATTEST:

Vincent D. Chang, City Clerk

APPROVED AS TO FORM



Karl H. Berger, City Attorney

EXHIBIT A

Chapter 21.14 (Voter Enacted)

O-P – Office Professional Zone
Sections:

- 21.14.010 Purpose
- 21.14.020 Permitted uses
- 21.14.030 Prohibited uses
- 21.14.040 Principal uses
- 21.14.050 Conditional uses
- 21.14.060 Standards of development generally
- 21.14.070 Lots
- 21.14.080 Yards
- 21.14.090 Building height
- 21.14.100 Floor area ratio (FAR)
- 21.14.110 Off-street Parking
- 21.14.120 Required walls
- 21.14.130 Trash facilities
- 21.14.140 Buffering and maintenance of landscaping and easements
- 21.14.150 Compressors, air-conditioning units or similar mechanical equipment
- 21.14.160 Lighting
- 21.14.170 Exceptions
- 21.14.180 Site development plan approval
- 21.14.190 Limitations on permitted uses

21.14.010 **Purpose.** In order to provide for the development of integrated professional, office and limited retail areas that exhibit a diversity of business activity from both revenue and service quality standpoints, and which are compatible and responsive to abutting land uses, including residential developments, the following regulations shall be applicable to all properties classified in the O-P zone.

21.14.020 **Permitted uses.** No person shall use, nor shall any property owner permit the use of any lot classified in any

O-P zone for any use, other than the following as set out in Section 21.14.040 and 21.14.050.

21.14.030 **Prohibited uses.** All uses not permitted in this chapter shall be prohibited.

21.14.040 **Principal uses.** The principal uses shall be permitted as follows:

- Administrative and professional offices;
- Beauty salon or barber shop;
- Bookstore;
- Cellular phone, telephone and pager store;
- Coffee shop;
- Computer store, sales and service;
- Confectionary shop;
- Data processing facility;
- Delicatessen;
- Employment agency;
- Financial institutions' corporate offices, no retail banking;
- General research facility, not involving testing, manufacturing, fabrication or processing or sale of products, nor the use of a hazardous material that has a degree of hazard rating in health, flammability or reactivity of Class 4 as ranked by U.F.C. Standard 79-3 or succeeding standard;
- Gift shop;
- Ice cream parlor;
- Import and export offices;
- Investment service offices, stock brokers;

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Jewelry store, sales and service;
Legal offices;
Mailbox and service store;
Medical equipment and supplies, sales and service;
Notary public;
Photocopying and blueprinting;
Public utility customer service office
Real estate offices and title companies;
Restaurant, tearoom and cafe;
Service businesses;
Stationery;
Studio, art, dance, martial arts, photography;
Tax consulting;
Tobacco store;
Travel agency;
Video sales and rentals.

each lot shall be fifty feet.

- 2. Lot depth. The minimum depth of each lot shall be one hundred feet.

21.14.080 **Yards.** The following minimum yards shall be required on all lots:

- 1. Front yard. No minimum front yard is required.
- 2. Side and rear yards. Every lot shall have and maintain minimum side and rear yards as follows:
 - a. When the side yard is adjacent to a street, the yard shall be at least fifteen feet in depth.

21.14.050 **Conditional uses.** Conditional uses shall be uses specifically enumerated in Section 21.70.030.¹

21.14.060 **Standards of development generally.** All premises in the O-P zone shall comply with the following standards of development as set out in Sections 21.14.070 through 21.14.190.

21.14.070 **Lots.**

- 1. Lot area. The minimum lot area of each lot shall be five thousand square feet.
 - a. Lot width. The minimum width of

- 3. When adjacent to a R-zone, the yard shall be no less than fifty feet, plus five feet in depth for each story above one story of building or each ten-foot increment above fifteen feet in height of building on the O-P zoned lot. Where there is an opening, including but not limited to windows, pedestrian doors and roll-up doors, in any building on the O-P zone facing a yard adjacent to a R-zone, the yard shall be no less than one hundred feet from any opening to the R-zoned lot. The yard may be used for parking,

¹ Now § 21.14.200.

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excepting a minimum fifteen foot wide area abutting the R-zone which shall be landscaped and maintained in such a condition so as not to violate Section 9.54.010.² The required landscaping shall also conform to the standards set forth in Section 21.14.140. When the O-P zoned lot is separated from a R-zone by an alley, a rear yard setback of forty feet shall be provided, as measured from the centerline of the alley. A minimum three-foot wide landscaped planter shall be installed and maintained along the alley, excepting at any vehicular access driveway.

4. When adjacent to a commercially-zoned or M zoned lot, no yard is required.

21.14.090 Building height. No building or structure in excess of forty feet or three stories shall be located on any lot. Buildings or structures exceeding the height limits may be permitted upon approval of a conditional use permit.

21.14.100 Floor area ratio (FAR). The floor area ratio shall not exceed 0.5 when the lot is less than ten thousand square feet in area. When the lot is between ten thousand and twenty thousand square feet in area, the floor area ratio shall not exceed 0.65. When the lot is more than twenty thousand square feet in area, the

floor area ratio shall not exceed 0.8. The floor area ratio may be increased to a maximum of 1.0 for all lots, upon approval of a conditional use permit.

21.14.110 Off-street parking and loading. Each O-P zoned lot shall have and maintain offstreet parking and loading facilities as required by Chapter 21.40.³

21.14.120 Required walls. Except as otherwise provided in Chapter 21.48,⁴ the following standards shall apply:

1. Where any part of the front yard or street side yard of a O-P zoned lot is used for parking or loading, a masonry wall compatible in color with the commercial building and/or sight-obscuring hedge a minimum of three feet in height shall be erected and maintained within a landscaped area a minimum of three feet in width adjacent to the sidewalk at the front or side yard property line as required by Section 21.40.180.⁵
2. When any O-P zoned lot has a common side or rear lot line with any R-zoned property, a six-foot solid decorative masonry or concrete block wall compatible in color with the commercial building shall be constructed and maintained along all such

² Now see § 4.30.050.

³ Now see Chapter 21.22.

⁴ Now § 21.08.080.

⁵ Now see Chapter 21.22.

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common side or rear lot lines. Where an easement exists, abutting the common property line, the said decorative wall may be constructed along the boundary of the easement on the commercial lot. A minimum three-foot wide landscaped planter with automatic irrigation system shall be placed adjacent to the wall, planted with trees, shrubs, ground cover and vines. Where a parking lot on the O-P zoned lot abuts a R-zoned lot, the additional parking lot landscaping requirements of Section 21.40.1806 shall apply.

21.14.130 Trash facilities. Each O-P zoned lot shall be provided with facilities for the storage and collection of trash as follows:

1. Any outdoor trash facility shall be enclosed by a minimum five-foot high solid masonry, brick or concrete wall except for the access way which shall be enclosed with solid decorative gates of the same height.
2. Location and size shall be subject to approval by the planner. When any O-P zoned lot has a common property line with a R-zoned lot, no trash facility shall be located within the required building setback.

3. Open vehicular and pedestrian access to and from such trash facility shall be provided. No parking spaces shall block such access to the trash facility.
4. Trash facilities shall be maintained in a closed manner at all times to prohibit visibility from public rights-of-way or adjacent property.

Notwithstanding any other provision of this title, all existing uses, buildings and structures in the O-P zone which do not conform to this Section shall provide a fully enclosed trash facility within six months of the effective date of this ordinance unless providing such trash facility will eliminate any existing required off-street parking spaces.

21.14.140 Buffering and maintenance of landscaping and easements. For O-P zoned lots with side or rear yards that are adjacent to an R zoned lot, the following buffering provisions shall be provided and maintained:

1. Landscaping, irrigation and maintenance plans shall be required and the plans shall be subject to approval of the design review board under the provisions of Chapter 21.72.⁷ The plans shall incorporate, but not be limited to, fifteen-gallon minimum trees at time of planting, interspersed

⁶ *Ibid.*

⁷ Now Chapter 21.36, as amended in 2020.

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shrubs, ground cover, raised earthen berms and automatic sprinkler systems. The City may require the maintenance plan to include a bonafide service agreement with a City licensed landscaping service business. Maintaining an active service agreement on file with the Community Development Department⁸ shall be the responsibility of the owner of the subject property or by his authorized agent.

2. All landscaped areas and easements shall be maintained in good condition, weed and disease free, and in compliance with Chapter 9.54. Notwithstanding any other provision of this title, all O-P zoned lots that abut a R zone and do not have landscaping, irrigation and maintenance plans that have been approved by the design review board pursuant to requirements of Chapter 21.729 shall submit a landscaping, irrigation and maintenance plan for design review board approval within six months of the effective date of this ordinance.

21.14.150 Compressors, air-conditioning units or similar

mechanical equipment. Each O-P zoned lot which has compressors, air-conditioning units or similar mechanical equipment, located on the roof and outside of the exterior walls of any building or structure, shall comply with the following:

1. All such equipment shall be installed with permanent sound proofing measures, including but not limited to, enclosures, parapet and sound attenuating walls and screens. All such equipment shall comply with noise standards set forth in Chapter 9.53. The location, type and scope of soundproofing measures for such equipment shall be subject to the approval of the Community Development Department.¹⁰
2. All such equipment shall be maintained in a clean and proper condition to prevent collection of litter and filth, emissions of dust or fumes, vibration or electrical disturbances.

21.14.160 Lighting. All outdoor lighting shall be located and shielded so as to prevent the direct spillage of light or glare onto adjacent lots and streets.

21.14.170 Exceptions. Except as otherwise provided in this section, any use, building or structure which is in existence or for which a permit has been

⁸ Now City Planner.

⁹ Now Chapter 21.36, as amended 2020.

¹⁰ Now City Planner.

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issued, as of the effective date hereof, and which conformed to all zoning regulations of the city then in effect at such time, shall not be rendered nonconforming within the meaning of Chapter 21.68,¹¹ solely by reason of the application of the development standards as set forth in this chapter; provided that any such existing use, building or structure shall comply with the provisions hereof upon a change in use, or upon use, building or structure expansion or reconstruction, in whole or in part.

21.14.180 Site development plan approval. Prior to the issuance of a building permit or business license for any use, building or structure to be located on any lot, as to which the provisions of this chapter apply, the provisions of Chapter 21.72,¹² with regard to site development plans shall be complied with.

21.14.190 Limitations on permitted uses. Every use permitted in the O-P zone shall comply with the following:

1. All uses shall be conducted totally within a completely enclosed building, except for those uses which are customarily conducted in the open, as determined pursuant to Section 21.06.06013 or Section 21.74.030.14 Those uses conducted in the open shall be no closer than one hundred feet to any R zoned lot, except for parking.

2. No outdoor storage shall be allowed unless the same is enclosed by a view-obscuring fence or wall, provided that no stored material is visible above the fence or wall, that the fence or wall is approved by the Department of Community Development,¹⁵ and that such storage shall be limited to the accessory storage of items sold or utilized in the conduct of a permitted use on the premises. Where the O-P zoned lot is adjacent to a R zoned lot, no outdoor storage shall be permitted within one hundred feet of a R zoned lot.
3. No loading and unloading shall be permitted in any required side or rear yard.
4. Where the O-P zoned lot is adjacent to a R zoned lot, no deliveries of goods and commodities nor loading or unloading shall be conducted during the hours from 10:00 p.m. to 7:00 a.m.
5. There shall be no overnight parking of vehicles, except those vehicles used in conjunction with a permitted use.
6. Driveways may not exceed

¹¹ Now Chapter 21.30.

¹² Now Chapter 21.36, as amended in 2020.

¹³ Now repealed. But, see § 21.02.090.

¹⁴ Now Chapter 21.32.

¹⁵ Now City Planner.

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thirty feet in width or sixty percent of the lot frontage.

7. No use shall be permitted which produces or causes or emits any dust, gas, smoke, glare, noise, fumes, odors, electromagnetic emanations or vibrations which are or may be detrimental to the health, safety, welfare and peace of the city and its residents and businesses.

8. No use shall be permitted which uses or stores a hazardous material that has a degree of hazard rating in health, flammability or reactivity of Class 4 as ranked by U.F.C. Standard 79-3 or succeeding standard. A business materials usage and operations form shall be filed with the Community Development Department¹⁶ prior to the approval of a certificate of occupancy. Notwithstanding any other provision of this title, all O-P zoned businesses that do not have a business materials usage and operations form on file shall submit a form within six months of the effective date of this ordinance.

9. No person shall, at any location within the O-P zone, create nor allow the

creation of noise which causes the noise level to exceed the applicable noise standards set forth in Chapter 9.53. Where the O-P zoned lot is adjacent to a R zoned lot, the noise level at the property line of the R zoned lot shall not exceed the allowable noise level for residential properties.

¹⁶ Now Public Works Department.

ATTACHMENT 2

September 16, 2020 Staff Report



City Council Staff Report

DATE: September 16, 2020

AGENDA ITEM NO:

**New Business
Agenda Item 5-D**

TO: Honorable Mayor and Members of the City Council

FROM: Karl H. Berger, City Attorney

SUBJECT: Consideration and possible action to introduce an Omnibus Ordinance amending various chapters and sections of the Monterey Park Municipal Code and adopt an Administrative Code establishing City departments.

RECOMMENDATION:

It is recommended that the City Council consider:

1. Introducing and waiving first reading of a draft Ordinance amending and repealing various chapters and sections of the Monterey Park Municipal Code;
2. Adopting a Resolution approving an Administrative Code establishing City departments; or
3. Alternatively, taking such additional related action that may be desirable.

EXECUTIVE SUMMARY:

Over a period of time, the City Attorney's office identified various provisions of the Monterey Park Municipal Code ("MPMC") that are now preempted, superfluous, or in need of amendment. To be thorough, we requested all City Departments to submit requests for changes to the MPMC. The proposed ordinance constitutes a "Fall Cleaning" of the MPMC to reflect changes in City government, California law, and the City's practices and procedures.

Accompanying the ordinance is a resolution which, if adopted, would create the City's Administrative Code to organize the City's departments. Historically, the City's departments were listed in an organizational chart included with the City Budget. There is no record, however, of the City Council actually approving the number, names, or functions of the City's various departments. The Administrative Code would resolve that issue, authorize the City Manager to make appropriate changes on a day-to-day basis, and cause the City Council to review the structure of City government every two years (in conjunction with the conflict of interest code).

BACKGROUND

The proposed ordinance would amend and repeal various chapters and sections of the MPMC to reflect changes in California law and implement the City's current policies and procedures. None of the proposed changes would make fundamental changes; these are

a simply a cleanup of the MPMC. Among other things, the proposed ordinance would clarify the City's zoning regulations as to voter approved regulations versus those adopted by the City Council by its own authority. This distinction was unfortunately muddled since 2001. What follows is a brief summary of each section of the ordinance:

➤ Section 1: Amending MPMC Chapter 2.24.

As may be read, the proposed changes would clarify existing language; remove City "offices" that no longer exist; authorize adoption of an Administrative Code by resolution; and change regulatory language to allow greater flexibility for when the City is open (which would reflect current practices).

➤ Section 2: Amending MPMC § 2.90.030 regulating responsibilities of the Traffic Commission.

The proposed changes clarify the responsibilities of the Traffic Commission (without substantive change) and the policies currently implemented by the Public Works Department.

➤ Section 3: Amending MPMC § 12.06.010 regulating park reservations.

The proposed changes authorize the City Manager, or designee, to promulgate policies and procedures to allow persons to reserve locations at the identified City parks.

➤ Section 4: Amending MPMC § 14.08.010 (part of the water regulations).

The proposed changes remove positions and departments that no longer exist within the City.

➤ Section 5: Repealing various chapters and sections in the MPMC as specified.

An overview of the MPMC chapters and sections that would be repealed are attached as an Exhibit to this Staff Report. A summary of reasons for these changes follows:

- Chapter 2.12 ("Superintendent of Streets"): This position and function no longer exists within the City. As a practical matter, the Public Works Director and City Engineer (currently combined in one position) undertake all responsibilities related to the design, maintenance, and construction of public right-of-ways.
- Chapter 2.16 ("Building Inspector"): This position was originally created in the 1950s. But it is now superseded by the position of Building Official which is created by State law through the California Building Codes.

- Chapter 9.07 (“Formation Flying”): These regulations are preempted by the federal government, via the Federal Aviation Administration. While MPMC Chapter 9.06 does purport to regulate aircraft, the City Council adopted that Chapter for mainly symbolic reasons; it was made clear in the record (and in the MPMC) that the City would not be enforcing those regulations in light of federal preemption.
- Chapter 9.33 (“Flag and Emblem Display”): These regulations are unconstitutional. If enforced (which they are not), they would constitute a content-based regulation violating Free Speech rights protected under the United States and California Constitutions.
- Chapter 9.45 (“Impersonating Officer”): These regulations are preempted by Penal Code § 538d.
- Chapter 9.48 (“Inhalation of Certain Substances”): This Chapter is preempted by Penal Code § 381.
- Chapter 10.08 (“Traffic Engineer”): Like the “Superintendent of Streets,” the position and function of an official City “Traffic Engineer” no longer exists within the City. As a practical matter, the Public Works Director and City Engineer (currently combined in one position) undertake all responsibilities related to a traffic engineer.
- Chapter 10.49 (“Administrative Civil Review Procedure”): The procedures for challenging tickets issued under the California Vehicle Code are now completely regulated by the Vehicle Code. This Chapter is therefore preempted.
- § 1.04.110 (“Definitions): As a practical matter, this section is not used for implementing the MPMC. Nearly every chapter within the MPMC contains its own set of definitions for ease of use.
- § 5.20.020 (“Possession Unlawful”) and § 9.39.010 (“Gambling”): These regulations are preempted by the California Gambling Control Act (Business and Professions Code §§ 19800, *et seq.*).
- § 10.12.020 (“Compliance Required”), § 10.20.030 (“Unauthorized traffic direction – Prohibited”), § 10.20.050 (“Exemptions to certain vehicles”), and § 10.56.020 (“Crosswalk – Use Required”): These regulations are preempted by the California Vehicle Code.

➤ Section 6: Changes in terms.

This Section will make uniform changes in the MPMC to remove outdated positions and correct references to current positions/City Departments.

➤ Section 7: Codification of Measure D (1998).

Measure D was approved by voters in 1998. Measure D adopted Ordinance No. 1933 which added Chapter 21.14 to the MPMC. These regulations, however, were not identified in the MPMC as being "voter approved." As a result, in 2013 the City Council adopted new zoning regulations which inadvertently amended the voter regulations in MPMC Chapter 21.14. The draft Ordinance would restore Measure D's regulations in the MPMC and identify them as being "voter approved."

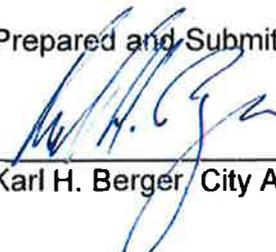
➤ Section 8: Codification of Measure D (1987).

A separate Measure D was approved by voters in 1987. That Measure adopted Ordinance No. 1731D which limits the City's ability to grant variances for building heights. This also was not identified as voter approved within the MPMC. Consequently, it too was inadvertently amended in 2013 by the City Council. The proposed ordinance would properly identify the regulation as being "voter approved" and codify it within the MPMC.

All of the proposed changes are administrative and ministerial, i.e., if adopted they would simply implement current policies and practices. As to the voter approved regulations, the ordinance would only codify already existing regulations that were adopted in 1987 and 1998; there are no new substantive changes.

Accompanying the proposed ordinance is a resolution that, if adopted, would establish an Administrative Code to reflect the current structure of City government. Historically, the City's budget packet includes an organization chart showing how the City's administration is organized. There is no record, however, showing that the City Council previously approved this organization via ordinance, resolution, or minute order. Adopting the Administrative Code would reflect the City Council's approval for the organization of the City government and also provide unambiguous authority to the City Manager to make appropriate changes as needed. Any such changes would be reviewed by the City Council every two years (coinciding with consideration of the conflict of interest code).

Prepared and Submitted by:


Karl H. Berger, City Attorney

Reviewed by:


for Ron Bow, City Manager

Attachments:

1. Exhibit A to Staff Report - MPMC Chapters and Sections Repealed
2. Draft Ordinance
3. Draft Resolution

Staff Report
September 16, 2020

Attachment 1

Exhibit A to Staff Report
MPMC Chapters and Sections Repealed

EXHIBIT A TO STAFF REPORT

MPMC CHAPTERS AND SECTIONS REPEALED BY OMNIBUS ORDINANCE

1.04.110 Definitions.

~~—As used in this code:~~

~~—"Administrative officer" or "city manager" means the appointed official of the city who occupies the position as the chief administrative officer of the city.~~

~~—"City" is the city of Monterey Park.~~

~~—"City engineer" includes street superintendent.~~

~~—"Council" is the city council of this city.~~

~~—"County" is the county of Los Angeles.~~

~~—"Goods" includes wares or merchandise.~~

~~—"Oath" includes affirmation.~~

~~—The use of the title of any officer, employee, office or ordinance means such officer, employee, office or ordinance of the city.~~

~~—"Operate" includes carry on, keep, conduct or maintain.~~

~~—"Owner" applied to a building or land, includes any part owner, joint owner, tenant, tenant in common, or joint tenant, of the whole or a part of such building or land.~~

~~—"Person" includes any person, firm, association, organization, partnership, business trust, company, or corporation and any municipal, political or governmental corporation, district, body or agency, other than this city.~~

~~—"Sale" includes any sale, exchange, barter or offer for sale.~~

~~—"Shall" is mandatory and "may" is permissive.~~

~~—"State" is the state of California.~~

~~—"Street" includes all public thoroughfares, highways, avenues, lanes, alleys, courts, places, squares and other public ways which have been dedicated or are open to public~~

~~use, including the sidewalks, parkways and curbs, and such other public property so designated by state law.~~

~~—"Tenant" or "occupant" applied to a building or land includes any person who occupies the whole or part of such building or land, whether alone or with others.~~

~~* * *~~

~~Chapter 2.12 SUPERINTENDENT OF STREETS~~

~~2.12.010 Bond—Required.~~

~~—The superintendent of streets shall, within ten days of his or her appointment, file with the city clerk a good and sufficient surety bond approved by the city council binding him or her to the faithful performance of his or her duties, and to the care of and the accountability for all tools, implements and materials belonging to the street department of the city.~~

~~2.12.020 Bond—Filing—Oath.~~

~~—The superintendent of streets must qualify within ten days from the time of his or her appointment by filing said bond, and by taking and subscribing to the constitutional oath of office and filing the same with the city clerk.~~

~~2.12.030 Duties.~~

~~—The superintendent of streets shall take and have, subject to the control of the city council, general supervision and care of all streets, parks and passways in the city, and of all work thereon. He or she shall recommend to the city manager the employ of all necessary assistance and labor and purchase all material necessary for the care, repair and maintenance of the streets, parks, or passways of the city. He or she shall have care and custody of all tools, implements and materials belonging to the street department of the city and he or she shall report to the city council, and attend the meetings thereof whenever required of him or her to be done and performed by the laws of the state, or ordinances of the city, or by the city council.~~

~~* * *~~

~~Chapter 2.16 BUILDING INSPECTOR~~

~~2.16.010 Office establishment.~~

~~—The office of city building inspector is created.~~

~~2.16.020 Duties.~~

~~—The duties of the city building inspector shall be the administration and enforcement of the building code.~~

~~* * *~~

~~Chapter 9.07 FORMATION FLYING~~

~~9.07.010 Formation flying prohibited.~~

~~—It is unlawful to engage in formation flying at altitudes of seven hundred feet or less within the boundaries of the city between one-half hour after sunset and one-half hour before sunrise without the prior written consent of the city council after a public hearing on such issue duly noticed and conducted by the council.~~

~~* * *~~

~~Chapter 9.33 FLAG AND EMBLEM DISPLAY~~

~~9.33.010 Flag—Insignia—Display.~~

~~—No flag, insignia, emblem or device of any nature whatsoever, representative of any nation, sovereignty, society, association or organized body or group whatsoever, which, in its purposes, practices, official or other declarations or by its constitutions, bylaws or regulations, espouses practices or theories of government antagonistic to, inconsistent with or violative of the Constitution or laws of The United States of America or the form of government thereof as now constituted, shall be publicly or privately displayed in any form whatsoever, by any person within the city.~~

~~* * *~~

~~Chapter 9.45 IMPERSONATING OFFICER~~

~~9.45.010 Prohibitions.~~

~~—No person shall receive, display, or have in his possession any police or fire department insignia, badge, star or shield, having thereon the name or seal of the city, unless such person shall be a regular member of the police or fire department of the city, or other special police officer of the city holding a position created by ordinance.~~

~~* * *~~

~~Chapter 9.48 INHALATION OF CERTAIN SUBSTANCES~~

~~9.48.010 Prohibited.~~

~~—No person shall inhale, breathe or drink any compound, liquid, chemical, or any substance known as glue, adhesive cement, mucilage, dope, or any other material or~~

~~substance or combination thereof, with the intent of becoming intoxicated, elated, dazed, paralyzed, irrational or in any manner changing, distorting or disturbing the eyesight, thinking process, balance or coordination of such person. For the purpose of this chapter, any such condition so induced shall be deemed to be an intoxicated condition. The provisions of this section shall not pertain to any person who inhales, breathes or drinks such material or substance pursuant to the direction or prescription of any doctor, physician, surgeon, dentist, or podiatrist authorized to so direct or prescribe.~~

~~* * *~~

~~Chapter 10.08 TRAFFIC ENGINEER~~

~~10.08.010 Office establishment.~~

~~—The office of city traffic engineer is established. The city engineer shall serve as city traffic engineer in addition to his other functions, and shall exercise the powers and duties with respect to traffic as provided in this title.~~

~~10.08.020 Duties.~~

~~—It is the general duty of the city traffic engineer to determine the proper timing and maintenance of traffic control devices and signals, to conduct engineering analysis of traffic accidents and to devise remedial measures, to conduct engineering investigation of traffic conditions and to cooperate with other city officials in the development of ways and means to improve traffic conditions, and to carry out the additional powers and duties imposed by this code or ordinances of the city.~~

~~* * *~~

~~Chapter 10.49 ADMINISTRATIVE CIVIL REVIEW PROCEDURE~~

~~10.49.010 Purpose.~~

~~—The purpose of this chapter is to establish a uniform administrative civil review procedure for each violation within the jurisdictional limits of the city of any regulation set forth in this code and/or the California Vehicle Code governing the standing or parking of vehicles.~~

~~10.49.020 Initial investigation.~~

~~—For a period of twenty-one days from the issuance of the notice of parking violation or ten days from the mailing of the notice of delinquent parking violation, a person may request investigation by the police department by written request, telephone or in person.~~

~~10.49.030 Contest procedure.~~

~~— If the person is dissatisfied with the results of the investigation, the person may contest through an administrative review process the notice of parking violation or notice of delinquent parking violation by depositing by the tenth day following the mailing to that person of the results of the investigation, the full amount of the parking penalty and a written explanation of the reason for contesting the parking violation.~~

~~10.49.040 Administrative review procedure.~~

~~— (a) — The person requesting an administrative review shall indicate to the city his or her election for a review by mail of personal conference hearing.~~

~~— (b) — If the person requesting a hearing is a minor, that person shall be permitted to appear at the hearing or admit responsibility for a parking violation without the necessity of the appointment of a guardian. The city may proceed against that person in the same manner as if that person were an adult.~~

~~— (c) — The administrative review shall be conducted before an examiner designated to conduct the review by the city manager.~~

~~— (d) — The officer or person authorized to issue a notice of parking violation shall not be required to participate in an administrative review. The city shall not be required to produce any evidence other than the notice of parking violation, or copy thereof, and information received from the Department of Motor Vehicles identifying the registered owner of the vehicle. The documentation in proper form shall be considered prima facie evidence of the violation.~~

~~— (e) — The review shall be conducted in accordance with administrative policy established by the city which shall ensure fair and impartial review of contested parking violations. The city's final decision may be delivered personally to the person by the examiner or to the person by first class mail.~~

~~10.49.050 Appeal procedure.~~

~~— (a) — Within twenty days after the delivery of the final decision, the contestant may seek review by filing an appeal to the justice or municipal court, where the same shall be heard de novo, except that the contents of the city's file in the case shall be received in evidence. A copy of the notice of parking violation shall be admitted into evidence as prima facie evidence of the facts stated therein. A copy of the notice of appeal shall be served in person or by first class mail upon the city by the contestant. For purposes of computing the twenty-day period, Section 10-13 of the Code of Civil Procedure shall be applicable.~~

~~— (b) — The fee for filing the notice of appeal shall be twenty-five dollars. If the appellant prevails, this fee, together with any deposit of parking penalty, shall be promptly refunded by the city in accordance with the judgment of the court.~~

~~— (c) — The conduct of the hearing or appeal under this section are subordinate judicial duties which may be performed by traffic trial commissioners and other subordinate judicial officials at the direction of the presiding judge of the court.~~

~~— (d) — If no notice of appeal of the decision is filed within the period set forth in subsection (a), the decision shall be deemed final.~~

~~— (e) — If the parking penalty has not been deposited and the decision is adverse to the contestant, the city may, promptly after the decision becomes final, proceed to collect the penalty.~~

~~10.49.060 Administrative review officer-examiner.~~

~~— (a) — An examiner shall demonstrate qualifications, training and objectivity which are consistent with the duties and responsibilities set forth in this chapter.~~

~~— (b) — The examiner's performance evaluation, compensation and benefits shall not be directly or indirectly linked to the amount of fines collected by the examiner.~~

~~10.49.070 Parking violation fees and penalties.~~

~~— (a) — The schedule of parking penalties for parking violations, late payment penalties, administrative fees and other related charges for parking violations shall be established by city council resolution.~~

~~— (b) — If the payment of the parking penalty is not received by the person authorized to receive a deposit of the parking penalty by the date fixed on the notice of parking violation, the city shall deliver to the registered owner a notice of delinquent parking violation.~~

~~— (c) — Delivery of a notice of delinquent parking violation under this section may be made by personal service or by first class mail addressed to the registered owner, as shown on the records of the Department of Motor Vehicles.~~

~~— (d) — Parking penalties under this chapter shall be collected as civil penalties.~~

~~* * *~~

~~5.20.020 Possession unlawful.~~

~~— It is unlawful for any person to keep, maintain, install, place or possess in any place of business or in any place of public resort:~~

~~— (1) — Any pin game, any marble game or any game similar to a marble game, any claw, hook or grab machine or any horse race machine, the operation of which game or~~

~~machine is controlled, permitted or made available by placing therein a coin, plug, disk, key or token, or which is let for use, operation or play upon the payment or delivery of anything of value therefor, or upon the making of any purchase;~~

~~—(2)— Any mechanical device or mechanically operated contrivance for the playing of any game of chance, the use or operation of which is controlled, permitted or made available by placing therein any coin, plug, disk, key, or token, or which is let for use, operation or play upon the payment or delivery of anything of value therefor, or upon the making of any purchase;~~

~~—(3)— Any machine, contrivance, appliance device, game, ticket, chance, share, interest, instrument or article operated, used, kept, possessed, placed or maintained in violation of the provisions of:~~

~~—(A)— Section 330a of the State Penal Code;~~

~~—(B)— Any section enumerated in Part I, Title 9, Chapter 9 of the State Penal Code;~~

~~—(4)— The provisions of this section shall not apply to the keeping, possessing or exhibiting of any such mechanical contrivance not permitted or allowed to operate, manipulate or play except as incident to a demonstration for the purpose of sale.~~

~~* * *~~

~~9.39.010 Gambling.~~

~~—No person shall deal, play, carry on, open or conduct, or bet at any game played with cards, dice or any device, for money, checks, credits or other thing or representative of value within the city.~~

~~—Provided, however, that no provision of this chapter shall be deemed or construed as prohibiting any act made unlawful by the provisions of Sections 320, 320a, 330, or 337a of the Penal Code, or of any other code section or general law of the state, it being the intent of the city council to prohibit by this chapter all games, operations or transactions therein described whether of chance or skill, not prohibited by the provisions of any general law of this state.~~

~~* * *~~

~~10.12.020 Compliance required.~~

~~—No person shall wilfully fail or refuse to comply with any lawful order of a police officer or fire department official when directing traffic.~~

~~10.12.030 Unauthorized traffic direction—Prohibited.~~

~~—No person other than an officer of the police department or a person deputized by the chief of police or person authorized by law shall direct or attempt to direct traffic by voice, hand or other signal (except that persons may operate when and as herein provided any mechanical pushbutton signal erected by the city traffic engineer).~~

~~* * *~~

~~10.12.050 Exemptions to certain vehicles.~~

~~—(a) The provisions of this title regulating the operation, parking and standing of vehicles shall not apply to any vehicle of the police or fire department, any public ambulance or any public utility vehicle or private ambulance which has qualified as an authorized emergency vehicle, when any such vehicle is operated in the manner specified in the Vehicle Code in response to an emergency call.~~

~~—(b) The foregoing exemptions shall not, however, protect the driver of any such vehicle from the consequences of his wilful disregard of the safety of others.~~

~~—(c) The provisions of this title regulating the parking or standing of vehicles shall not apply to any vehicle of a city department or public utility while necessarily in use for construction or repair work or any vehicle owned by the United States while in use for the collection, transportation or delivery of United States mail.~~

~~* * *~~

~~10.56.020 Crosswalk—Use required.~~

~~—No pedestrian shall cross a roadway other than by a crosswalk in any business district.~~

Staff Report
September 16, 2020

Attachment 2

Draft Ordinance

ORDINANCE NO. ____

AN OMNIBUS ORDINANCE AMENDING AND REPEALING VARIOUS CHAPTERS AND SECTIONS OF THE MONTEREY PARK MUNICIPAL CODE AS SPECIFIED.

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

SECTION 1. MPMC Chapter 2.24, entitled "CITY OFFICES," is amended to read as follows:

"Chapter 2.24 CITY ~~OFFICES~~ADMINISTRATION

2.24.010 Council chambers.

~~The city council chambers are room designated as the council chambers located in the building located city hall at 320 West Newmark Avenue, shall be the council chamber of the city council and unless otherwise provided in accordance with applicable law, all meetings of the city council shall will be held therein within the city council chambers.~~

2.24.020 City clerk—City treasurer.

~~The offices of the city clerk and of the city treasurer shall be are located and maintained at 320 West Newmark Avenue in the city.~~

2.24.030 ~~Other city offices~~Administrative Code.

~~The City Council may, upon recommendation by the City Manager, adopt a resolution establishing various City departments and divisions. Such resolution will constitute the City's Administrative Code and should be reviewed at least every two years. offices of the city engineer, the street department, the street superintendent, the building department, the building official, the water department, the water superintendent, the sewer department, the sewer inspector, the park department, the park superintendent, and the city manager shall be located and maintained at 320 West Newmark Avenue in the city.~~

2.24.040 Hours and holidays.

~~Unless otherwise provided by city council resolution action, The city offices mentioned in this chapter shall will be closed on Saturdays, Sundays and on all holidays, as defined in Section 7 of Rule XI of the Personnel System Rules and Regulations. Except as otherwise provided by city council resolution or direction by the city manager, The city offices~~

~~shall be~~ are open to the public for business from eight a.m. to five p.m. on all business days.~~other days of the year.~~"

SECTION 2. MPMC § 2.90.030, establishing responsibilities of the Traffic Commission, is amended to read as follows:

"2.90.030 Responsibilities.

A. The duty of the commission will be to review ~~each~~ request for changes in traffic control conditions as ~~submitted by the city engineer. they now exist or may exist in the future in this city. All requests received by the city regarding traffic conditions will be transmitted to~~ The city engineer who shall will maintain the files and records of the commission. The actions taken by the commission will be reflected in written recommendations to the city ~~traffic~~ engineer, with copies to the city manager. Implementation ~~shall may~~ be accomplished by the city council in accordance with ~~the procedures specified in Title 10 of this code~~applicable law including, without limitation, this code.

B. The commission may also make recommendations to the city council for amendments to this code to ~~depart from established policy or to establish new policies,~~ which may ease traffic congestion and help facilitate transportation throughout the city."

SECTION 3. MPMC § 12.06.010, authorizing reservations at City parks, is amended to read as follows:

"12.06.010 Reservations.

The ~~city manager, or designee, will~~ director of parks and recreation shall develop a written policy and procedure to provide for advance reservations for park bench picnic facilities located at Barnes Park, Elder Park, Garvey Ranch Park, Highlands Parks, and Sierra Vista Park. The reservation policy ~~shall should~~ provide that reservations ~~shall may~~ be taken no earlier than ~~ninety 90~~ days ~~prior to before~~ the requested date. ~~Persons who receive an advance reservation shall have the exclusive right to use such bench picnic facilities subject to all the terms and conditions set forth in the reservation policy. The reservation policy shall be approved by the parks and recreation commission and the city council. This policy shall be effective April 1, 1996.~~"

SECTION 4. MPMC § 14.08.010 is amended to read as follows:

"14.08.010 Definitions.

For the purpose of this chapter, and Chapter 14.12, certain words and phrases are defined and certain provisions ~~shall will~~ be construed as set

forth in this section, unless it is apparent from the context that a different meaning is intended.

“Water department” means the ~~water department of the city~~public works department.

~~“Water superintendent” means the city of Monterey Park water utility manager.~~

“Within the city” or “within the city limits,” means within the corporate limits of the city as they now exist, or may hereafter be made to exist, by subsequent exclusion or addition.”

SECTION 5. MPMC Chapters 2.12 (“Superintendent of Streets”); 2.16 (“Building Inspector”); 9.07 (“Formation Flying”); 9.33 (“Flag and Emblem Display”); 9.45 (“Impersonating Officer”); 9.48 (“Inhalation of Certain Substances”); 10.08 (“Traffic Engineer”); 10.49 (“Administrative Civil Review Procedure”) are repealed. MPMC §§ 1.04.110 (“Definitions”); 5.20.020 (“Possession Unlawful”); 9.39.010 (“Gambling”); 10.12.020 (“Compliance Required”); 10.20.030 (“Unauthorized traffic direction – Prohibited”); 10.20.050 (“Exemptions to certain vehicles”); and 10.56.020 (“Crosswalk – Use Required”) are repealed.

SECTION 6. Existing terms within the MPMC are changed throughout the MPMC as follows:

- A. “City traffic engineer” to “city engineer.”
- B. “Building inspector” to “building official.”
- C. “Superintendent of streets,” “street superintendent,” “superintendent of water,” “water superintendent,” “water utility manager,” and “parks superintendent” to “Public Works Director, or designee.”
- D. “Parks and recreation director” or “director of parks and recreation” to read “Director of Recreation and Community Services.”
- E. “Parks and Recreation Commission” to “Recreation and Parks Commission.”

SECTION 7. To codify Ordinance No. 1933 (adopted by voters on April 14, 1998), existing Chapter 21.14, entitled “Overlay Zones-P-D-Planned Development District Zone,” of the MPMC is renumbered as Chapter 21.15. Additionally, Chapter 21.12, entitled “O-P Office Professional Zone,” is renamed “O-P Office Professional Non-McCaslin Business Park Zone.” Chapter 21.14 is amended in its entirety as set forth in attached Exhibit “A,” which is incorporated by reference. The City’s Zoning Map is

amended to reflect the zone name changes implemented by this Section. Finally, a new Section 21.14.200 is added to the MPMC to read as follows:

"21.14.200 [Conditional Uses].¹

Use	Zone in which allowed subject to Conditional Use Permit
Auditorium, not within 300 feet of a R-zone	O-P
Buildings exceeding height limit	O-P
Business college (office or medical, dental)	O-P
Child care center, not within 300 feet of a R-zone	O-P
Commercial office or service units which are shared by more than one independently owned business enterprise	O-P
Commercial developments of five or more units or with an area of more than one acre, and within 300 feet of a R-zone	O-P
Financial institution (retail banking)	O-P
Floor area ratio not to exceed 1.0	O-P
Government or public facility, except those owned or operated by the City of Monterey Park	O-P
Gymnasium, reducing salon and health center	O-P
Hotel	O-P
Lot size over an acre	O-P
Places of entertainment, except as otherwise provided in this title	O-P"

SECTION 8. To codify Ordinance No. 1731D (adopted by voters on October 20, 1987), Section 21.32.015 is added to the MPMC to read as follows:

"21.32.015 Height Variances (Voter Enacted).

No height variance shall be granted within the City of Monterey Park which would permit the construction of an additional story above the number of stories which is permitted by the Monterey Park Zoning Code or would allow construction to exceed the maximum heights permitted by the Monterey Park Zoning Code by more than six (6) feet."

SECTION 9. *Environmental Review.* This Ordinance is exempt from review under the California Environmental Quality Act (California Public Resources Code §§ 21000, *et seq.*, "CEQA") and CEQA Guidelines (14 California Code of Regulations ("CCR") §§

¹ Ordinance No. 1933 codified these conditional uses at MPMC § 21.70.030. That section was superseded by MPMC Chapter 21.32 which contains general regulations governing conditional use permits. All conditional uses for various zones are now codified within the MPMC for those zones (rather than being listed in one section).

15000, *et seq.*) because it establishes rules and procedures to clarify existing policies and practices related to government organization; 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, this Resolution does not constitute a “project” that requires environmental review (see specifically 14 CCR § 15378(b)(4-5)).

SECTION 10. *Technical Changes.* The City Manager, or designee, is authorized to make technical corrections, in a form approved by the City Attorney, to the MPMC, maps, diagrams, tables, and other, similar, documents that may be required to implement the changes made by this Ordinance and other, unrelated, City Council action.

SECTION 11. *Ongoing Effectiveness.* Repeal of any provision of the MPMC will 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 12. *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 governs. The City Manager 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 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. *Construction.* This Ordinance must be broadly construed in order 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 15. *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 16. *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 15 days after the

passage and adoption of this Ordinance, and cause it to be published or posted in accordance with California law.

SECTION 17. *Effective Date.* This Ordinance will take effect on the 30th day following its final passage and adoption.

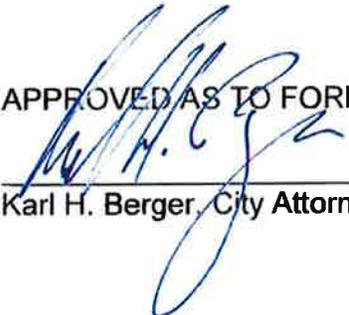
PASSED AND ADOPTED this _____ day of _____, 2020.

Peter Chan, Mayor

ATTEST:

Vincent D. Chang, City Clerk

APPROVED AS TO FORM



Karl H. Berger, City Attorney

EXHIBIT A

Chapter 21.14 (Voter Enacted)

O-P – Office Professional Zone
Sections:

- 21.14.010 Purpose
- 21.14.020 Permitted uses
- 21.14.030 Prohibited uses
- 21.14.040 Principal uses
- 21.14.050 Conditional uses
- 21.14.060 Standards of development generally
- 21.14.070 Lots
- 21.14.080 Yards
- 21.14.090 Building height
- 21.14.100 Floor area ratio (FAR)
- 21.14.110 Off-street Parking
- 21.14.120 Required walls
- 21.14.130 Trash facilities
- 21.14.140 Buffering and maintenance of landscaping and easements
- 21.14.150 Compressors, air-conditioning units or similar mechanical equipment
- 21.14.160 Lighting
- 21.14.170 Exceptions
- 21.14.180 Site development plan approval
- 21.14.190 Limitations on permitted uses

21.14.010 **Purpose.** In order to provide for the development of integrated professional, office and limited retail areas that exhibit a diversity of business activity from both revenue and service quality standpoints, and which are compatible and responsive to abutting land uses, including residential developments, the following regulations shall be applicable to all properties classified in the O-P zone.

21.14.020 **Permitted uses.** No person shall use, nor shall any property owner permit the use of any lot classified in any

O-P zone for any use, other than the following as set out in Section 21.14.040 and 21.14.050.

21.14.030 **Prohibited uses.** All uses not permitted in this chapter shall be prohibited.

21.14.040 **Principal uses.** The principal uses shall be permitted as follows:

- Administrative and professional offices;
- Beauty salon or barber shop;
- Bookstore;
- Cellular phone, telephone and pager store;
- Coffee shop;
- Computer store, sales and service;
- Confectionary shop;
- Data processing facility;
- Delicatessen;
- Employment agency;
- Financial institutions' corporate offices, no retail banking;
- General research facility, not involving testing, manufacturing, fabrication or processing or sale of products, nor the use of a hazardous material that has a degree of hazard rating in health, flammability or reactivity of Class 4 as ranked by U.F.C. Standard 79-3 or succeeding standard;
- Gift shop;
- Ice cream parlor;
- Import and export offices;
- Investment service offices, stock brokers;

EXHIBIT A

Jewelry store, sales and service;
Legal offices;
Mailbox and service store;
Medical equipment and supplies, sales and service;
Notary public;
Photocopying and blueprinting;
Public utility customer service office
Real estate offices and title companies;
Restaurant, tearoom and cafe;
Service businesses;
Stationery;
Studio, art, dance, martial arts, photography;
Tax consulting;
Tobacco store;
Travel agency;
Video sales and rentals.

each lot shall be fifty feet.

- 2. Lot depth. The minimum depth of each lot shall be one hundred feet.

21.14.080 **Yards.** The following minimum yards shall be required on all lots:

- 1. Front yard. No minimum front yard is required.
- 2. Side and rear yards. Every lot shall have and maintain minimum side and rear yards as follows:
 - a. When the side yard is adjacent to a street, the yard shall be at least fifteen feet in depth.

21.14.050 **Conditional uses.** Conditional uses shall be uses specifically enumerated in Section 21.70.030.¹

21.14.060 **Standards of development generally.** All premises in the O-P zone shall comply with the following standards of development as set out in Sections 21.14.070 through 21.14.190.

21.14.070 **Lots.**

- 1. Lot area. The minimum lot area of each lot shall be five thousand square feet.
 - a. Lot width. The minimum width of

- 3. When adjacent to a R-zone, the yard shall be no less than fifty feet, plus five feet in depth for each story above one story of building or each ten-foot increment above fifteen feet in height of building on the O-P zoned lot. Where there is an opening, including but not limited to windows, pedestrian doors and roll-up doors, in any building on the O-P zone facing a yard adjacent to a R-zone, the yard shall be no less than one hundred feet from any opening to the R-zoned lot. The yard may be used for parking,

¹ Now § 21.14.200.

EXHIBIT A

excepting a minimum fifteen foot wide area abutting the R-zone which shall be landscaped and maintained in such a condition so as not to violate Section 9.54.010.² The required landscaping shall also conform to the standards set forth in Section 21.14.140. When the O-P zoned lot is separated from a R-zone by an alley, a rear yard setback of forty feet shall be provided, as measured from the centerline of the alley. A minimum three-foot wide landscaped planter shall be installed and maintained along the alley, excepting at any vehicular access driveway.

4. When adjacent to a commercially-zoned or M zoned lot, no yard is required.

21.14.090 Building height. No building or structure in excess of forty feet or three stories shall be located on any lot. Buildings or structures exceeding the height limits may be permitted upon approval of a conditional use permit.

21.14.100 Floor area ratio (FAR). The floor area ratio shall not exceed 0.5 when the lot is less than ten thousand square feet in area. When the lot is between ten thousand and twenty thousand square feet in area, the floor area ratio shall not exceed 0.65. When the lot is more than twenty thousand square feet in area, the

floor area ratio shall not exceed 0.8. The floor area ratio may be increased to a maximum of 1.0 for all lots, upon approval of a conditional use permit.

21.14.110 Off-street parking and loading. Each O-P zoned lot shall have and maintain offstreet parking and loading facilities as required by Chapter 21.40.³

21.14.120 Required walls. Except as otherwise provided in Chapter 21.48,⁴ the following standards shall apply:

1. Where any part of the front yard or street side yard of a O-P zoned lot is used for parking or loading, a masonry wall compatible in color with the commercial building and/or sight-obscuring hedge a minimum of three feet in height shall be erected and maintained within a landscaped area a minimum of three feet in width adjacent to the sidewalk at the front or side yard property line as required by Section 21.40.180.⁵
2. When any O-P zoned lot has a common side or rear lot line with any R-zoned property, a six-foot solid decorative masonry or concrete block wall compatible in color with the commercial building shall be constructed and maintained along all such

² Now see § 4.30.050.

³ Now see Chapter 21.22.

⁴ Now § 21.08.080.

⁵ Now see Chapter 21.22.

EXHIBIT A

common side or rear lot lines. Where an easement exists, abutting the common property line, the said decorative wall may be constructed along the boundary of the easement on the commercial lot. A minimum three-foot wide landscaped planter with automatic irrigation system shall be placed adjacent to the wall, planted with trees, shrubs, ground cover and vines. Where a parking lot on the O-P zoned lot abuts a R-zoned lot, the additional parking lot landscaping requirements of Section 21.40.1806 shall apply.

21.14.130 Trash facilities. Each O-P zoned lot shall be provided with facilities for the storage and collection of trash as follows:

1. Any outdoor trash facility shall be enclosed by a minimum five-foot high solid masonry, brick or concrete wall except for the access way which shall be enclosed with solid decorative gates of the same height.
2. Location and size shall be subject to approval by the planner. When any O-P zoned lot has a common property line with a R-zoned lot, no trash facility shall be located within the required building setback.

3. Open vehicular and pedestrian access to and from such trash facility shall be provided. No parking spaces shall block such access to the trash facility.
4. Trash facilities shall be maintained in a closed manner at all times to prohibit visibility from public rights-of-way or adjacent property.

Notwithstanding any other provision of this title, all existing uses, buildings and structures in the O-P zone which do not conform to this Section shall provide a fully enclosed trash facility within six months of the effective date of this ordinance unless providing such trash facility will eliminate any existing required off-street parking spaces.

21.14.140 Buffering and maintenance of landscaping and easements. For O-P zoned lots with side or rear yards that are adjacent to an R zoned lot, the following buffering provisions shall be provided and maintained:

1. Landscaping, irrigation and maintenance plans shall be required and the plans shall be subject to approval of the design review board under the provisions of Chapter 21.72.⁷ The plans shall incorporate, but not be limited to, fifteen-gallon minimum trees at time of planting, interspersed

⁶ *Ibid.*

⁷ Now Chapter 21.36, as amended in 2020.

EXHIBIT A

shrubs, ground cover, raised earthen berms and automatic sprinkler systems. The City may require the maintenance plan to include a bonafide service agreement with a City licensed landscaping service business. Maintaining an active service agreement on file with the Community Development Department⁸ shall be the responsibility of the owner of the subject property or by his authorized agent.

2. All landscaped areas and easements shall be maintained in good condition, weed and disease free, and in compliance with Chapter 9.54. Notwithstanding any other provision of this title, all O-P zoned lots that abut a R zone and do not have landscaping, irrigation and maintenance plans that have been approved by the design review board pursuant to requirements of Chapter 21.729 shall submit a landscaping, irrigation and maintenance plan for design review board approval within six months of the effective date of this ordinance.

21.14.150 Compressors, air-conditioning units or similar

mechanical equipment. Each O-P zoned lot which has compressors, air-conditioning units or similar mechanical equipment, located on the roof and outside of the exterior walls of any building or structure, shall comply with the following:

1. All such equipment shall be installed with permanent sound proofing measures, including but not limited to, enclosures, parapet and sound attenuating walls and screens. All such equipment shall comply with noise standards set forth in Chapter 9.53. The location, type and scope of soundproofing measures for such equipment shall be subject to the approval of the Community Development Department.¹⁰
2. All such equipment shall be maintained in a clean and proper condition to prevent collection of litter and filth, emissions of dust or fumes, vibration or electrical disturbances.

21.14.160 Lighting. All outdoor lighting shall be located and shielded so as to prevent the direct spillage of light or glare onto adjacent lots and streets.

21.14.170 Exceptions. Except as otherwise provided in this section, any use, building or structure which is in existence or for which a permit has been

⁸ Now City Planner.

⁹ Now Chapter 21.36, as amended 2020.

¹⁰ Now City Planner.

EXHIBIT A

issued, as of the effective date hereof, and which conformed to all zoning regulations of the city then in effect at such time, shall not be rendered nonconforming within the meaning of Chapter 21.68,¹¹ solely by reason of the application of the development standards as set forth in this chapter; provided that any such existing use, building or structure shall comply with the provisions hereof upon a change in use, or upon use, building or structure expansion or reconstruction, in whole or in part.

21.14.180 Site development plan approval. Prior to the issuance of a building permit or business license for any use, building or structure to be located on any lot, as to which the provisions of this chapter apply, the provisions of Chapter 21.72,¹² with regard to site development plans shall be complied with.

21.14.190 Limitations on permitted uses. Every use permitted in the O-P zone shall comply with the following:

1. All uses shall be conducted totally within a completely enclosed building, except for those uses which are customarily conducted in the open, as determined pursuant to Section 21.06.06013 or Section 21.74.030.14 Those uses conducted in the open shall be no closer than one hundred feet to any R zoned lot, except for parking.

2. No outdoor storage shall be allowed unless the same is enclosed by a view-obscuring fence or wall, provided that no stored material is visible above the fence or wall, that the fence or wall is approved by the Department of Community Development,¹⁵ and that such storage shall be limited to the accessory storage of items sold or utilized in the conduct of a permitted use on the premises. Where the O-P zoned lot is adjacent to a R zoned lot, no outdoor storage shall be permitted within one hundred feet of a R zoned lot.
3. No loading and unloading shall be permitted in any required side or rear yard.
4. Where the O-P zoned lot is adjacent to a R zoned lot, no deliveries of goods and commodities nor loading or unloading shall be conducted during the hours from 10:00 p.m. to 7:00 a.m.
5. There shall be no overnight parking of vehicles, except those vehicles used in conjunction with a permitted use.
6. Driveways may not exceed

¹¹ Now Chapter 21.30.

¹² Now Chapter 21.36, as amended in 2020.

¹³ Now repealed. But, see § 21.02.090.

¹⁴ Now Chapter 21.32.

¹⁵ Now City Planner.

EXHIBIT A

thirty feet in width or sixty percent of the lot frontage.

7. No use shall be permitted which produces or causes or emits any dust, gas, smoke, glare, noise, fumes, odors, electromagnetic emanations or vibrations which are or may be detrimental to the health, safety, welfare and peace of the city and its residents and businesses.
8. No use shall be permitted which uses or stores a hazardous material that has a degree of hazard rating in health, flammability or reactivity of Class 4 as ranked by U.F.C. Standard 79-3 or succeeding standard. A business materials usage and operations form shall be filed with the Community Development Department¹⁶ prior to the approval of a certificate of occupancy. Notwithstanding any other provision of this title, all O-P zoned businesses that do not have a business materials usage and operations form on file shall submit a form within six months of the effective date of this ordinance.
9. No person shall, at any location within the O-P zone, create nor allow the

creation of noise which causes the noise level to exceed the applicable noise standards set forth in Chapter 9.53. Where the O-P zoned lot is adjacent to a R zoned lot, the noise level at the property line of the R zoned lot shall not exceed the allowable noise level for residential properties.

¹⁶ Now Public Works Department.

Staff Report
September 16, 2020

Attachment 3

Draft Resolution

RESOLUTION NO. ___

A RESOLUTION ADOPTING AN ADMINISTRATIVE CODE TO ESTABLISH CITY DEPARTMENTS, IDENTIFY DEPARTMENT DIRECTORS, AND IMPLEMENT DEPARTMENT RESPONSIBILITIES.

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

SECTION 1: *Purpose.* This Resolution adopts an Administrative Code for the City of Monterey Park which is intended to implement the following:

- A. Organization, conduct and operation of the offices and departments established by this Resolution and as authorized by the general laws of the State of California.
- B. Creation of additional departments, divisions, offices and agencies, and for their alteration, consolidation or abolition after recommendation by the City Manager.
- C. Assignment or reassignment of functions, duties, offices and agencies to other offices and departments, after recommendation by the City Manager.
- D. Policy statements of the Council concerning personnel administration, salary and wage administration, hours of work, conditions of employment, employee benefits, centralized purchasing and other administrative procedures.

SECTION 2: *Definitions.* As used in this Resolution, unless a different meaning is apparent from the context:

- A. "City" means the City of Monterey Park.
- B. "City Manager" means the City Manager of the City of Monterey Park.
- C. "Code" means this Resolution, as it now exists or is amended, implementing an Administrative Code.
- D. "Council" means the City Council of the City of Monterey Park.

SECTION 3: *Construction.* The following rules apply in construing this Code:

- A. The masculine gender includes the feminine.

- B. The singular number includes the plural, and the plural the singular.
- C. The present tense includes the past and future tenses. The future tense includes the present.
- D. Any article, section or other headings contained in this Code does not in any manner affect the scope, meaning, or intent of the provisions of this Code.
- E. Whenever, by the provisions of this Code, a power is granted to or duty imposed upon, a particular City officer or employee, the power may be exercised or duty performed by a designee of the officer or employee, unless it is expressly provided otherwise.
- F. Whenever any reference is made to any provision of this Code, the Monterey Park Municipal Code or other City ordinances, or to any applicable law, the reference also applies to its amendments and additions.

SECTION 4: *Administrative Regulations.* Except as otherwise provided in this Code or the MPMC, the City Manager is authorized to issue Administrative Policies and Procedures (“AP&P”), in a form approved by the City Attorney, for the operation and administration of the City government and its offices, departments and agencies.

SECTION 5: *Creation of Additional Departments, Divisions, Offices and Agencies.* Upon recommendation by the City Manager, the City Council may create new offices and agencies by amending this Code or the MPMC. The City Manager is authorized to create additional departments and divisions and may delegate authority, in writing, to department heads to create new divisions within their respective departments. Any such administrative changes must be memorialized via an AP&P and, thereafter, by amending this Code at least every two years, coinciding with updates to the City’s Conflict of Interest Code.

SECTION 6: *Organization and Operation.* In addition to any powers delegated by applicable law including the MPMC, the City Manager is the City officer responsible for directing and supervising the administration of all departments, offices and agencies of the City, and is responsible for the general overall administration of City government. This office is also responsible for coordinating intergovernmental relations and promoting community relations and economic vitality.

SECTION 7: *Management Resources Department.*

- A. **Organization.** The Management Resources Department is established all of which are under the direction and administration

of the Management Resources Director. These areas are:

1. Finance;
2. Data Processing;
3. Revenue Collection;
4. Central Support Services;
5. Communication/Duplication; and
6. Community Housing Assistance.

B. Establishment of Funds and Accounts. The following City funds are established:

1. **General Fund** - The General Fund is established as a medium of control of and accounting for municipal activities other than activities authorized or contemplated by special funds or other governmental funds. All revenues and receipts which are not by law or otherwise pledged or encumbered for special purposes will be credited to the General Fund.
2. **Special Revenue Funds** - Special Revenue Funds will be established to account for revenues designated for particular purposes under the governmental funds group.
3. **Capital Projects Funds** - Capital Projects Funds will be established to account for all revenues designated for the acquisition of capital facilities except those facilities financed by special assessment.
4. **Debt Service Fund** - A Debt Service Fund within the governmental fund group and in each proprietary fund, as appropriate, will be established to service the revenue and expense accounts devoted to the payment of interest and principal on long-term revenues and general obligation debt other than that payable from special assessments.
5. **Trust Funds** - Trust Funds will be established to account for revenues held by the City as a trustee.
6. **Internal Service Funds** - Internal Service Funds may be established to provide services efficiently and economically

to other funds or departments and be accounted for under proprietary fund rules.

7. **Special Assessment Funds - Special Assessment Funds will be established to account for the construction of public improvements that are financed by special levies against properties adjudged to receive benefits different than those received by the city residents, and for the maintenance and upkeep of such assets.**
8. **Enterprise Funds - Enterprise Funds will be established as proprietary funds with full accrual accounting that specialize in providing for utility or other fee-supported services to the public. These funds include water, wastewater, and solid waste.**
9. **Petty Cash Account - A Petty Cash Account will be established as an interest cash account in an amount to be fixed by finance departmental policy. These funds are set aside for the purpose of making change or paying small obligations for which the issuance of a formal voucher and check could be too expensive and time consuming. The annual audit of City funds provides for a review of these disbursements.**
10. **Groups of Accounts - The City may employ self-balancing groups of accounts. These groups are general fixed assets group and general long-term debt group for governmental funds.**

SECTION 8: *Department of Recreation and Community Services.*

A Department of Recreation and Community Services is established under the direction and administration of the Recreation and Community Services Director. These areas are:

- A. Facilities Supervision;
- B. Aquatics;
- C. Langley Center;
- D. Youth Activities;
- E. Recreational Activities;
- F. Community Participation;

- G. Media Production; and
- H. Community Transportation.

SECTION 9: ***Police Department.*** The Police Department is established under the direction and administration of the Chief of Police. These areas include:

- A. Administration;
- B. Community Services;
- C. Traffic Bureau;
- D. Field Services;
- E. Investigations;
- F. Animal Services;
- G. Communications;
- H. Jail;
- I. Records; and
- J. Computer Services.

SECTION 10: ***Fire Department.*** The Fire Department is established under the direction and administration of the Fire Chief. These areas include:

- A. Administration;
- B. Prevention. Prevention is responsible for the implementation of a Building and Safety program, Fire Prevention program, Hazardous and Toxic Materials regulatory program;
- C. Emergency Operations. Emergency Operations is responsible for the protection of life and property through the quick and effective extinguishment of fires, delivery of emergency medical services to victims of sudden illness and injury, mitigation of toxic and hazardous materials emergencies, response to a variety of emergency conditions which may threaten lives and property of the public, the planning and coordination of a City-wide disaster preparedness program, and the delivery of information and

educational programs to the public;

- D. Emergency Medical Services;
- E. Community Risk Reduction; and
- F. Code Enforcement. Code Enforcement is responsible for a general enforcement program, Housing Rehabilitation program, Public Education program and other activities related to permitting, plan checking, inspections and the enforcement of community standards.

SECTION 11: ***Public Works Department.*** A Public Works Department is established under the direction and administration of the Public Works Director. These areas are:

- A. Community transportation;
- B. Street maintenance;
- C. Storm drain maintenance;
- D. Sanitary sewer maintenance;
- E. Street cleaning;
- F. Traffic control;
- G. Street lighting;
- H. Refuse collection;
- I. Administration;
- J. Water Commercial;
- K. Water Production;
- L. Water Distribution;
- M. Water Capital Projects;
- N. Parkway maintenance;
- O. Parks;

- P. Building Maintenance;
- Q. Motor Pool Shop;
- R. Engineering;
- S. Planning; and
- T. Building and Safety.

SECTION 12: *Human Resources and Risk Management Department.* A Department of Human Resources and Risk Management is established under the direction and administration of the Human Resources and Risk Management Director. Under the direction of the Human Resources Director, the Department is responsible for recruitment and selection, classification, compensation and benefits, training, employee relations and labor negotiations, and risk management.

SECTION 13: *Community and Economic Development.*¹ A Department of Community and Economic Development is established under the direction and administration of the City Planner or Community and Economic Development Director. These areas are:

- A. Planning;
- B. Building;
- C. Economic Development;
- D. CDBG Administration;
- E. HOME housing program;
- F. Affordable housing program; and
- G. Business improvement area.

SECTION 14: *Library.* A Library is established in accordance with the MPMC under the direction and administration of the Librarian. The Library is divided into the following areas:

- A. Administration;
- B. Reference and Adult Services;

¹ Currently managed by the Public Works Department.

- C. Technical Services;
- D. Circulation;
- E. Literacy; and
- F. Children's Services.

SECTION 15: *Effect of Reorganization.* Any new titles for departments, divisions, department heads and division heads as enacted by this Resolution supersede and replace any inconsistent terms, titles, or references appearing in previously enacted City of Monterey Park Ordinances, Resolutions, AP&P, and written policies.

SECTION 16: *Environmental Review.* This resolution is exempt from review under the California Environmental Quality Act (California Public Resources Code §§ 21000, *et seq.*, "CEQA") and CEQA regulations (14 California Code of Regulations ("CCR") §§ 15000, *et seq.*) because it establishes rules and procedures to clarify existing policies and practices related to government organization; 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, this Resolution does not constitute a "project" that requires environmental review (see specifically 14 CCR § 15378(b)(4-5)).

SECTION 17: *Conflicts.* In the event of a conflict between the provisions of this Resolution and the provisions the MPMC, any other resolution, or any resolution, the provisions of this Resolution govern. The City Manager is authorized to resolve any ambiguities. Any such determination must be forwarded to the City Council as an informational item when practicable.

SECTION 18: *Electronic Signatures.* This Resolution 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 19: *Construction.* This Resolution must be broadly construed in order to achieve the purposes stated in this Resolution. It is the City Council's intent that the provisions of this Resolution be interpreted or implemented by the City and others in a manner that facilitates the purposes set forth in this Resolution.

SECTION 20: *Severability.* If any part of this Resolution 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 Resolution are severable.

SECTION 21: *Effective Date.* This Resolution will take effect immediately upon adoption.

PASSED AND ADOPTED this _____ day of _____, 2020.

Peter Chan, Mayor

ATTEST:

Vincent D. Chang, City Clerk

APPROVED AS TO FORM



Karl H. Berger, City Attorney



City Council Staff Report

DATE: October 7, 2020

AGENDA ITEM NO: Consent Calendar
Agenda Item 3-C

TO: The Honorable Mayor and City Council
FROM: Frank A. Lopez, Interim Director of Public Works
SUBJECT: Waive further reading and adopt an Ordinance amending Monterey Park Municipal Code §§ 4.10.080 and 21.04.475, and Chapters 21.32 and 4.30 to regulate Homeowners' Associations within the City

RECOMMENDATION:

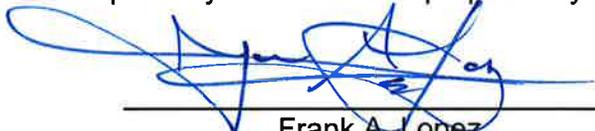
It is recommended that the City Council consider:

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

EXECUTIVE SUMMARY:

This Ordinance was introduced and received first reading at the September 16, 2020 City Council meeting. The original staff report (from September 16, 2020) is attached for reference. Second reading and adoption of this Ordinance is recommended. If adopted, the Ordinance will take effect in 30 days.

Respectfully submitted and prepared by:



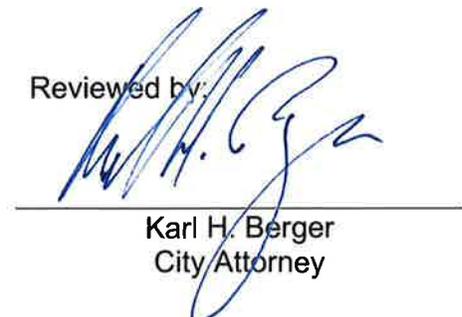
Frank A. Lopez
Interim Director of Public Works

Approved by:



Ron Bow
City Manager

Reviewed by:



Karl H. Berger
City Attorney

Attachments:

1. Draft Ordinance
2. September 16, 2020 Staff Report

ATTACHMENT 1
Draft Ordinance

ORDINANCE NO.

AN ORDINANCE AMENDING MONTEREY PARK MUNICIPAL CODE §§ 4.10.080 & 21.04.475, AND CHAPTERS 21.32 AND 4.30 TO REGULATE HOMEOWNERS ASSOCIATIONS WITHIN THE CITY.

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

SECTION 1: Monterey Park Municipal Code (“MPMC”) § 4.10.080 is amended to read as follows:

“4.10.080 ~~Prosecutorial duties of the city attorney~~City Attorney Enforcement Authority.

- (a) In addition to any other general functions, powers, and duties given to the city attorney by this code or California law, the city attorney ~~willis authorized to:~~
- (1) Prosecute on behalf of the people all criminal and civil cases for violations of this code; any franchises or permits issued pursuant to this code; city ordinances; ~~and~~ any state misdemeanors that the city council elects to enforce; ~~and, without limitation, administrative or judicial nuisance abatement, suits for injunctive relief, and petitions for receivership.~~
 - (2) Draft complaints for such cases and prosecute all recognizances and bail bonds forfeited arising from or resulting from the commission of such offenses.
 - (3) Prosecute all actions for the recovery of fines, penalties, forfeitures, and other money accruing to the city under this code or otherwise.
 - (4) Represent the city in all appeals arising as a consequence of the city attorney’s prosecutions.
- (b) Notwithstanding any other provision of this code, the city attorney is the only officer that may file misdemeanor charges in accordance with this code. The city attorney may, in his or her discretion, prosecute misdemeanor violations of this code as infractions.
- (c) Nothing contained in this section will interfere with the authority of public safety officials to arrest persons pursuant to any applicable provision of this code and/or the California Penal Code.”

SECTION 2: MPMC § 4.30.020 is amended to read as follows:

“4.30.020 Purpose.

* * *

(e) Except when acting as a third-party beneficiary to enforce conditions of approval, This chapter is not intended to enforce conditions, covenants, and restrictions (CC&Rs) on property, nor to supersede them. This chapter will be enforced uniformly within the city regardless of CC&Rs. Therefore, this chapter does not abrogate the right of any homeowner’s association or private citizen to take action, legal or as otherwise provided in the CC&Rs, to force compliance with the CC&Rs applicable to their tract or association even though the CC&R provisions may be the same, more restrictive, or may not be covered by this chapter.

* * *

SECTION 3: MPMC § 4.30.050 is amended to read as follows:

“4.30.050 Public nuisances—Designated.

* * *

(ii) Any failure by a person or owner's association, as defined by this code, to enforce conditions of approval that are part of a permit issued in accordance with this code.

* * *

SECTION 4: MPMC § 21.04.475 is amended to read as follows:

“21.04.475 Homeowner’s Association.

“Homeowner’s association” or “owner’s association” means a community association which is organized within a development in which individual owners share common interests and responsibilities for open space, landscaping, and/or facilities.”

SECTION 5: MPMC § 21.32.150 is amended to read as follows:

“21.32.150 Revocation or Suspension.

(A) Revocation or Suspension. Upon recommendation by the City Planner, Planning Commission, or the City Council, by motion, carried by at least three votes, the body which granted a variance or conditional use permit ~~shall may~~ conduct a noticed public hearing to determine whether such should be revoked. This revocation procedure ~~shall apply applies~~ to conditional use permits or variances granted ~~prior to before as well as and~~ after the adoption of these

regulations. If the granting body finds, upon substantial evidence, any of the following facts to be present, it may revoke the variance or conditional use permit:

- (1) That the variance or permit was obtained by fraud;
- (2) That the use for which such approval was granted has ceased to exist or has not operated for a period of one year, as determined by records from either City business license records, the California Department of Alcoholic Beverage Control or City Planner, or designee, observation;
- (3) That the permit or variance granted is being, or has been, exercised contrary to any conditions imposed upon such permit or variance, or in violation of any law; ~~or~~
- (4) That an owner's association required by a conditional use permit was never formed, was dissolved, regularly fails to enforce covenants, conditions or restrictions ("CC&Rs") recorded on the property, or fails to enforce conditions of approval imposed upon the development; or
- (5) That the use for which the approval was granted is being exercised so as to be detrimental to the public health or safety, or as to constitute a nuisance.

(B) If the granting body determines that facts of either subsection (A)(3) or (45) are present, and that such facts can be corrected and are not likely to recur, it may suspend, rather than revoke, a conditional use permit or variance for a period of time that it deems appropriate for the implementation of corrective measures.

(C) If the granting body determines that facts of (A)(4) are present, it may, revoke or suspend the conditional use permit. It may also refer the matter to the City Attorney for enforcement pursuant to Chapter 4.10 of this code.

(DG) If the revocation hearing is conducted by the Planning Commission, its decision ~~shall be~~ subject to review on appeal, ~~taken in the time and manner set forth in Chapter 1.10 as provided by this code.~~"

SECTION 6: MPMC § 21.32.170 is amended to read as follows:

"21.32.170 Conditions of Approval.

(A) Whenever the City Council or Planning Commission grants a variance or conditional use permit, the granting authority may ~~attach~~ impose conditions ~~thereto~~, as follows:

(1) In the case of a variance, the granting authority ~~shall may attach impose~~ such conditions as will assure to ensure that the ~~adjustment variance thereby authorized will does~~ not constitute a grant of special privileges inconsistent with the limitations upon other properties in the zone in which such property is situated.

(2) In any case, the granting authority may ~~apply impose~~ such conditions as are necessary to protect the public health, safety and general welfare, including, without limitation, conditions relating to yards, fences and walls, dedications, improvements, landscaping, regulation of nuisance factors, regulation of signs and such other matters as will make the development compatible with the neighborhood.

(B) For conditional use permits regulating residential or commercial developments with five or more units, the granting authority must include a condition requiring creation of an owner's association to maintain the common areas within a development.

(C) The city council may adopt a resolution identifying standard conditions of approval needed to implement this section."

SECTION 7: Environmental Review. This ordinance is exempt from review under the California Environmental Quality Act (California Public Resources Code §§ 21000, *et seq.*, "CEQA") and CEQA regulations (14 California Code of Regulations ("CCR") §§ 15000, *et seq.*) because it establishes rules and procedures to clarify existing policies and practices related to discretionary permitting; 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, this Ordinance does not constitute a "project" that requires environmental review (see specifically 14 CCR § 15378(b)(4-5)).

SECTION 8: Ongoing Effectiveness. Repeal of any provision of the MPMC will 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: 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 Director 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 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: *Construction.* This Ordinance must be broadly construed in order 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 12: *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 13: *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 15 days after the passage and adoption of this Ordinance, and cause it to be published or posted in accordance with California law.

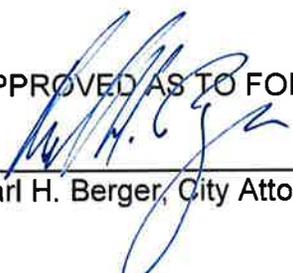
SECTION 14: *Effective Date.* This Ordinance will take effect on the 30th day following its final passage and adoption.

PASSED AND ADOPTED this _____ day of _____, 2020.

Peter Chan, Mayor

ATTEST:

Vincent D. Chang, City Clerk

APPROVED AS TO FORM


Karl H. Berger, City Attorney

ATTACHMENT 2
September 16, 2020 Staff Report



City Council Staff Report

DATE: September 16, 2020

AGENDA ITEM NO:

**New Business
Agenda Item 5-C**

TO: Honorable Mayor and Members of the City Council

FROM: Mark A. McAvoy, Director of Public Works/City Engineer/City Planner

SUBJECT: Creating the Monterey Park Homeowners' Association Monitoring Program considering an Ordinance amending Monterey Park Municipal Code §§ 4.10.080 and 21.04.475, and Chapters 21.32 and 4.30 to regulate Homeowners' Associations within the City.

RECOMMENDATION:

It is recommended that the City Council:

1. Introduce and waive first reading of the draft Ordinance;
2. Adopt a Resolution creating the Monterey Park Homeowners' Association Program; or
3. Alternatively, take such additional related action that may be desirable.

EXECUTIVE SUMMARY:

At the September 2, 2020 meeting, the City Council continued this item to September 16, 2020. The original staff report and accompanying documents are attached hereto (September 2, 2020 City Council Agenda Item 5B and its attachments nos. 1-2).

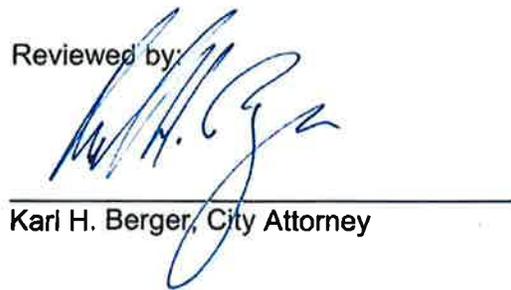
Respectfully submitted and prepared by:


 for Mark A. McAvoy
 Director of Public Works/City Engineer/City Planner

Approved by:


 Ron Bow, City Manager

Reviewed by:


 Karl H. Berger, City Attorney

ATTACHMENTS

- A. September 2, 2020 Staff Report and Attachments

ATTACHMENT A
September 2, 2020 Staff Report and Attachments
(Item No. 5B and its attachments Nos. 1-2)



City Council Staff Report

DATE: September 2, 2020

AGENDA ITEM NO: New Business
Agenda Item 5-B

TO: Honorable Mayor and Members of the City Council
FROM: Mark A. McAvoy, Director of Public Works/City Engineer/City Planner
SUBJECT: Creating the Monterey Park Homeowners' Association Monitoring Program considering an Ordinance amending Monterey Park Municipal Code §§ 4.10.080 and 21.04.475, and Chapters 21.32 and 4.30 to regulate Homeowners' Associations within the City.

RECOMMENDATION:

It is recommended that the City Council:

1. Introduce and waive first reading of the draft Ordinance;
2. Adopt a Resolution creating the Monterey Park Homeowners' Association Program; or
3. Alternatively, take such additional related action that may be desirable.

ENVIRONMENTAL REVIEW:

The proposed actions are exempt from additional review under the California Environmental Quality Act (California Public Resources Code §§ 21000, *et seq.*, "CEQA") and CEQA regulations (14 California Code of Regulations ("CCR") §§ 15000, *et seq.*) because they establish rules and procedures to clarify existing policies and practices related to discretionary permitting; do not involve any commitment to a specific project which could result in a potentially significant physical impact on the environment; and constitute an organizational or administrative activity that will not result in direct or indirect physical changes in the environment. Accordingly, these actions do not constitute a "project" that requires environmental review (see specifically 14 CCR § 15378(b)(4-5)).

EXECUTIVE SUMMARY:

During the past two years, the City Council undertook a number of actions to help beautify the City of Monterey Park. Among other things, the City Council established the Neighborhood Improvement and Community Enhancement ("NICE") Task Force to combine the services of several different City Departments when responding to scofflaw properties throughout the City's jurisdiction. These proposed actions would help bolster those efforts. Specifically, these actions would strengthen the City's ability to ensure homeowner and owner associations (collectively, "HOA") enforce conditions of approval

issued for planned residential and commercial developments. Responsive HOAs will help maintain common areas within planned developments to reduce the burden on the City's code enforcement officers to enforce the Monterey Park Municipal Code ("MPMC").

BACKGROUND & DISCUSSION:

During the past several years, the City placed an emphasis on code enforcement activities throughout the City. From regulating boarding homes to authorizing the Fire Department to oversee code enforcement, the City's dedication to cleaning and maintaining the City is apparent.

Approximately two years ago, Mayor Peter Chan suggested that the City Manager review the City's regulations regarding HOAs. Specifically, there are many planned communities – whether residential or commercial – within the City that regularly fail to maintain common areas in accordance with the MPMC. By holding HOAs accountable for these failures, the burden on the City's code enforcement could be reduced at the same time that property maintenance improved. For various reasons, this matter was postponed until this time.

The proposed ordinance and resolution would help implement the City's overall goal of requiring HOAs to comply with the MPMC and discretionary permits. Various amendments to the MPMC are required to (a) expand the enforcement authority of the City Attorney; (b) identify which developments require a HOA; (c) add enforcement mechanisms (e.g., clauses within CC&Rs) allowing the City enforce discretionary permitting; (d) clarifying when the City can revoke or suspend discretionary permitting; (e) establish standard conditions of approval; and (f) authorize the City Manager to undertake immediate abatement activities to resolve public nuisances more rapidly. The latter two items would be incorporated into a newly established Monterey Park Homeowners Association Monitoring Program (the "Program").

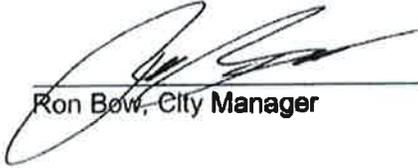
Among other things, the Program would require the City Manager, or designee, to compile a city-wide list identifying developments that are required to have an active HOA. Using that list, the City can then take action to ensure that HOAs are implementing the MPMC and discretionary permitting. Where that did not occur, the City Manager and City Attorney would be authorized to take enforcement action.

Respectfully submitted and prepared by:



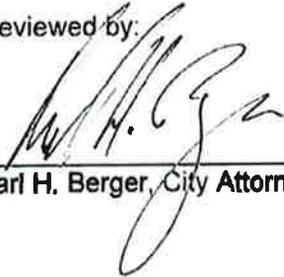
Mark A. McAvoy
Director of Public Works/City Engineer/City Planner

Approved by:



Ron Bow, City Manager

Reviewed by:



Karl H. Berger, City Attorney

ATTACHMENTS:

1. Resolution
2. Ordinance

Staff Report
September 2, 2020

ATTACHMENT 1
Draft Resolution

RESOLUTION NO. _____

A RESOLUTION CREATING THE MONTEREY PARK HOMEOWNERS ASSOCIATION MONITORING PROGRAM FOR THE PURPOSE OF PREVENTING NUISANCE CONDITIONS BY ENSURING THAT HOMEOWNERS ASSOCIATIONS ARE ADEQUATELY RESPONSIVE TO THEIR RESPECTIVE PROJECTS.

THE CITY COUNCIL RESOLVES AS FOLLOWS:

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

- A. The City Council appreciates the importance of Homeowners' Associations ("HOAs") in overseeing the maintenance and upkeep of planned residential developments, townhouses and condominiums in order to protect property values and ensure that the community is a pleasant place to live;
- B. The City Council believes it is in the public interest to discourage nuisance conditions and violations of the Monterey Park Municipal Code which result from the lack of, or poorly managed, HOAs; and
- C. The purpose of this resolution is to create a program for the purposes of ensuring that HOAs within the City are adequately responsive to their respective communities.

SECTION 2: *Authorizations.* A Monterey Park Homeowners Association Monitoring Program (the "Program") is established. The City Manager is authorized to promulgate administrative policies and procedures ("AP&P") to implement the Program in accordance with this Resolution. The City Attorney is authorized to initiate civil actions in accordance with the MPMC to enforce the Program.

SECTION 3: *Standard Conditions of Approval.* Pursuant to MPMC § 21.32.170(C), standard conditions of approval are attached as Exhibit "A," and incorporated by reference ("Standard Conditions"). All conditions of approval for residential or commercial projects that consist of five or more units and require a conditional use permit ("CUP") for development are required to include the Standard Conditions in substantially the form of Exhibit A.

SECTION 4: *Regulation & Enforcement of Existing HOAs.* For HOAs that were required to be formed, or are formed, the City Manager is directed to take the following actions:

- A. Create a list of all the communities within the City that are required to have an HOA. This list must be monitored to ensure that the HOA is active and has a current business license with the City.
- B. Encourage owner association members to compel their HOAs to enforce the CC&Rs for their respective projects through any legal means available. Similarly, homeowners are encouraged to enforce their CC&Rs to create and maintain sufficient HOAs for their respective communities.

- C. Where HOAs fail, for whatever reason, to enforce conditions of approval issued by the City, the City Manager and City Attorney are directed to take appropriate action to both abate any public nuisance and help ensure future compliance with the MPMC.

SECTION 5: *Contracting Authority.* To implement the Program, the City Manager is also authorized to solicit bids, award contracts, and execute on-call contracts for amounts in accordance with the MPMC for the following services needed to implement the MPK-HOA program:

- A. Tree and landscaping maintenance;
- B. Roofing maintenance; and
- C. Nuisance abatement vendors.

SECTION 6: *Environmental Review.* This ordinance is exempt from review under the California Environmental Quality Act (California Public Resources Code §§ 21000, *et seq.*, "CEQA") and CEQA regulations (14 California Code of Regulations ("CCR") §§ 15000, *et seq.*) because it establishes rules and procedures to clarify existing policies and practices related to discretionary permitting; 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, this Ordinance does not constitute a "project" that requires environmental review (*see specifically 14 CCR § 15378(b)(4-5)*).

SECTION 7: This Resolution does not affect any penalty, forfeiture, or liability incurred before, or preclude prosecution and imposition of penalties for any violation occurring before, this Resolution's effective date. Any such amended part will remain in full force and effect for sustaining action or prosecuting violations occurring before the effective date of this Resolution.

SECTION 8: If any part of this Resolution 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 Resolution are severable.

SECTION 9: *Electronic Signatures.* This Resolution 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: The Mayor, or presiding officer, is hereby authorized to affix his signature to this Resolution signifying its adoption by the City Council of the City of Monterey Park, and the City Clerk, or her duly appointed deputy, is directed to attest thereto.

City of Monterey Park
Resolution No. ____
Page 3 of 3

SECTION 11: This Resolution will become effective immediately upon adoption.

**PASSED, APPROVED, AND ADOPTED BY THE CITY COUNCIL OF THE CITY
OF MONTEREY PARK ON THIS __ DAY OF SEPTEMBER, 2020.**

Peter Chan, Mayor

Attest:

Vincent D. Chang, City Clerk

APPROVED AS TO FORM:



Karl H. Berger, City Attorney

EXHIBIT A

**STANDARD CONDITIONS OF APPROVAL
FOR
PROJECTS REQUIRING OWNER ASSOCIATIONS**

General Conditions

1. The Applicant and its successors in interest must indemnify, protect, defend (with legal counsel reasonable acceptable to the City), and hold harmless, the City, its elected and appointed officials, officers, employees, and agents from and against any and all liabilities, claims, actions, causes of action, proceedings, suits, damages, judgments, liens, levies, costs, and expenses of whatever nature, including reasonable attorney's fees and disbursements (collectively "Claims") arising out of or in any way relating to this project, any discretionary approvals granted by the City related to the development of the project or the environmental review conducted under the California Environmental Quality Act, Public Resources Code § 21000, *et seq.*, for the project. If the City Attorney is required to enforce any conditions of approval, all costs, including attorney's fees, must be paid for by the Applicant in accordance with the Monterey Park Municipal Code ("MPMC").
2. The Applicant must reimburse the City for all attorneys' fees expended by the City that are directly related to the processing of this project. The City will not issue a Certificate of Occupancy or other final occupancy approval until all attorneys' fees are paid by the Applicant.
3. The Applicant must submit to the City Manager, or designee, a signed copy of these conditions of approval acknowledging acceptance, and compliance with these conditions within 30 days from the date of approval by the Planning Agency. The conditions of approval must be signed, notarized and returned to the City Manager, or designee, before any plan check submittal or construction permit application or implementation of the requested entitlement.
4. This decision is not effective until Applicant acknowledges acceptance of all conditions and any appeal period has lapsed, or a waiver of right to appeal is filed or if there is an appeal, until a final decision has been made on the appeal. By use of the entitlements granted by a development application, the Applicant acknowledges agreement with conditions of approval.
5. Anything which is not shown on the application/plans, or which is not specifically approved, or which is not in compliance with this section, is not approved. Any application and/or plans which are defective as to, without limitation, omission, dimensions, scale, use, colors, materials, encroachments, easements, will render any entitlements null and void.

**MPK-HOA Program
Standard Conditions
Page 2 of 6**

6. The property must be kept in a clean and safe condition by, at a minimum, performing all of the following tasks:
 - a. Properly removing and storing all trash, litter, rubbish and debris on the property at the end of each business day;
 - b. Properly disposing of all trash, litter, rubbish and debris from the Cannabis business;
 - c. Removing graffiti placed upon the Property within forty-eight hours of its occurrence;
 - d. Keeping driveways, sidewalks, park strips, fire access roads and streets on or adjacent to the property clear and clean; and
 - e. Providing lighting on the property to ensure the safety of the public.
7. The owner/applicant's failure to comply with, or breach of, any condition can, in addition to any other civil or criminal action, result in modification or revocation of this permit. The City may, in accordance with applicable law, undertake action and incur costs that may be required to effect compliance. All such costs including, without limitation, attorney's fees, must be reimbursed by the applicant or current property owners in accordance with applicable law.
8. This permit is subject to an ongoing review. If at any time valid, substantiated complaints are received, a public hearing may be held in accordance with the MPMC, at the sole discretion of the City but in accordance with applicable law, to determine if any condition or the permit should be modified, amended or revoked.
9. The permit is granted for the subject Property only and is not transferable.

Planning

A. Before the City Issues Building Permits:

10. Plans submitted to the City to obtain building permits must conform to all the conditions applicable to use and development of the Property.
11. Plans submitted to the City to obtain building permits must have the conditions printed directly onto the building plans and the Project number, "[Project Number]," in the title blocks of the blue prints for this Project.

**MPK-HOA Program
Standard Conditions
Page 3 of 6**

12. The exterior of the building(s) must be treated with anti-graffiti material. All structures and walls must be maintained free of graffiti.
13. The property owner must repave and re-stripe the parking areas as directed by the City Planner.
14. All parking areas must remain accessible for parking. Garages cannot be converted to storage space or other means, which could impede vehicle parking.

B. Post-Finalization Requirements:

15. The Planning Director may approve minor changes to the approved plans, but any substantial change will require modification in accordance with the MPMC.
16. The Conditional Use Permit will expire in the event that the licensee or owner fails to exercise the use for more than 30 days, except in the case of a remodeling, fire, natural disaster, or other physical calamity beyond the control of the owner. In such cases, the Conditional Use Permit will expire within one year.
17. The Property and all landscaping must be maintained in a neat and healthy condition and in a manner that prevents adverse public health, safety, and welfare effects.
18. Proper signage must be installed within 60 days ([Month Day, Year]) of the approval of this Project.

E. Homeowners Association Requirements:

19. To ensure all common areas (e.g., driveway, hardscape, landscape) are properly maintained, a Homeowners' Association (HOA) and Covenants, Conditions and Restrictions (CC&R's) are required for the proposed Project. The developer(s) must hire a management company for the HOA. During sales of the units, the sales managers must sit on the HOA board. The developer(s) representatives can remove themselves from the HOA board only when 1) a new HOA board is selected from the new home owners; 2) the new home owners are trained on how to run the HOA; and 3) the units are fully occupied. The documents related to the HOA and CC&R's must be reviewed and approved by the City Attorney before the City approves a final map. In addition, the Applicant/Property Owner(s) must pay for all attorneys' fees associated with the review of the document.
20. The final approved floor plan for the residential units must be incorporated into CC&R's.

21. The Homeowners Association must maintain a current and active business license with the City for the life of the project. Association dues may not be collected unless the Association has a current and active business license with the City.
22. Draft covenants, conditions and restrictions ("CC&Rs"), in a form approved by the City Attorney, must obtain approval from the City Planner, or designee, and include the following clauses:
 - a. *Payment of Municipal Charges.* The amount of the assessments levied by the Association must include sums sufficient to cover the cost of all municipal charges imposed against the Property including, without limitation, sums sufficient to ensure the payment of invoices from the City of Monterey Park ("City") for water, wastewater, and solid waste charges. In addition, the Association and the Owners, and the management agent, if any, must continuously guarantee payment to the City of all such municipal charges.
 - b. *Access and Entry.* The Association and each Owner covenants, in favor of the City, to provide access and entry to all common areas of the Property, and all buildings, structures and units situated thereon, to any authorized Fire Inspector, Building Official and any other official charged with carrying out the laws of the City, the State of California, or the United States of America.
 - c. *Signs.* Except as otherwise allowed by applicable law, the Association and each Owner covenant, in favor of the City, that no sign of any kind of advertising any service, business or other commercial project or venture can be displayed on the Property.
 - d. *Parking.*
 - i. The Association and each Owner covenants, in favor of the City, that all automobiles used by an Owner or an Owner's invitees must be identified to a representative of the Association and subject to tow if parked in an area not designated for parking automobiles or in a guest parking space.
 - ii. All driveways and garages must be maintained in a neat and orderly condition and garage doors must be maintained in closed condition except as necessary to permit ingress and egress of authorized vehicles or to clean or work in the garage. The garages are to be used for the parking of standard authorized vehicles and may not be converted to living quarters or workshops or used for the storage of boats,

trailers, campers or recreation vehicles in a way which will preclude the parking of the Owner's or occupant's authorized vehicles within the garage.

- iii. Designated guest parking areas within the Common Areas are to remain open for use by guests only and are not to be used by Owners or other residents, either permanently or temporarily, for the parking of their authorized vehicles or the storage of boats, trailers or similar items of personal property, unless expressly authorized by the Association.
 - iv. No motor vehicle can be constructed, reconstructed or repaired within the Property and no dilapidated or inoperable vehicle, including vehicles without wheel(s) or an engine, can be stored on the Property; provided, however, that the provisions of this Section does not apply to emergency vehicle repairs.
 - v. Campers, boats, trailers, motorcycles, commercial vehicles and trucks in excess of three-quarter tons cannot be parked within the Property, other than within enclosed garages except for periods not to exceed two hours for the purpose of loading and unloading.
 - vi. Personal property other than authorized vehicles cannot be stored in garages if such storage will necessitate or result in the parking of vehicles on streets within or adjacent to the Property. Parking by commercial vehicles for the purpose of making deliveries or service calls must be permitted in accordance with the Association Rules.
 - vii. Each Owner must maintain their garage or parking spaces in a manner which ensures that it is capable of accommodating not less than the number of vehicles the space was designed to contain.
- e. *Graffiti.* The Association and each Owner covenants and agrees to maintain, or to cause to be maintained, all buildings and structures within the Property free of graffiti. In an event that the Association or an Owner fails to remove or to cause the removal of any graffiti within 24 hours of its receipt of written notice from the City requesting such removal, the City has the right and authority to enter upon the Property and remove or mask said graffiti. Any and all costs incurred by the City in connection with the removal or masking of such graffiti must be reimbursed to the City by the Association and/or the Owner, if any, of affected building or structure.

- f. *Maintenance of Property.* The maintenance of all common wastewater and storm drainage facilities, and all landscaping, irrigation systems, slopes, drainage facilities and retaining walls, if any, located within the Common Area are Association's responsibility, and the maintenance of all irrigation systems, slopes, drainage, facilities and retaining walls, if any, situated within an Exclusive Use Common Area are the responsibility of the Association in the event the applicable Owner fails to provide such maintenance.
- g. *Filing of Information.*
 - i. Filing (Unincorporated Associations Only). The Association must cause the names and addresses of the officers and members of the Association to be filed annually with the City Clerk of the City of Monterey Park during the month of July.
 - ii. Filing (Incorporated Associations Only). The Association must cause the names and address of the officers and members of the Board of Directors of the Association to be filed annually with the City Clerk of the City of Monterey Park during the month of July.
- h. *Amendment of CC&Rs.* Notwithstanding any other provision of this Declaration the contrary, the statements and covenants set forth herein in favor of the City of Monterey Park cannot be modified and rescinded without the prior written consent of the City of Monterey Park.
- i. *Third-Party Beneficiary; Enforcement Rights.* City Enforcement of Declaration. Notwithstanding any other provision of this Declaration to the contrary, the city of Monterey Park has the power and the right, but not the obligation, to enforce any or all provisions of this Declaration as a third party beneficiary to the extent this Declaration contains provisions implementing the Monterey Park Municipal Code ("MPMC") or any condition of approval adopted by City Council resolution or ordinance. Failure by the City to enforce any restriction, covenant, condition, limitation or reservation imposed by the provisions of this Declaration does not constitute a waiver of the City's right to do so. The Association agrees to pay all costs associated with such enforcement including, without limitation, reasonable attorney's fees. The City may exercise its rights of enforcement without regard to any alternative dispute resolution provision in the CC&Rs or any other restriction on enforcement otherwise applicable to owners, tenants, other residents, or the Association including, without limitation, provisions with regard to notice.

Staff Report
September 2, 2020

ATTACHMENT 2
Draft Ordinance

ORDINANCE NO.

AN ORDINANCE AMENDING MONTEREY PARK MUNICIPAL CODE §§ 4.10.080 & 21.04.475, AND CHAPTERS 21.32 AND 4.30 TO REGULATE HOMEOWNERS ASSOCIATIONS WITHIN THE CITY.

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

SECTION 1: Monterey Park Municipal Code ("MPMC") § 4.10.080 is amended to read as follows:

"4.10.080 ~~Prosecutorial duties of the city attorney~~ City Attorney Enforcement Authority.

- (a) In addition to any other general functions, powers, and duties given to the city attorney by this code or California law, the city attorney ~~will~~ is authorized to:
- (1) Prosecute on behalf of the people all criminal and civil cases for violations of this code; any franchises or permits issued pursuant to this code; city ordinances; ~~and any state misdemeanors that the city council elects to enforce; and, without limitation, administrative or judicial nuisance abatement, suits for injunctive relief, and petitions for receivership.~~
 - (2) Draft complaints for such cases and prosecute all recognizances and bail bonds forfeited arising from or resulting from the commission of such offenses.
 - (3) Prosecute all actions for the recovery of fines, penalties, forfeitures, and other money accruing to the city under this code or otherwise.
 - (4) Represent the city in all appeals arising as a consequence of the city attorney's prosecutions.
- (b) Notwithstanding any other provision of this code, the city attorney is the only officer that may file misdemeanor charges in accordance with this code. The city attorney may, in his or her discretion, prosecute misdemeanor violations of this code as infractions.
- (c) Nothing contained in this section will interfere with the authority of public safety officials to arrest persons pursuant to any applicable provision of this code and/or the California Penal Code."

SECTION 2: MPMC § 4.30.020 is amended to read as follows:

"4.30.020 Purpose.

* * *

(e) Except when acting as a third-party beneficiary to enforce conditions of approval, This chapter is not intended to enforce conditions, covenants, and restrictions (CC&Rs) on property, nor to supersede them. This chapter will be enforced uniformly within the city regardless of CC&Rs. Therefore, this chapter does not abrogate the right of any homeowner's association or private citizen to take action, legal or as otherwise provided in the CC&Rs, to force compliance with the CC&Rs applicable to their tract or association even though the CC&R provisions may be the same, more restrictive, or may not be covered by this chapter.

* * *

SECTION 3: MPMC § 4.30.050 is amended to read as follows:

"4.30.050 Public nuisances—Designated.

* * *

(ii) Any failure by a person or owner's association, as defined by this code, to enforce conditions of approval that are part of a permit issued in accordance with this code.

* * *

SECTION 4: MPMC § 21.04.475 is amended to read as follows:

"21.04.475 Homeowner's Association.

"Homeowner's association" or "owner's association" means a community association which is organized within a development in which individual owners share common interests and responsibilities for open space, landscaping, and/or facilities."

SECTION 5: MPMC § 21.32.150 is amended to read as follows:

"21.32.150 Revocation or Suspension.

(A) Revocation or Suspension. Upon recommendation by the City Planner, Planning Commission, or the City Council, by motion, carried by at least three votes, the body which granted a variance or conditional use permit ~~shall~~ may conduct a noticed public hearing to determine whether such should be revoked. This revocation procedure ~~shall apply~~ applies to conditional use permits or variances granted prior to before as well as and after the adoption of these

regulations. If the granting body finds, upon substantial evidence, any of the following facts to be present, it may revoke the variance or conditional use permit:

- (1) That the variance or permit was obtained by fraud;
- (2) That the use for which such approval was granted has ceased to exist or has not operated for a period of one year, as determined by records from either City business license records, the California Department of Alcoholic Beverage Control or City Planner, or designee, observation;
- (3) That the permit or variance granted is being, or has been, exercised contrary to any conditions imposed upon such permit or variance, or in violation of any law; or
- (4) That an owner's association required by a conditional use permit was never formed, was dissolved, regularly fails to enforce covenants, conditions or restrictions ("CC&Rs") recorded on the property, or fails to enforce conditions of approval imposed upon the development; or
- (5) That the use for which the approval was granted is being exercised so as to be detrimental to the public health or safety, or as to constitute a nuisance.

(B) If the granting body determines that facts of either subsection (A)(3) or (4) are present, and that such facts can be corrected and are not likely to recur, it may suspend, rather than revoke, a conditional use permit or variance for a period of time that it deems appropriate for the implementation of corrective measures.

(C) If the granting body determines that facts of (A)(4) are present, it may, revoke or suspend the conditional use permit. It may also refer the matter to the City Attorney for enforcement pursuant to Chapter 4.10 of this code.

(D) If the revocation hearing is conducted by the Planning Commission, its decision shall be subject to review on appeal, taken in the time and manner set forth in Chapter 4.10 as provided by this code."

SECTION 6: MPMC § 21.32.170 is amended to read as follows:

"21.32.170 Conditions of Approval.

(A) Whenever the City Council or Planning Commission grants a variance or conditional use permit, the granting authority may ~~attach~~ impose conditions thereto, as follows:

(1) In the case of a variance, the granting authority shall ~~may attach~~ impose such ~~conditions as will assure~~ to ensure that the ~~adjustment-variance~~ thereby authorized-will does not constitute a grant of special privileges inconsistent with the limitations upon other properties in the zone in which such property is situated.

(2) In any case, the granting authority may ~~apply~~ impose such conditions as are necessary to protect the public health, safety and general welfare, including, without limitation, conditions relating to yards, fences and walls, dedications, improvements, landscaping, regulation of nuisance factors, regulation of signs and such other matters as will make the development compatible with the neighborhood.

(B) For conditional use permits regulating residential or commercial developments with five or more units, the granting authority must include a condition requiring creation of an owner's association to maintain the common areas within a development.

(C) The city council may adopt a resolution identifying standard conditions of approval needed to implement this section."

SECTION 7: Environmental Review. This ordinance is exempt from review under the California Environmental Quality Act (California Public Resources Code §§ 21000, *et seq.*, "CEQA") and CEQA regulations (14 California Code of Regulations ("CCR") §§ 15000, *et seq.*) because it establishes rules and procedures to clarify existing policies and practices related to discretionary permitting; 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, this Ordinance does not constitute a "project" that requires environmental review (*see specifically 14 CCR § 15378(b)(4-5)*).

SECTION 8: Ongoing Effectiveness. Repeal of any provision of the MPMC will 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: 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 Director 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 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: *Construction.* This Ordinance must be broadly construed in order 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 12: *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 13: *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 15 days after the passage and adoption of this Ordinance, and cause it to be published or posted in accordance with California law.

SECTION 14: *Effective Date.* This Ordinance will take effect on the 30th day following its final passage and adoption.

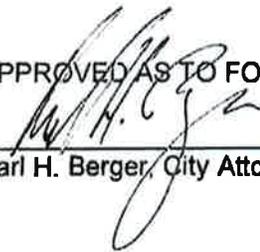
PASSED AND ADOPTED this _____ day of _____, 2020.

Peter Chan, Mayor

ATTEST:

Vincent D. Chang, City Clerk

APPROVED AS TO FORM



Karl H. Berger, City Attorney



City Council Staff Report

DATE: October 7, 2020

AGENDA ITEM NO: Consent Calendar
Agenda Item 3-D

TO: The Honorable Mayor and City Council
FROM: Frank A. Lopez, Interim Director of Public Works
SUBJECT: Waive further reading and adopt an Ordinance adding a new Chapter 21.50 entitled "Accessory Dwelling Units" to the Monterey Park Municipal Code pursuant to Government Code §§ 65852.2 and 65852.22

RECOMMENDATION:

It is recommended that the City Council consider:

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

EXECUTIVE SUMMARY:

The Ordinance was introduced and received first reading at the September 16, 2020 City Council meeting. The original staff report (from September 16, 2020) is attached for reference. Second reading and adoption of this Ordinance is recommended. If adopted, the Ordinance will take effect in 30 days.

Respectfully submitted and prepared by:

A blue ink signature of Frank A. Lopez, written over a horizontal line.

Frank A. Lopez
Interim Director of Public Works

Approved by:

A blue ink signature of Ron Bow, written over a horizontal line.

Ron Bow
City Manager

Reviewed by:

A blue ink signature of Karl H. Berger, written over a horizontal line.

Karl H. Berger
City Attorney

Attachments:

1. Draft Ordinance
2. September 16, 2020 Staff Report

ATTACHMENT 1
Draft Ordinance

ORDINANCE NO. _____

AN ORDINANCE ADDING A NEW CHAPTER 21.50 ENTITLED “ACCESSORY DWELLING UNITS” TO THE MONTEREY PARK MUNICIPAL CODE PURSUANT TO GOVERNMENT CODE §§ 65852.2 AND 65852.22.

THE COUNCIL DOES ORDAIN AS FOLLOWS:

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

- A. On October 9, 2019, the Governor signed Assembly Bills 68 and 881, and Senate Bill 13 which impose requirements upon local agencies governing affordable housing units (“ADUs”). These Bills, among other things, amended Government Code §§ 65852.2 and 65852.22 and took effect on January 1, 2020. This Ordinance (the “Project”) implements the mandates imposed by California law as to ADUs.
- B. The City reviewed the Project’s environmental impacts under the California Environmental Quality Act (Pub. Res. Code §§ 21000, *et seq.*, “CEQA”) and the regulations promulgated thereunder (14 Cal. Code of Reg. §§ 15000-15387; “CEQA Guidelines”).
- C. Notice of a Public Hearing before the City Council was duly given and published in the time, form and manner as required by law.
- D. The City Council opened the public hearing at the September 2, 2020 meeting to receive testimonial and written evidence regarding the Project.
- E. The City Council considered the information provided by the City Planner, and public testimony. This Resolution, and its findings, are made based upon the evidence presented to the City Council at its September 2, 2020 hearing including, without limitation, the staff report submitted by the City Planner.

SECTION 2. *Monterey Park Planning Agency.* Pursuant to Ordinance No. 2177 adopted July 1, 2020, the City Council will act as the Monterey Park Planning Agency.

SECTION 3. *Zoning Ordinance Text Amendment Findings.* Pursuant to Monterey Park Municipal Code (“MPMC”) § 21.38.050, the City Council finds that the public necessity, convenience and general welfare require the changes recommended by this Ordinance. These amendments will promote public health, safety and general welfare by, among other things, providing greater flexibility for the development of ADUs and JADUs (as defined below), and bringing the MPMC into compliance with applicable law.

SECTION 4. *General Plan Findings.* Pursuant to Government Code § 65860, the changes implemented by this Ordinance are consistent with the General Plan. Among other things, this

Ordinance will help implement the following 2014-2021 General Plan Housing Element goals, including:

- A. Goal 2 Remove or reduce governmental constraints on affordable housing development.
- B. Goal 3 Provide adequate housing by location, type of unit, and price to meet existing and future needs of City residents.
- C. Goal 4 Assist in the provision of housing that meets the needs of all economic segments of the community.
- D. Goal 5 Promote equal housing opportunities for all residents.
- E. As well as, the 2040 General Plan Land Use Element goals, including Goal 6 Accommodating all household sizes and income levels with a variety of housing types.

SECTION 5. The MPMC amendments are intended to eliminate or rectify those regulations that may be inconsistent with Government Code §§ 65852.2 and 65852.22. Ensuring that the City’s regulations for ADUs and JADUs are consistent with California law will not frustrate any goal or policy set forth in the General Plan.

SECTION 6. A new Chapter 21.50 entitled “Accessory Dwelling Units” is added to the Monterey Park Municipal Code (“MPMC”) to read as follows:

“Chapter 21.50

ACCESSORY DWELLING UNITS

21.50.010 **Purpose.** This Chapter is adopted to comply with Government Code §§ 65852.2 and 65852.22 which impose a state mandate that the City implement regulations governing accessory dwelling units (“ADU”) and junior accessory dwelling units (“JADU”) in accordance with California law. This Chapter will be automatically repealed on December 31, 2029. At that time, all previous regulations governing ADUs will be effective for all purposes.

21.50.020 **Applicability.** An ADU or JADU complying with this chapter meets the lot density requirements of this code and constitute a residential use consistent with applicable land use designations. Any ordinance, policy, or program limiting residential growth is inapplicable to ADUs and JADUs complying with this chapter.

21.50.030 **Definitions.** Unless the contrary is stated or clearly appears from the context, the following definitions govern the construction of the words and phrases used in this section. Undefined words and phrases and have the same meaning as set forth in this code or Government Code §§ 65852.2 and 65852.22.

“Carshare vehicle” means is a motor vehicle that is operated as part of a regional fleet by a public or private car sharing company or organization providing hourly or daily service, and where users, who are members that have been preapproved to drive, can rent vehicles for short periods of time.

“Efficiency unit” means a dwelling unit that complies with all of the following:

- A. A living area of not less than 150 square feet for at most two persons, or a living room of at least 220 square feet (with an additional 100 square feet for each occupant in excess of two);
- B. Additional space for a separate bathroom containing a water closet, lavatory, and bathtub or shower;
- C. A separate closet;
- D. A kitchen sink, cooking appliance and refrigeration facilities, each having a clear work area of at least 30 inches in front; and
- E. Light and ventilation complying with this code.

“Hearing Officer” means the City Manager, or designee who will hear all timely requests for delayed enforcement from a notice of violation.

“Multifamily dwelling” means a building containing two or more dwelling units where each unit is for the use of individual households, and includes an apartment building, townhouse complex, condominium complex, duplex or housing development, but not hotels, motels, boarding houses or public or quasi-public institutions.

“Primary dwelling” means a residential structure on a single parcel with provisions for living, sleeping, eating, a single kitchen for cooking, and sanitation facilities. Where more than one residential structure exists on a lot, the “primary dwelling” will either be the residential structure that was first issued a valid certificate of occupancy, or, when applicable, the largest residential structure on the lot.

“Tandem parking” means two or more automobiles parked in a line, one behind the other.

21.50.040 **Development Standards for ADUs.**

- A. The ADU must comply with all additional development standards listed in this Code which are applicable to the zone in which the subject lot is located. Should there be a conflict between the zone development standards and the standards set forth in this section, then the more restrictive applies.
- B. One parking space is required per ADU and may be located as tandem parking on a driveway or required setback areas.

- C. No replacement off-street parking will be required when a garage or covered parking structure is demolished to create, or is converted into, an ADU.
- D. No parking standards will be imposed upon an ADU that is:
 - 1. Within a half mile walking distance of public transit;
 - 2. Located within an architecturally and historically significant district;
 - 3. Part of a proposed or existing primary dwelling or an accessory structure;
 - 4. Located in an area where parking permits are required but not offered to the occupant of the ADU; or
 - 5. Located within one block of a carshare vehicle.
- E. No additional curb cuts may be required for the ADU.
- F. An ADU must share the driveway with the existing primary unit on the site, provided, however, that a second driveway to serve the accessory dwelling may be allowed from an alley, if there is an alley that serves the subject site.
- G. An ADU cannot exceed one story and may not be greater than 18 feet in height, unless additional height is necessary to match the roof pitch of the primary structure.
- H. Setbacks.
 - 1. When an ADU is constructed within the following parameters it is exempt from minimum setback requirements within this code: (a) within the existing living area of a primary dwelling; (b) within an existing accessory structure; or (c) within the same location and same dimensions as an existing structure. The existing structure may be converted into an ADU or may be demolished and rebuilt as an ADU.
 - 2. If an ADU is not exempt from minimum setback requirements, a setback of at least four feet is required from the side and rear parcel lines. Where a parcel line is located in the center of a public right-of-way, setbacks will be calculated from the edge of the right-of-way.
- I. ADUs must be compatible in exterior appearance with the primary dwelling and harmonious with neighboring properties within the vicinity of the lot or parcel on which it is proposed to be constructed.
- J. The maximum allowable size for an ADU is:

1. For an ADU attached and/or within the primary single-family dwelling, a maximum of 50 percent of the total floor area of the primary single-family dwelling or 1,200 square feet, whichever is less;
 2. Detached ADUs cannot exceed 1,200 square feet;
 3. Nothing in this section is meant to prohibit an ADU up to 850 square feet, or 1,000 square feet for a two-bedroom unit.
 4. An ADU cannot be smaller than the dimensions required to accommodate an Efficiency Unit.
- K. Number of Units Per Lot.
1. A total of one ADU or one JADU is permitted per lot with an existing or proposed primary single-family dwelling, subject to the requirements of this chapter.
 2. One ADU or 25 percent of the existing multifamily dwelling units, whichever is greater, within an existing multifamily dwelling. Not more than two detached ADUs per lot with an existing multifamily dwelling if the ADUs are new construction, detached, more than 16 feet in height, and set back from the rear and side yards by four feet.
- L. Location. ADUs are permitted as follows:
1. Except as otherwise provided, by right in any zone where residential uses are permitted. ADUs are not, however, permitted in any area of the City identified by ordinance as being significantly impacted by insufficient capacity for sewers, traffic circulation, parking, public utilities or similar infrastructure needs.
 2. Contained within the existing or proposed space of a primary single-family dwelling or attached to a primary single-family dwelling.
 3. Within the space of an existing accessory structure.
 4. Detached from the primary single-family dwelling, subject to the requirements and development standards in this code and California law.
 5. ADUs must be located behind the rear building line of the primary dwelling, unless the ADU is within the existing space of a single-family residence or accessory structure.

6. If the ADU is new construction, a minimum of 10 feet (eave to eave) must be provided between a detached ADU and the primary dwelling and a minimum building separation of five feet (eave to eave) must be maintained between the detached ADU and any other non-habitable building or structure.

21.50.050 **Certificate of Occupancy.** ADUs may only be constructed in conjunction with either an existing or proposed single-family dwelling or an existing multifamily dwelling. A certificate of occupancy will not be issued for an ADU before a certificate of occupancy is issued for the primary dwelling(s). Before a certificate of occupancy for an ADU is issued, the property owner must record with the County Recorder a covenant running with the land stating that the ADU may not be used in violation of this section, and any rental of the ADU must be for a term of 30 days or longer. The covenant must be approved as to form by the City Attorney.

21.50.060 **Owner Occupancy.** Owner occupancy is required for any ADU constructed subject to a building permit issued after January 1, 2025. Subject to this subsection, property owners must either occupy the primary dwelling or the ADU as their permanent home and principal residence. A violation of this subsection will result in revocation of the ADU permit.

21.50.070 **Uniform Codes.** All ADUs and JADUs must comply with all applicable building and fire codes, state habitability requirements, and health and safety codes, unless where explicitly exempted by Government Code §§ 65852.2 or 65852.22.

21.50.080 **Standards for JADUs.**

A. Number of Units Per Lot.

1. A total of one JADU is permitted per lot in residential zones improved with only one existing or proposed primary single-family dwelling, subject to the requirements of this section.
2. A JADU is not allowed on any lot with an existing or proposed multifamily dwelling.

B. Additional requirements.

1. JADUs must include a separate entrance from the main entrance of the primary single-family dwelling.
2. JADUs must include an efficiency kitchen with a cooking facility, appliances, a food preparation counter and storage cabinets that are reasonably sized with relation to the JADU.
3. The JADU must include separate sanitation facilities or must share sanitation facilities with the primary single-family dwelling.

4. Owner occupancy is required for all JADUs unless the property owner is another government agency, land trust or housing organization. For the purposes of this requirement, the owner must occupy either the JADU or the primary single-family dwelling as their permanent home and principal residence.
5. No additional parking is required for a JADU.
6. The maximum size for any JADU is 500 square feet.

21.50.090 **Permit Application.** An application for an ADU or JADU use must comply with the following:

- A. Unless the application otherwise requires a conditional use permit, variance or other discretionary approval, the City Planner will review the application. Applications must be accompanied by an application-review fee as established by City Council resolution.
- B. After receiving a complete application, the City Planner must approve, approve with conditions, or deny the application within 60 days. The City Planner's review of the application may be extended upon written request from the applicant. For all such requests, the City Planner will have 60 days from the tolling date to act on the application. Any denial of an application will require that a new application be filed.
- C. For ADU or JADU applications submitted with an application to construct a new primary dwelling, the City Planner has 60 days from the date the City acts on primary dwelling unit application to act on the permit application for an ADU or JADU.
- D. Approval of an ADU or JADU cannot be conditioned on a requirement that the applicant correct a legal nonconforming condition on the property.
- E. Fire sprinklers for ADUs are required only when they are required for the primary dwelling on the lot.
- F. Before obtaining a JADU permit, the property owner must file with the county recorder a covenant and agreement, approved by the City Attorney as to form, containing a reference to the deed under which the property was acquired by the owner and stating that:
 1. The JADU cannot be sold separately from the primary dwelling;
 2. The JADU is restricted to the maximum size allowed per the development standards in this chapter;

3. The JADU is legal so long as either the primary dwelling or the JADU is occupied by the owner of record of the property;
4. The restrictions are binding upon any successor in ownership of the property and lack of compliance may result in legal action against the property owner; and
5. The JADU cannot be rented for any period less than 30 days.

21.50.100 Building Permit Approval. Subject to the requirements of this chapter, the Building Official may issue a building permit to create any of the following within any lot permitted to be developed with a residential dwelling unit:

- A. One ADU per lot with a proposed or existing primary single-family dwelling, if the ADU:
 1. Will be located within the primary single-family dwelling. For the purposes of this subsection, "located within" includes an expansion of not more than 150 square feet beyond the physical dimensions of the existing primary single-family dwelling to accommodate egress and ingress;
 2. Has exterior access; and
 3. Will be sufficiently set back from the side and rear for fire safety.
- B. One JADU per lot with a proposed or existing primary single-family dwelling, if the JADU:
 1. Will be located within the primary single-family dwelling. For the purposes of this subsection, "located within" includes an expansion of not more than 150 square feet beyond the physical dimensions of the existing primary single-family dwelling to accommodate egress and ingress;
 2. Has exterior access;
 3. Will be sufficiently set back from the side and rear for fire safety; and
 4. Complies with the provisions outlined in this section for JADUs.
- C. One new detached ADU on a lot with an existing primary single-family dwelling, where the ADU is set back at least four feet.
- D. Multiple ADUs on a lot with an existing multifamily dwelling, where the ADUs are proposed within areas not currently used as living space (including, without limitation, boiler rooms, storage rooms, passageways, attics, basements and garages) provided that each unit complies with state building standards for

habitability.

- E. For ADUs and JADUs that do not meet the criteria set forth in subsections (A) and (B) above, the City may require a new or separate utility connection directly between the unit and the utility. This connection may be subject to a connection fee or capacity charge, in an amount proportionate to the burden of the proposed unit on the water or sewer system, based upon either its square footage or number of drainage fixture unit values (as defined in the Uniform Plumbing Code). In no event may this fee or charge exceed the reasonable cost of providing the service.

21.50.110 Income Reporting. In order to facilitate the City's obligation to identify adequate sites for housing in accordance with Government Code §§ 65583.1 and 65852.2, the following requirements must be satisfied:

- A. With the building permit application, the applicant must provide the City with an estimate of the projected annualized rent that will be charged for the ADU or JADU.
- B. Within 90 days after each yearly anniversary of issuance of the building permit, the owner must report the actual rent charged for the ADU or JADU during the prior year. If the City does not receive the report within the 90-day period, the City may send the owner a notice of violation and allow the owner another 30 days to submit the report. If the owner fails to submit the report within the 30-day period, the City may enforce this provision in accordance with applicable law.

21.50.120 Application for Address Number. Any ADU or JADU which includes a separate entrance from the main entrance of the primary dwelling, or which will be improved with a new or separate utility connection directly between the unit and the utility, must submit an application for an address number. Address numbers will be allocated by the Building Official pursuant to the procedures outlined in this Code. Address numbers must be placed over the entrance to the ADU or JADU or on some other place where the number can be visible from the street. When required by the Fire Chief, address identification must be provided in additional approved locations to facilitate emergency response. Additionally, address numbers must also be permanently added to the side of the curb or on a public sidewalk located immediately in front of the main building on a site, pursuant to the California Residential Code and to the satisfaction of the Building Official.

21.50.130 Fees.

- A. For all ADUs larger than 750 square feet, the applicant must pay development impact fees proportional to the square footage of the primary dwelling. These fees will be established by resolution of the City Council.
- B. A reasonable inspection fee may be charged for the inspection of a JADU by the city. The inspection fee will be assessed to the property owner. The fee for inspection will be established by resolution of the City Council.

- C. A reasonable construction fee may be charged for any construction permits required. The construction fee will be assessed to the property owner. These fees will be established by resolution of the City Council.
- D. An ADU will not be considered a new residential use for purposes of calculating connection fees or capacity charges for utilities, unless the ADU is constructed simultaneously with a new primary single-family dwelling.

21.50.140 **Prohibited Conduct.**

- A. Unless permitted as an ADU or JADU pursuant to this section, it is unlawful for any accessory building(s) (either attached or detached), room(s), space(s), structure(s) or building(s) to be rented or used as a separate dwelling unit.
- B. No ADUs or JADUs may be rented in violation of this code.
- C. It is unlawful for an ADU or JADU to exist without an address issued in accordance with this code or other City Council resolution.

21.50.150 **Enforcement.** Before any enforcement action may occur to correct a violation of this chapter, the City Planner must take the following action:

- A. Serve written notice on the responsible person that includes a statement that the owner of the unit has a right to request delay in enforcement pursuant to Health and Safety Code § 17980.12.
- B. If a responsible makes such a request, it must be in writing, filed with the City Clerk within 10 days after service of the notice of violation, and include the following information:
 1. Name, address and telephone number of each responsible party who is making the request for delayed enforcement;
 2. The address and description of the real property upon which the ADU is located;
 3. Grounds for the request in sufficient detail to enable the Hearing Officer to understand the basis why correcting the violation is not necessary to protect health and safety;
 4. The length of the delay requested (not more than five years);
 5. The date the ADU was built; and

6. The signature of at least one responsible party.
- C. The Hearing Officer must grant the request for delayed enforcement if:
1. He or she determines that, after consulting with the entity responsible for enforcement of building standards and other regulations of the State Fire Marshal pursuant to Health and Safety Code §13146, correcting the violation is not necessary to protect health and safety; and
 2. The ADU was built before the effective date of this section.”

SECTION 7. A new subsection “8” is added to MPMC § 21.08.040 to read as follows:

“8. This Section is superseded by Chapter 21.50 until December 31, 2024. On January 1, 2025, this Section will be effective.”

SECTION 8. *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 Director 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 9. *Environmental Review.* This Ordinance was reviewed for compliance with the California Environmental Quality Act (California Public Resources Code §§ 21000, et seq., “CEQA”) and CEQA regulations (14 California Code of Regulations §§ 15000, et seq.; “CEQA Guidelines”). The Ordinance is exempt from additional environmental review pursuant to Public Resources Code § 21080.17 and CEQA Guidelines § 15282(h) because it is an Ordinance implementing the provisions of Government Code §§ 65852.1 and 65852.2 regarding accessory dwelling units in a single-family or multifamily residential zone.

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. *Construction.* This Ordinance must be broadly construed in order 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 12. *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 13. *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 15 days after the passage and adoption of this Ordinance, and cause it to be published or posted in accordance with California law.

SECTION 14. *Effective Date.* This Ordinance will become effective 30 days after second reading and adoption.

ORDINANCE NO. _____ WAS DULY PASSED, APPROVED, AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF MONTEREY PARK AT ITS REGULAR MEETING OF SEPTEMBER 2, 2020.

Peter Chan, Mayor

ATTEST:

Vincent D. Chang, City Clerk

APPROVED AS TO FORM:



Natalie C. Karpeles, Deputy City Attorney

ATTACHMENT 2
September 16, 2020 Staff Report



City Council Staff Report

DATE: September 16, 2020

AGENDA ITEM NO:

**Public Hearing
Agenda Item 4-A**

TO: Honorable Mayor and Members of the City Council

FROM: Mark A. McAvoy, Director of Public Works/City Engineer/City Planner

SUBJECT: Consideration and possible action to introduce and waive first reading of an Ordinance adding a new Chapter 21.50 entitled "Accessory Dwelling Units" to the Monterey Park Municipal Code pursuant to Government Code §§ 65852.2 and 65852.22

RECOMMENDATION:

It is recommended that the City Council:

1. Open the continued public hearing, take testimonial and documentary evidence and, after considering the evidence, introduce and waive first reading of the Ordinance; and/or
2. Take such additional, related action that may be desirable.

EXECUTIVE SUMMARY:

At the September 2, 2020 meeting, the City Council continued this public hearing to September 16, 2020. The original staff report and accompanying documents are attached hereto (September 2, 2020 City Council Agenda Item 2B and its attachments nos. 1-3).

Respectfully submitted and prepared by:

Mark A. McAvoy
Director of Public Works/City
Engineer/City Planner

Approved by:

for Ron Bow
City Manager

Reviewed by:

Natalie C. Karpeles
Deputy City Attorney

ATTACHMENTS

- A. September 2, 2020 Staff Report and Attachments

ATTACHMENT A
September 2, 2020 Staff Report and Attachments
(Item No. 2B and its attachments Nos. 1-3)



City Council Staff Report

DATE: September 2, 2020
Public Hearing

AGENDA ITEM NO: Agenda Item 2-B

TO: The Honorable Mayor and City Council
FROM: Mark A. McAvoy, Director of Public Works/City Engineer/City Planner
SUBJECT: Consideration and possible action to introduce and waive first reading of an Ordinance adding a new Chapter 21.50 entitled "Accessory Dwelling Units" to the Monterey Park Municipal Code pursuant to Government Code §§ 65852.2 and 65852.22

RECOMMENDATION:

It is recommended that the City Council:

1. Open the public hearing, take testimonial and documentary evidence and, after considering the evidence, introduce and waive first reading of the Ordinance; and/or
2. Take such additional, related action that may be desirable.

CEQA (California Environmental Quality Act):

The Ordinance was revised for compliance with the California Environmental Quality Act (California Public Resources Code §§ 21000, et seq., "CEQA") and CEQA regulations (14 California Code of Regulations §§ 15000, et seq.; "CEQA Guidelines"). The Ordinance is exempt from additional environmental review pursuant to CEQA Guidelines § 15282(h) because it is an Ordinance implementing the provisions of Government Code §§ 65852.1 and 65852.2 (as set forth in Public Resources Code § 21080.17) regarding accessory dwelling units in a single-family or multifamily residential zone.

EXECUTIVE SUMMARY:

On July 1, 2020, the City Council opted to act as the City's Planning Agency. Government Code §§ 65852.2 and 65852.22 requires the City to amend the Monterey Park Municipal Code ("MPMC") regulations governing accessory dwelling units ("ADUs") and add regulations governing Junior Accessory Dwelling Units ("JADUs"). The draft Ordinance would implement those regulations.

DISCUSSION:

The proposed Ordinance amends the City's existing zoning regulations as follows:

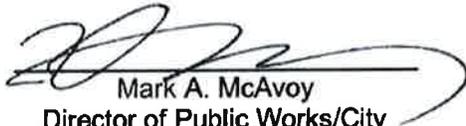
- Adds new definitions for “Efficiency Unit,” “Multifamily Dwelling,” “Primary Dwelling” and “Tandem parking.”
- Development standards:
 - Explains that zones designated for ADUs may be altered based on impacts to water, sewer traffic flow, and public safety;
 - Clarifies that when ADUs are created by converting a garage, carport or covered parking structure, new off-street parking spaces are not required;
 - Removes requirements regarding minimum lot size;
 - Decreases setback requirements, as follows:
 - Rear yard setback is decreased from a minimum 15 feet to not more than four feet; and
 - Side yard setback is decreased from five feet to not more than four feet.
 - Adjusts the allowable maximum and minimum square footage for ADUs;
 - Adjusts the allowable total number of ADUs and JADUs per lot; and
 - Provides standards and clarification regarding the physical location of ADUs and JADUs within existing structures, versus development standards for newly constructed units.
- Creates regulations for JADUs – including a prohibition on any rentals that would violate the MPMC;
- Creates an ADU use-permit application process, which, among other things:
 - Eliminates owner-occupancy requirements for ADUs (until January 1, 2025);
 - Reduces the maximum application review time from 120 days to 60 days;
 - Establishes impact fee exemptions or limitations based on the size of the ADU. ADUs up to 750 square feet are exempt from impact fees and impact fees for an ADU of 750 square feet or larger must be proportional to the relationship of the ADU to the primary dwelling unit; and
 - Authorizes a reasonable construction fee (if applicable) and inspection fee.

This Ordinance would be scheduled for second reading and adoption on September 16, 2020.

FISCAL IMPACT:

None.

Respectfully submitted by:



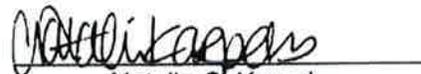
Mark A. McAvoy
Director of Public Works/City
Engineer/City Planner

Approved by:

Reviewed by:



Ron Bow
City Manager



Natalie C. Karpeles,
Deputy City Attorney

Attachments:

1. Draft Ordinance
2. Current Accessory Dwelling Unit Provisions (MPMC § 21.08.040)
3. New State Law on Accessory Dwelling Units (Government Code Sections)

ATTACHMENT - 1
Draft Ordinance

ORDINANCE NO. _____

AN ORDINANCE ADDING A NEW CHAPTER 21.50 ENTITLED "ACCESSORY DWELLING UNITS" TO THE MONTEREY PARK MUNICIPAL CODE PURSUANT TO GOVERNMENT CODE §§ 65852.2 AND 65852.22.

THE COUNCIL DOES ORDAIN AS FOLLOWS:

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

- A. On October 9, 2019, the Governor signed Assembly Bills 68 and 881, and Senate Bill 13 which impose requirements upon local agencies governing affordable housing units ("ADUs"). These Bills, among other things, amended Government Code §§ 65852.2 and 65852.22 and took effect on January 1, 2020. This Ordinance (the "Project") implements the mandates imposed by California law as to ADUs.
- B. The City reviewed the Project's environmental impacts under the California Environmental Quality Act (Pub. Res. Code §§ 21000, *et seq.*, "CEQA") and the regulations promulgated thereunder (14 Cal. Code of Reg. §§ 15000-15387; "CEQA Guidelines").
- C. Notice of a Public Hearing before the City Council was duly given and published in the time, form and manner as required by law.
- D. The City Council opened the public hearing at the September 2, 2020 meeting to receive testimonial and written evidence regarding the Project.
- E. The City Council considered the information provided by the City Planner, and public testimony. This Resolution, and its findings, are made based upon the evidence presented to the City Council at its September 2, 2020 hearing including, without limitation, the staff report submitted by the City Planner.

SECTION 2. *Monterey Park Planning Agency.* Pursuant to Ordinance No. 2177 adopted July 1, 2020, the City Council will act as the Monterey Park Planning Agency.

SECTION 3. *Zoning Ordinance Text Amendment Findings.* Pursuant to Monterey Park Municipal Code ("MPMC") § 21.38.050, the City Council finds that the public necessity, convenience and general welfare require the changes recommended by this Ordinance. These amendments will promote public health, safety and general welfare by, among other things, providing greater flexibility for the development of ADUs and JADUs (as defined below), and bringing the MPMC into compliance with applicable law.

SECTION 4. *General Plan Findings.* Pursuant to Government Code § 65860, the changes implemented by this Ordinance are consistent with the General Plan. Among other things, this

Ordinance will help implement the following 2014-2021 General Plan Housing Element goals, including:

- A. Goal 2 Remove or reduce governmental constraints on affordable housing development.
- B. Goal 3 Provide adequate housing by location, type of unit, and price to meet existing and future needs of City residents.
- C. Goal 4 Assist in the provision of housing that meets the needs of all economic segments of the community.
- D. Goal 5 Promote equal housing opportunities for all residents.
- E. As well as, the 2040 General Plan Land Use Element goals, including Goal 6 Accommodating all household sizes and income levels with a variety of housing types.

SECTION 5. The MPMC amendments are intended to eliminate or rectify those regulations that may be inconsistent with Government Code §§ 65852.2 and 65852.22. Ensuring that the City's regulations for ADUs and JADUs are consistent with California law will not frustrate any goal or policy set forth in the General Plan.

SECTION 6. A new Chapter 21.50 entitled "Accessory Dwelling Units" is added to the Monterey Park Municipal Code ("MPMC") to read as follows:

"Chapter 21.50

ACCESSORY DWELLING UNITS

21.50.010 Purpose. This Chapter is adopted to comply with Government Code §§ 65852.2 and 65852.22 which impose a state mandate that the City implement regulations governing accessory dwelling units ("ADU") and junior accessory dwelling units ("JADU") in accordance with California law. This Chapter will be automatically repealed on December 31, 2029. At that time, all previous regulations governing ADUs will be effective for all purposes.

21.50.020 Applicability. An ADU or JADU complying with this chapter meets the lot density requirements of this code and constitute a residential use consistent with applicable land use designations. Any ordinance, policy, or program limiting residential growth is inapplicable to ADUs and JADUs complying with this chapter.

21.50.030 Definitions. Unless the contrary is stated or clearly appears from the context, the following definitions govern the construction of the words and phrases used in this section. Undefined words and phrases have the same meaning as set forth in this code or Government Code §§ 65852.2 and 65852.22.

"Carshare vehicle" means is a motor vehicle that is operated as part of a regional fleet by a public or private car sharing company or organization providing hourly or daily service, and where users, who are members that have been preapproved to drive, can rent vehicles for short periods of time.

"Efficiency unit" means a dwelling unit that complies with all of the following:

- A. A living area of not less than 150 square feet for at most two persons, or a living room of at least 220 square feet (with an additional 100 square feet for each occupant in excess of two);
- B. Additional space for a separate bathroom containing a water closet, lavatory, and bathtub or shower;
- C. A separate closet;
- D. A kitchen sink, cooking appliance and refrigeration facilities, each having a clear work area of at least 30 inches in front; and
- E. Light and ventilation complying with this code.

"Hearing Officer" means the City Manager, or designee who will hear all timely requests for delayed enforcement from a notice of violation.

"Multifamily dwelling" means a building containing two or more dwelling units where each unit is for the use of individual households, and includes an apartment building, townhouse complex, condominium complex, duplex or housing development, but not hotels, motels, boarding houses or public or quasi-public institutions.

"Primary dwelling" means a residential structure on a single parcel with provisions for living, sleeping, eating, a single kitchen for cooking, and sanitation facilities. Where more than one residential structure exists on a lot, the "primary dwelling" will either be the residential structure that was first issued a valid certificate of occupancy, or, when applicable, the largest residential structure on the lot.

"Tandem parking" means two or more automobiles parked in a line, one behind the other.

21.50.040 Development Standards for ADUs.

- A. The ADU must comply with all additional development standards listed in this Code which are applicable to the zone in which the subject lot is located. Should there be a conflict between the zone development standards and the standards set forth in this section, then the more restrictive applies.
- B. One parking space is required per ADU and may be located as tandem parking on a driveway or required setback areas.

- C. No replacement off-street parking will be required when a garage or covered parking structure is demolished to create, or is converted into, an ADU.
- D. No parking standards will be imposed upon an ADU that is:
 - 1. Within a half mile walking distance of public transit;
 - 2. Located within an architecturally and historically significant district;
 - 3. Part of a proposed or existing primary dwelling or an accessory structure;
 - 4. Located in an area where parking permits are required but not offered to the occupant of the ADU; or
 - 5. Located within one block of a carshare vehicle.
- E. No additional curb cuts may be required for the ADU.
- F. An ADU must share the driveway with the existing primary unit on the site, provided, however, that a second driveway to serve the accessory dwelling may be allowed from an alley, if there is an alley that serves the subject site.
- G. An ADU cannot exceed one story and may not be greater than 18 feet in height, unless additional height is necessary to match the roof pitch of the primary structure.
- H. Setbacks.
 - 1. When an ADU is constructed within the following parameters it is exempt from minimum setback requirements within this code: (a) within the existing living area of a primary dwelling; (b) within an existing accessory structure; or (c) within the same location and same dimensions as an existing structure. The existing structure may be converted into an ADU or may be demolished and rebuilt as an ADU.
 - 2. If an ADU is not exempt from minimum setback requirements, a setback of at least four feet is required from the side and rear parcel lines. Where a parcel line is located in the center of a public right-of-way, setbacks will be calculated from the edge of the right-of-way.
- I. ADUs must be compatible in exterior appearance with the primary dwelling and harmonious with neighboring properties within the vicinity of the lot or parcel on which it is proposed to be constructed.
- J. The maximum allowable size for an ADU is:

1. For an ADU attached and/or within the primary single-family dwelling, a maximum of 50 percent of the total floor area of the primary single-family dwelling or 1,200 square feet, whichever is less;
 2. Detached ADUs cannot exceed 1,200 square feet;
 3. Nothing in this section is meant to prohibit an ADU up to 850 square feet, or 1,000 square feet for a two-bedroom unit.
 4. An ADU cannot be smaller than the dimensions required to accommodate an Efficiency Unit.
- K. Number of Units Per Lot.
1. A total of one ADU or one JADU is permitted per lot with an existing or proposed primary single-family dwelling, subject to the requirements of this chapter.
 2. One ADU or 25 percent of the existing multifamily dwelling units, whichever is greater, within an existing multifamily dwelling. Not more than two detached ADUs per lot with an existing multifamily dwelling if the ADUs are new construction, detached, more than 16 feet in height, and set back from the rear and side yards by four feet.
- L. Location. ADUs are permitted as follows:
1. Except as otherwise provided, by right in any zone where residential uses are permitted. ADUs are not, however, permitted in any area of the City identified by ordinance as being significantly impacted by insufficient capacity for sewers, traffic circulation, parking, public utilities or similar infrastructure needs.
 2. Contained within the existing or proposed space of a primary single-family dwelling or attached to a primary single-family dwelling.
 3. Within the space of an existing accessory structure.
 4. Detached from the primary single-family dwelling, subject to the requirements and development standards in this code and California law.
 5. ADUs must be located behind the rear building line of the primary dwelling, unless the ADU is within the existing space of a single-family residence or accessory structure.

6. If the ADU is new construction, a minimum of 10 feet (eave to eave) must be provided between a detached ADU and the primary dwelling and a minimum building separation of five feet (eave to eave) must be maintained between the detached ADU and any other non-habitable building or structure.

21.50.050 Certificate of Occupancy. ADUs may only be constructed in conjunction with either an existing or proposed single-family dwelling or an existing multifamily dwelling. A certificate of occupancy will not be issued for an ADU before a certificate of occupancy is issued for the primary dwelling(s). Before a certificate of occupancy for an ADU is issued, the property owner must record with the County Recorder a covenant running with the land stating that the ADU may not be used in violation of this section, and any rental of the ADU must be for a term of 30 days or longer. The covenant must be approved as to form by the City Attorney.

21.50.060 Owner Occupancy. Owner occupancy is required for any ADU constructed subject to a building permit issued after January 1, 2025. Subject to this subsection, property owners must either occupy the primary dwelling or the ADU as their permanent home and principal residence. A violation of this subsection will result in revocation of the ADU permit.

21.50.070 Uniform Codes. All ADUs and JADUs must comply with all applicable building and fire codes, state habitability requirements, and health and safety codes, unless where explicitly exempted by Government Code §§ 65852.2 or 65852.22.

21.50.080 Standards for JADUs.

A. Number of Units Per Lot.

1. A total of one JADU is permitted per lot in residential zones improved with only one existing or proposed primary single-family dwelling, subject to the requirements of this section.
2. A JADU is not allowed on any lot with an existing or proposed multifamily dwelling.

B. Additional requirements.

1. JADUs must include a separate entrance from the main entrance of the primary single-family dwelling.
2. JADUs must include an efficiency kitchen with a cooking facility, appliances, a food preparation counter and storage cabinets that are reasonably sized with relation to the JADU.
3. The JADU must include separate sanitation facilities or must share sanitation facilities with the primary single-family dwelling.

4. Owner occupancy is required for all JADUs unless the property owner is another government agency, land trust or housing organization. For the purposes of this requirement, the owner must occupy either the JADU or the primary single-family dwelling as their permanent home and principal residence.
5. No additional parking is required for a JADU.
6. The maximum size for any JADU is 500 square feet.

21.50.090 **Permit Application.** An application for an ADU or JADU use must comply with the following:

- A. Unless the application otherwise requires a conditional use permit, variance or other discretionary approval, the City Planner will review the application. Applications must be accompanied by an application-review fee as established by City Council resolution.
- B. After receiving a complete application, the City Planner must approve, approve with conditions, or deny the application within 60 days. The City Planner's review of the application may be extended upon written request from the applicant. For all such requests, the City Planner will have 60 days from the tolling date to act on the application. Any denial of an application will require that a new application be filed.
- C. For ADU or JADU applications submitted with an application to construct a new primary dwelling, the City Planner has 60 days from the date the City acts on primary dwelling unit application to act on the permit application for an ADU or JADU.
- D. Approval of an ADU or JADU cannot be conditioned on a requirement that the applicant correct a legal nonconforming condition on the property.
- E. Fire sprinklers for ADUs are required only when they are required for the primary dwelling on the lot.
- F. Before obtaining a JADU permit, the property owner must file with the county recorder a covenant and agreement, approved by the City Attorney as to form, containing a reference to the deed under which the property was acquired by the owner and stating that:
 1. The JADU cannot be sold separately from the primary dwelling;
 2. The JADU is restricted to the maximum size allowed per the development standards in this chapter;

3. The JADU is legal so long as either the primary dwelling or the JADU is occupied by the owner of record of the property;
4. The restrictions are binding upon any successor in ownership of the property and lack of compliance may result in legal action against the property owner; and
5. The JADU cannot be rented for any period less than 30 days.

21.50.100 Building Permit Approval. Subject to the requirements of this chapter, the Building Official may issue a building permit to create any of the following within any lot permitted to be developed with a residential dwelling unit:

- A. One ADU per lot with a proposed or existing primary single-family dwelling, if the ADU:
 1. Will be located within the primary single-family dwelling. For the purposes of this subsection, "located within" includes an expansion of not more than 150 square feet beyond the physical dimensions of the existing primary single-family dwelling to accommodate egress and ingress;
 2. Has exterior access; and
 3. Will be sufficiently set back from the side and rear for fire safety.
- B. One JADU per lot with a proposed or existing primary single-family dwelling, if the JADU:
 1. Will be located within the primary single-family dwelling. For the purposes of this subsection, "located within" includes an expansion of not more than 150 square feet beyond the physical dimensions of the existing primary single-family dwelling to accommodate egress and ingress;
 2. Has exterior access;
 3. Will be sufficiently set back from the side and rear for fire safety; and
 4. Complies with the provisions outlined in this section for JADUs.
- C. One new detached ADU on a lot with an existing primary single-family dwelling, where the ADU is set back at least four feet.
- D. Multiple ADUs on a lot with an existing multifamily dwelling, where the ADUs are proposed within areas not currently used as living space (including, without limitation, boiler rooms, storage rooms, passageways, attics, basements and garages) provided that each unit complies with state building standards for

habitability.

- E. For ADUs and JADUs that do not meet the criteria set forth in subsections (A) and (B) above, the City may require a new or separate utility connection directly between the unit and the utility. This connection may be subject to a connection fee or capacity charge, in an amount proportionate to the burden of the proposed unit on the water or sewer system, based upon either its square footage or number of drainage fixture unit values (as defined in the Uniform Plumbing Code). In no event may this fee or charge exceed the reasonable cost of providing the service.

21.50.110 Income Reporting. In order to facilitate the City's obligation to identify adequate sites for housing in accordance with Government Code §§ 65583.1 and 65852.2, the following requirements must be satisfied:

- A. With the building permit application, the applicant must provide the City with an estimate of the projected annualized rent that will be charged for the ADU or JADU.
- B. Within 90 days after each yearly anniversary of issuance of the building permit, the owner must report the actual rent charged for the ADU or JADU during the prior year. If the City does not receive the report within the 90-day period, the City may send the owner a notice of violation and allow the owner another 30 days to submit the report. If the owner fails to submit the report within the 30-day period, the City may enforce this provision in accordance with applicable law.

21.50.120 Application for Address Number. Any ADU or JADU which includes a separate entrance from the main entrance of the primary dwelling, or which will be improved with a new or separate utility connection directly between the unit and the utility, must submit an application for an address number. Address numbers will be allocated by the Building Official pursuant to the procedures outlined in this Code. Address numbers must be placed over the entrance to the ADU or JADU or on some other place where the number can be visible from the street. When required by the Fire Chief, address identification must be provided in additional approved locations to facilitate emergency response. Additionally, address numbers must also be permanently added to the side of the curb or on a public sidewalk located immediately in front of the main building on a site, pursuant to the California Residential Code and to the satisfaction of the Building Official.

21.50.130 Fees.

- A. For all ADUs larger than 750 square feet, the applicant must pay development impact fees proportional to the square footage of the primary dwelling. These fees will be established by resolution of the City Council.
- B. A reasonable inspection fee may be charged for the inspection of a JADU by the city. The inspection fee will be assessed to the property owner. The fee for inspection will be established by resolution of the City Council.

- C. A reasonable construction fee may be charged for any construction permits required. The construction fee will be assessed to the property owner. These fees will be established by resolution of the City Council.
- D. An ADU will not be considered a new residential use for purposes of calculating connection fees or capacity charges for utilities, unless the ADU is constructed simultaneously with a new primary single-family dwelling.

21.50.140 Prohibited Conduct.

- A. Unless permitted as an ADU or JADU pursuant to this section, it is unlawful for any accessory building(s) (either attached or detached), room(s), space(s), structure(s) or building(s) to be rented or used as a separate dwelling unit.
- B. No ADUs or JADUs may be rented in violation of this code.
- C. It is unlawful for an ADU or JADU to exist without an address issued in accordance with this code or other City Council resolution.

21.50.150 Enforcement. Before any enforcement action may occur to correct a violation of this chapter, the City Planner must take the following action:

- A. Serve written notice on the responsible person that includes a statement that the owner of the unit has a right to request delay in enforcement pursuant to Health and Safety Code § 17980.12.
- B. If a responsible makes such a request, it must be in writing, filed with the City Clerk within 10 days after service of the notice of violation, and include the following information:
 1. Name, address and telephone number of each responsible party who is making the request for delayed enforcement;
 2. The address and description of the real property upon which the ADU is located;
 3. Grounds for the request in sufficient detail to enable the Hearing Officer to understand the basis why correcting the violation is not necessary to protect health and safety;
 4. The length of the delay requested (not more than five years);
 5. The date the ADU was built; and

6. The signature of at least one responsible party.
- C. The Hearing Officer must grant the request for delayed enforcement if:
1. He or she determines that, after consulting with the entity responsible for enforcement of building standards and other regulations of the State Fire Marshal pursuant to Health and Safety Code §13146, correcting the violation is not necessary to protect health and safety; and
 2. The ADU was built before the effective date of this section."

SECTION 7. A new subsection "8" is added to MPMC § 21.08.040 to read as follows:

"8. This Section is superseded by Chapter 21.50 until December 31, 2024. On January 1, 2025, this Section will be effective."

SECTION 8. *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 Director 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 9. *Environmental Review.* This Ordinance was reviewed for compliance with the California Environmental Quality Act (California Public Resources Code §§ 21000, et seq., "CEQA") and CEQA regulations (14 California Code of Regulations §§ 15000, et seq.; "CEQA Guidelines"). The Ordinance is exempt from additional environmental review pursuant to Public Resources Code § 21080.17 and CEQA Guidelines § 15282(h) because it is an Ordinance implementing the provisions of Government Code §§ 65852.1 and 65852.2 regarding accessory dwelling units in a single-family or multifamily residential zone.

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. *Construction.* This Ordinance must be broadly construed in order 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 12. *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 13. *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 15 days after the passage and adoption of this Ordinance, and cause it to be published or posted in accordance with California law.

SECTION 14. *Effective Date.* This Ordinance will become effective 30 days after second reading and adoption.

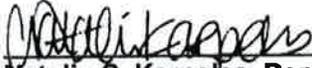
ORDINANCE NO. _____ WAS DULY PASSED, APPROVED, AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF MONTEREY PARK AT ITS REGULAR MEETING OF SEPTEMBER 2, 2020.

Peter Chan, Mayor

ATTEST:

Vincent D. Chang, City Clerk

APPROVED AS TO FORM:



Natalie C. Karpeles, Deputy City Attorney

ATTACHMENT - 2
Current Accessory Dwelling Unit Provisions
(MPMC § 21.08.040)

21.08.040 Limitations and Special Standards.

The land uses listed in Table 21.08(A) and Table 21.08(B) designated with the letter “L” are explained below.

(A) **Accessory Dwelling Unit.** In the R-1 (Single-Family Residential) Zone developed as a single-family dwelling, a maximum of one accessory dwelling unit is permitted, subject to the following limitations:

(1) The design and incorporation of an accessory dwelling unit on a single-family residential property must meet the following requirements:

(a) The accessory dwelling unit must comply with all development standards of the R-1 Zone, including front, rear, and side yard setbacks, except as modified in this section;

(b) No setback is required for an existing accessory building or structure that is converted to an accessory dwelling unit or an existing space within a primary dwelling. For purposes of this subdivision, “existing” means a structure or space that was lawfully constructed as of January 1, 2017;

(c) The accessory dwelling unit may be either attached or detached from the existing primary dwelling and must be located on the same lot as the existing primary dwelling. If detached, the accessory dwelling unit must be located within the rear portion of the parcel. If attached to or within the primary residence, a separate entrance must be provided and said entrance cannot be located on the front of the primary residence or facing the street on which the primary residence fronts;

(d) The increased floor area of an attached accessory dwelling unit cannot exceed fifty (50) percent of the existing single-family dwelling gross floor area, with a maximum increase in floor area of one thousand two hundred (1,200) square feet;

(e) The total gross floor area for a detached accessory dwelling unit cannot exceed one thousand two hundred (1,200) square feet;

(f) The accessory dwelling unit must contain no more than two bedrooms and the number of bathrooms cannot exceed the number of bedrooms;

(g) The accessory dwelling unit may not cause the floor area ratio or lot coverage limitations of the property to exceed the limits prescribed by the zone;

(h) The accessory dwelling unit is limited to one story and an overall height of fifteen (15) feet if detached from the primary dwelling;

(i) The accessory dwelling unit must be constructed such that the finished floor elevation of the accessory dwelling unit is not more than two feet above or below the finish floor elevation of the primary unit at the front of the lot;

(j) The accessory dwelling unit must maintain architectural compatibility with the primary dwelling unit, including, without limitation, architectural style, roof type, paint color, finish, details, and other qualities subject to the approval of the City Planner;

(k) The accessory dwelling unit must provide one off-street parking space per bedroom. These spaces may be provided as tandem parking on an existing driveway. Parking designated for the accessory dwelling unit must be provided in addition to the minimum parking required for the primary unit. All off-street parking areas and automobile areas for an accessory dwelling unit must be finished with a permeable surface including, without limitation, gravel, permeable pavers, and turf block. Notwithstanding the foregoing, such parking standards are not required in the following instances:

(i) The accessory dwelling unit is located within one-half mile of public transit,

(ii) The accessory dwelling unit is part of the existing primary residence or an existing accessory structure,

(iii) When on-street parking permits are required but not offered to the occupant of the accessory dwelling unit.

(2) An accessory dwelling unit may not be sold or transferred separately from the primary dwelling.

(3) The applicant for an accessory dwelling unit must be the owner/occupant of the primary unit, but may reside in the accessory dwelling unit once completed.

(4) A covenant, in a form approved by the City Attorney, must be signed by the property owner, and must be submitted to the City Planner. The covenant must be recorded with the County Recorder’s office and a certified copy of said recorded covenant must be filed with the City Planner before the City issues a building permit to build an accessory dwelling unit. The covenant will require owner occupancy of either the primary unit or accessory dwelling unit, prohibit the separate sale of the accessory dwelling unit, and prohibit rentals for less than thirty (30) days. Said covenant may not be altered, revoked or canceled without the written consent of the City Planner.

(5) In the event a covenant was previously recorded for a permitted accessory structure restricting the structure as non-habitable pursuant to this Code, before the city issues a building permit for an accessory dwelling unit, the property owner must record a release of such covenant with the county recorder, in a form approved by the City Planner and the City Attorney.

(6) The application must be accompanied by a filing and processing fee in the amount set by city council resolution.

(7) The applicant must pay all required fees, including without limitation, development impact fees pursuant to Chapter 3.110 of this Code.

(B) Auto Dismantling, Repairing, Assembling. In all residential zones, subject to the following limitations:

(1) Work cannot be performed within public view.

(2) Work must be performed within an enclosed building or in an area which is completely enclosed by view-obscuring walls, not less than six feet in height, or by the exterior walls of a building or buildings.

(3) Work cannot be performed for commercial purposes.

(4) The vehicle must be owned by a resident of the lot on which the work is being done.

(5) The resident must complete work on one vehicle before beginning on another so that no more than one vehicle for each family living on the lot is in a state of disassembly or dismantlement or is being repaired at one time.

(6) Work must be performed in a manner that will not interfere with the quiet and comfortable enjoyment of adjacent properties by their occupants.

(C) Child Day Care, Licensed for Eight to Fourteen (14) Children. In all residential zones, child day care for eight to fourteen (14) children is subject to State and City regulations, including a home occupation business license and the following requirements:

(1) The residence must comply with all property development standards.

(2) The child day care facility cannot be located within three hundred (300) feet of another child day care facility, except when:

(a) The applicant can demonstrate that an existing child day care located within three hundred (300) feet is at capacity; or

(b) The need exists for a particular or unique service not provided by an existing child day care location within three hundred (300) feet.

(3) The outdoor play area of not less than seventy-five (75) square feet per child, but in no case less than four hundred fifty (450) square feet in area, and which includes play equipment, must be provided and secured with proper fencing. The outdoor play area must be located in the rear area. Stationary play equipment cannot be located in required side and front yards.

(4) A six-foot high solid decorative fence or wall must be constructed on all side and rear property lines except in the front yard. Materials, textures, colors and design of the fence or wall must be compatible with on-site development and adjacent properties. All fences or walls must provide for safety with controlled points of entry.

(5) The garage cannot be used as an extension of the family day care facility and cannot be used as part of the outdoor play area.

(6) The facility may operate up to fourteen (14) hours per day. Outdoor activities are restricted to the hours of 8:00 a.m. to 8:00 p.m. per day.

(7) The facility requires an initial on-site inspection and annual inspection thereafter by the City Planner.

(8) On-site landscaping must be consistent with that prevailing in the neighborhood and be installed and maintained.

(9) All on-site parking must be provided pursuant to the provisions of this code. On-site vehicle turnaround or separate entrance and exit points, and adequate passenger loading spaces must be provided.

(10) All on-site lighting must be stationary, directed away from adjacent properties and public rights-of-way, and of intensity appropriate to the use it is serving.

(11) All on-site signage must comply with this code.

(12) The facility must contain a fire extinguisher and smoke detector devices and meet all standards set forth in the California Fire Code, as adopted by this code.

(D) Home Occupation Permits.

(1) **Purpose.** The purpose of this section is to allow for home occupations which are compatible with the residential character of the neighborhood in which they are located.

(2) **Procedure.** Home occupations are permitted in the R-1, R-2, and R-3 Zones subject to obtaining a home occupation permit as follows:

(a) **Application.** Application for a home occupation permit must be made on an application form provided by the City Planner and be accompanied by a filing fee established by City Council resolution.

(b) **Conditions of Approval.** In approving a home occupation, the City Planner may include decision reasonable conditions deemed necessary to protect the health, safety and welfare of the community and to ensure the intent of this section.

(c) **Review and Inspection.** Home occupations may be periodically reviewed and an inspection made of the property by the City Planner to verify continued compliance with the necessary criteria and conditions of approval.

(d) **Revocation of Permits.** The City Planner may revoke any home occupation permit for noncompliance with the conditions set forth in approving the permit or inconsistency with this section.

(e) **Appeal Procedure.** Appeals may be taken to the Planning Commission by the applicant or any other person aggrieved by the City Planner's decision pursuant to Chapter 1.10.

(3) **Permitted Home Occupations.** The following businesses are permitted with a valid home occupation permit:

- (a) Office use;
- (b) Mail ordering;
- (c) Home crafts such as model making, basket weaving.

(4) **Home Occupations Prohibited.** Permitted home occupations may not in any event be deemed to include the following:

- (a) Auto repair;
- (b) Barber shop or beauty salon;
- (c) Carpentry work;
- (d) Dance instructions;
- (e) Funeral chapel or funeral home;
- (f) Gift shop;
- (g) Medical or dental offices, labs, clinics, or hospitals;
- (h) Auto, boat and trailer painting;
- (i) Photo studio;
- (j) Private schools;
- (k) Renting of equipment and/or trailers;
- (l) Appliance repairs;
- (m) Eating establishment;
- (n) Kennel;
- (o) Tailors, dressmakers, upholstery;
- (p) Service uses, personal and professional;
- (q) Such other uses that may generate excessive pedestrian or vehicle traffic and that may be obnoxious or a nuisance to adjacent residents such as noise, odor, or appearance as determined by the City Planner, or that violate the use limitations provided in subsection (5) of this section.

(5) **Use Limitations.** In addition to the limitations applicable in the zone in which the use is located, all home occupations are subject to the following use limitations:

- (a) One home occupation per address.
- (b) In the primary residence of the applicant proposing to conduct the business.
- (c) A home occupation is limited to paperwork only, conducted entirely within the designated room of the home, and may not have a need for any type of vehicle to transport materials or equipment used in conjunction with the business other than a private automobile.
- (d) No employment of help other than members of the resident family.
- (e) The home occupation use must be incidental to the primary use of the structure as a residential use and cannot detract from the residential character of the neighborhood. Not more than two hundred (200) square feet or ten (10) percent of the floor area, whichever is less, may be used in connection with a home occupation or for storage purposes in connection with a home occupation.
- (f) No direct sales of product or merchandise from the home.
- (g) No traffic can be generated by such home occupation in greater volumes than would normally be expected in a residential neighborhood, and any need for parking generated by the conduct of such home occupation must be met off the street. Visitor, customers, or deliveries cannot exceed that normally and reasonably occurring for a residence as determined by the City Planner and this code.
- (h) No home occupation can be conducted in any accessory building or space outside of the main building such as the accessory dwelling unit, garage or storage building.

- (i) There may not be any on-site storage of materials other than samples.
- (j) The home occupation may not involve use of advertising signs on the premises or any other external on-site advertising media which calls attention to the fact that the house is being used for a business purpose.
- (k) There may not be any alteration of utilities or installment of special equipment for the purpose of accommodating the proposed home occupation.
- (l) A maximum of one three-quarter ton vehicle may be kept in conjunction with an approved home occupation use if approved by the City Planner.
- (m) Under no circumstances may the appearance of the structure be altered or the occupation within the residence be conducted in a manner which would cause the premises to differ from its residential character whether by the use of colors, materials, construction, lighting, signs, or the emission of sound, noise, or vibration.
- (n) The street address of the residence may not be used for advertisements.
- (o) All respects of the home occupation must be conducted entirely within an enclosed structure. Supplies, tools, equipment, goods, samples and other items relating to a home occupation cannot be stored or displayed outside or at any location within a structure where they will be visible to passing pedestrian or vehicular traffic.
- (p) There may not be any use of any equipment which may cause radio or television interference or fluctuation in line voltage off the property.
- (q) There may not be any process, procedure, substance, or chemical used which is hazardous to public health, safety, morals or welfare.

(E) Household Pets.

(1) In the R-1 Zone, not in excess of three household pets, which includes, without limitation, dogs, cats, pigs, canaries, parrots, and other similar animals and birds usually and ordinarily kept as household pets.

(2) In the R-2 and R-3 Zones, not in excess of two household pets for each dwelling unit.

(F) Mixed Use Development. In the R-2 and R-3 Zones, mixed-use projects are limited to the Mixed-Use Overlay Zone and are subject to the restrictions and development standards of that Overlay Zone. See Chapter 21.14.

(G) Mobile Home. In all residential zones developed as single-family dwelling unit, subject to the following limitations:

(1) One mobile home on a permanent foundation.

(2) Such unit was issued an insignia of approval from the California Department of Housing and Community Development or the U.S. Department of Housing and Urban Development pursuant to Health and Safety Code Section 18550(b).

(3) Such unit has a roof with a pitch of not less than two-inch vertical rise for each twelve (12) inches of horizontal run and consisting of roofing material customarily used for conventional single-family residences and is consistent with the primary unit on the lot and compatible with other dwelling units in the area as approved by the City Planner.

(4) Such unit must have porches and eaves, or roof with eaves when, in the opinion of the City Planner, they are necessary to make the unit compatible with other dwellings in the area.

(5) Such unit is covered with an exterior siding material customarily used on conventional dwellings and approved by the City Planner. The exterior material must extend to the ground except that when a solid concrete or masonry perimeter foundation is used, the exterior covering material need not extend below the top of the foundation.

(H) Portable Canopy. In all residential zones, subject to the following limitations:

(1) There is no limit on the number of portable canopies permitted on a residential zoned property, except that any and all canopies must comply with the maximum square footage specified below.

(2) A portable canopy is allowed only adjacent to the side or at the rear of a residential unit.

(3) A portable canopy must be constructed with a durable material, such as, without limitation, a canvas or vinyl material, which is securely anchored in place and properly maintained to present a neat and orderly appearance. The canopy is required to be replaced if they become torn, tattered or in disrepair.

(4) A portable canopy cannot exceed a height of fifteen (15) feet at the highest point and is limited to a maximum square footage of two hundred forty (240) square feet total for all portable canopies.

(I) **Recreational Vehicle Parking.** See Chapter 21.22, Off-Street Parking Regulations.

(J) Storage of Construction Materials. In all residential zones, the storage of building materials is permitted during construction of any building or part thereof.

(K) Wireless Communication Facility. Subject to regulations set forth in Chapter 21.34.

(L) Yard Sales. In all residential zones, subject to the following limitations:

- (1) Not more than two sales per address may be conducted per calendar year;
 - (2) No such sale can continue more than two consecutive days or three days on extended national holidays. Inclement weather may extend the period of time equal to the days lost;
 - (3) Such sales can be conducted only during the hours of 8:00 a.m. and 6:00 p.m.;
 - (4) The merchandise for sale may consist of the property owner's or occupant's personal goods. Outside consignments, lot purchases, and the like, for the purpose of resale is prohibited;
 - (5) The sales area may be conducted on any portion of the ground area of the property outside of the residential dwelling unit. No merchandise may be placed on any public property or right-of-way;
 - (6) Only one sign may be placed on the premises. The sign cannot exceed six square feet. No signs shall be placed on any public property (i.e., utility pole, traffic sign), right-of-way or vehicle parked on a public street, alley or private easement;
 - (7) Such applicant must pay a fee for each permit in the amount set forth by resolution of the council adopted pursuant to applicable law. A copy of a validly issued permit must be displayed at the site of the sale at all times during such sale.
- (M) **Renting.** For purposes of this subsection, "renting" means occupying a dwelling unit in exchange for remuneration; each person giving remuneration in exchange for occupying a dwelling unit is a tenant. Renting not more than three sleeping rooms per dwelling unit for occupancy is allowed within all residential zones subject to the following limitations:
- (1) Sleeping rooms cannot be rented for a period of less than thirty (30) days.
 - (2) Not more than two persons are permitted to occupy one sleeping room.
 - (3) Meals may be provided in connection with such renting, or the dwelling's kitchen facilities may be shared with tenants.
 - (4) These regulations do not apply to the following uses if otherwise permitted by this code: boarding houses, licensed community care facilities, rehabilitation facilities, licensed home care facilities, or sober living facilities, congregate care facilities, fraternity/sorority house, senior housing facilities, supportive housing or transitional housing. (Ord. 2147 § 6, 2018; Ord. 2132 § 1, 2016; Ord. 2131 § 2, 2016; Ord. 2118 § 11, 2015; Ord. 2097 § 3, 2013)

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ATTACHMENT - 3
New State Law on Accessory Dwelling Units
(Government Code Sections)



GOVERNMENT CODE - GOV

TITLE 7. PLANNING AND LAND USE [65000 - 66499.58] (*Heading of Title 7 amended by Stats. 1974, Ch. 1536.)*

DIVISION 1. PLANNING AND ZONING [65000 - 66301] (*Heading of Division 1 added by Stats. 1974, Ch. 1536.)*

CHAPTER 4. Zoning Regulations [65800 - 65912] (*Chapter 4 repealed and added by Stats. 1965, Ch. 1880.)*

ARTICLE 2. Adoption of Regulations [65850 - 65863.13] (*Article 2 added by Stats. 1965, Ch. 1880.)*

(a) (1) A local agency may, by ordinance, provide for the creation of accessory dwelling units in areas zoned to allow single-family or multifamily dwelling residential use. The ordinance shall do all of the following:

65852.2.

(A) Designate areas within the jurisdiction of the local agency where accessory dwelling units may be permitted. The designation of areas may be based on the adequacy of water and sewer services and the impact of accessory dwelling units on traffic flow and public safety. A local agency that does not provide water or sewer services shall consult with the local water or sewer service provider regarding the adequacy of water and sewer services before designating an area where accessory dwelling units may be permitted.

(B) (i) Impose standards on accessory dwelling units that include, but are not limited to, parking, height, setback, landscape, architectural review, maximum size of a unit, and standards that prevent adverse impacts on any real property that is listed in the California Register of Historic Resources. These standards shall not include requirements on minimum lot size.

(ii) Notwithstanding clause (i), a local agency may reduce or eliminate parking requirements for any accessory dwelling unit located within its jurisdiction.

(C) Provide that accessory dwelling units do not exceed the allowable density for the lot upon which the accessory dwelling unit is located, and that accessory dwelling units are a residential use that is consistent with the existing general plan and zoning designation for the lot.

(D) Require the accessory dwelling units to comply with all of the following:

(i) The accessory dwelling unit may be rented separate from the primary residence, but may not be sold or otherwise conveyed separate from the primary residence.

(ii) The lot is zoned to allow single-family or multifamily dwelling residential use and includes a proposed or existing dwelling.

(iii) The accessory dwelling unit is either attached to, or located within, the proposed or existing primary dwelling, including attached garages, storage areas or similar uses, or an accessory structure or detached from the proposed or existing primary dwelling and located on the same lot as the proposed or existing primary dwelling.

(iv) If there is an existing primary dwelling, the total floor area of an attached accessory dwelling unit shall not exceed 50 percent of the existing primary dwelling.

(v) The total floor area for a detached accessory dwelling unit shall not exceed 1,200 square feet.

(vi) No passageway shall be required in conjunction with the construction of an accessory dwelling unit.

(vii) No setback shall be required for an existing living area or accessory structure or a structure constructed in the same location and to the same dimensions as an existing structure that is converted to an accessory dwelling unit or to a portion of an accessory dwelling unit, and a setback of no more than four feet from the side and rear lot lines shall be required for an accessory dwelling unit that is not converted from an existing structure or a new structure constructed in the same location and to the same dimensions as an existing structure.

(viii) Local building code requirements that apply to detached dwellings, as appropriate.

(ix) Approval by the local health officer where a private sewage disposal system is being used, if required.

- (x) (I) Parking requirements for accessory dwelling units shall not exceed one parking space per accessory dwelling unit or per bedroom, whichever is less. These spaces may be provided as tandem parking on a driveway.
- (II) Offstreet parking shall be permitted in setback areas in locations determined by the local agency or through tandem parking, unless specific findings are made that parking in setback areas or tandem parking is not feasible based upon specific site or regional topographical or fire and life safety conditions.
- (III) This clause shall not apply to an accessory dwelling unit that is described in subdivision (d).
- (xi) When a garage, carport, or covered parking structure is demolished in conjunction with the construction of an accessory dwelling unit or converted to an accessory dwelling unit, the local agency shall not require that those offstreet parking spaces be replaced.
- (xii) Accessory dwelling units shall not be required to provide fire sprinklers if they are not required for the primary residence.
- (2) The ordinance shall not be considered in the application of any local ordinance, policy, or program to limit residential growth.
- (3) A permit application for an accessory dwelling unit or a junior accessory dwelling unit shall be considered and approved ministerially without discretionary review or a hearing, notwithstanding Section 65901 or 65906 or any local ordinance regulating the issuance of variances or special use permits. The permitting agency shall act on the application to create an accessory dwelling unit or a junior accessory dwelling unit within 60 days from the date the local agency receives a completed application if there is an existing single-family or multifamily dwelling on the lot. If the permit application to create an accessory dwelling unit or a junior accessory dwelling unit is submitted with a permit application to create a new single-family dwelling on the lot, the permitting agency may delay acting on the permit application for the accessory dwelling unit or the junior accessory dwelling unit until the permitting agency acts on the permit application to create the new single-family dwelling, but the application to create the accessory dwelling unit or junior accessory dwelling unit shall be considered without discretionary review or hearing. If the applicant requests a delay, the 60-day time period shall be tolled for the period of the delay. A local agency may charge a fee to reimburse it for costs incurred to implement this paragraph, including the costs of adopting or amending any ordinance that provides for the creation of an accessory dwelling unit.
- (4) An existing ordinance governing the creation of an accessory dwelling unit by a local agency or an accessory dwelling ordinance adopted by a local agency shall provide an approval process that includes only ministerial provisions for the approval of accessory dwelling units and shall not include any discretionary processes, provisions, or requirements for those units, except as otherwise provided in this subdivision. If a local agency has an existing accessory dwelling unit ordinance that fails to meet the requirements of this subdivision, that ordinance shall be null and void and that agency shall thereafter apply the standards established in this subdivision for the approval of accessory dwelling units, unless and until the agency adopts an ordinance that complies with this section.
- (5) No other local ordinance, policy, or regulation shall be the basis for the delay or denial of a building permit or a use permit under this subdivision.
- (6) This subdivision establishes the maximum standards that local agencies shall use to evaluate a proposed accessory dwelling unit on a lot that includes a proposed or existing single-family dwelling. No additional standards, other than those provided in this subdivision, shall be used or imposed, including any owner-occupant requirement, except that a local agency may require that the property be used for rentals of terms longer than 30 days.
- (7) A local agency may amend its zoning ordinance or general plan to incorporate the policies, procedures, or other provisions applicable to the creation of an accessory dwelling unit if these provisions are consistent with the limitations of this subdivision.
- (8) An accessory dwelling unit that conforms to this subdivision shall be deemed to be an accessory use or an accessory building and shall not be considered to exceed the allowable density for the lot upon which it is located, and shall be deemed to be a residential use that is consistent with the existing general plan and zoning designations for the lot. The accessory dwelling unit shall not be considered in the application of any local ordinance, policy, or program to limit residential growth.
- (b) When a local agency that has not adopted an ordinance governing accessory dwelling units in accordance with subdivision (a) receives an application for a permit to create an accessory dwelling unit pursuant to this subdivision, the local agency shall approve or disapprove the application ministerially without discretionary review pursuant to subdivision (a). The permitting agency shall act on the application to create an accessory dwelling unit or a junior accessory dwelling unit within 60 days from the date the local agency receives a completed application if there is an existing single-family or multifamily dwelling on the lot. If the permit application to create an accessory dwelling unit or a junior accessory dwelling unit is submitted with a permit application to create a new single-family dwelling on the lot, the permitting agency may delay acting on the permit application for the accessory dwelling unit or the junior accessory dwelling unit until the permitting agency acts on the permit application to create the new single-family dwelling, but the application to create the accessory dwelling unit or junior accessory dwelling unit shall still be considered ministerially without discretionary review or a hearing. If the applicant requests a delay, the 60-day time period shall be

tolled for the period of the delay. If the local agency has not acted upon the completed application within 60 days, the application shall be deemed approved.

(c) (1) Subject to paragraph (2), a local agency may establish minimum and maximum unit size requirements for both attached and detached accessory dwelling units.

(2) Notwithstanding paragraph (1), a local agency shall not establish by ordinance any of the following:

(A) A minimum square footage requirement for either an attached or detached accessory dwelling unit that prohibits an efficiency unit.

(B) A maximum square footage requirement for either an attached or detached accessory dwelling unit that is less than either of the following:

(i) 850 square feet.

(ii) 1,000 square feet for an accessory dwelling unit that provides more than one bedroom.

(C) Any other minimum or maximum size for an accessory dwelling unit, size based upon a percentage of the proposed or existing primary dwelling, or limits on lot coverage, floor area ratio, open space, and minimum lot size, for either attached or detached dwellings that does not permit at least an 800 square foot accessory dwelling unit that is at least 16 feet in height with four-foot side and rear yard setbacks to be constructed in compliance with all other local development standards.

(d) Notwithstanding any other law, a local agency, whether or not it has adopted an ordinance governing accessory dwelling units in accordance with subdivision (a), shall not impose parking standards for an accessory dwelling unit in any of the following instances:

(1) The accessory dwelling unit is located within one-half mile walking distance of public transit.

(2) The accessory dwelling unit is located within an architecturally and historically significant historic district.

(3) The accessory dwelling unit is part of the proposed or existing primary residence or an accessory structure.

(4) When on-street parking permits are required but not offered to the occupant of the accessory dwelling unit.

(5) When there is a car share vehicle located within one block of the accessory dwelling unit.

(e) (1) Notwithstanding subdivisions (a) to (d), inclusive, a local agency shall ministerially approve an application for a building permit within a residential or mixed-use zone to create any of the following:

(A) One accessory dwelling unit or junior accessory dwelling unit per lot with a proposed or existing single-family dwelling if all of the following apply:

(i) The accessory dwelling unit or junior accessory dwelling unit is within the proposed space of a single-family dwelling or existing space of a single-family dwelling or accessory structure and may include an expansion of not more than 150 square feet beyond the same physical dimensions as the existing accessory structure. An expansion beyond the physical dimensions of the existing accessory structure shall be limited to accommodating ingress and egress.

(ii) The space has exterior access from the proposed or existing single-family dwelling.

(iii) The side and rear setbacks are sufficient for fire and safety.

(iv) The junior accessory dwelling unit complies with the requirements of Section 65852.22.

(B) One detached, new construction, accessory dwelling unit that does not exceed four-foot side and rear yard setbacks for a lot with a proposed or existing single-family dwelling. The accessory dwelling unit may be combined with a junior accessory dwelling unit described in subparagraph (A).

(A). A local agency may impose the following conditions on the accessory dwelling unit:

(i) A total floor area limitation of not more than 800 square feet.

(ii) A height limitation of 16 feet.

(C) (i) Multiple accessory dwelling units within the portions of existing multifamily dwelling structures that are not used as livable space, including, but not limited to, storage rooms, boiler rooms, passageways, attics, basements, or garages, if each unit complies with state building standards for dwellings.

(ii) A local agency shall allow at least one accessory dwelling unit within an existing multifamily dwelling and shall allow up to 25 percent of the existing multifamily dwelling units.

(D) Not more than two accessory dwelling units that are located on a lot that has an existing multifamily dwelling, but are detached from that multifamily dwelling and are subject to a height limit of 16 feet and four-foot rear yard and side setbacks.

- (2) A local agency shall not require, as a condition for ministerial approval of a permit application for the creation of an accessory dwelling unit or a junior accessory dwelling unit, the correction of nonconforming zoning conditions.
- (3) The installation of fire sprinklers shall not be required in an accessory dwelling unit if sprinklers are not required for the primary residence.
- (4) A local agency shall require that a rental of the accessory dwelling unit created pursuant to this subdivision be for a term longer than 30 days.
- (5) A local agency may require, as part of the application for a permit to create an accessory dwelling unit connected to an onsite water treatment system, a percolation test completed within the last five years, or, if the percolation test has been recertified, within the last 10 years.
- (6) Notwithstanding subdivision (c) and paragraph (1) a local agency that has adopted an ordinance by July 1, 2018, providing for the approval of accessory dwelling units in multifamily dwelling structures shall ministerially consider a permit application to construct an accessory dwelling unit that is described in paragraph (1), and may impose standards including, but not limited to, design, development, and historic standards on said accessory dwelling units. These standards shall not include requirements on minimum lot size.
- (f) (1) Fees charged for the construction of accessory dwelling units shall be determined in accordance with Chapter 5 (commencing with Section 66000) and Chapter 7 (commencing with Section 66012).
- (2) An accessory dwelling unit shall not be considered by a local agency, special district, or water corporation to be a new residential use for purposes of calculating connection fees or capacity charges for utilities, including water and sewer service, unless the accessory dwelling unit was constructed with a new single-family dwelling.
- (3) (A) A local agency, special district, or water corporation shall not impose any impact fee upon the development of an accessory dwelling unit less than 750 square feet. Any impact fees charged for an accessory dwelling unit of 750 square feet or more shall be charged proportionately in relation to the square footage of the primary dwelling unit.
- (B) For purposes of this paragraph, "impact fee" has the same meaning as the term "fee" is defined in subdivision (b) of Section 66000, except that it also includes fees specified in Section 66477. "Impact fee" does not include any connection fee or capacity charge charged by a local agency, special district, or water corporation.
- (4) For an accessory dwelling unit described in subparagraph (A) of paragraph (1) of subdivision (e), a local agency, special district, or water corporation shall not require the applicant to install a new or separate utility connection directly between the accessory dwelling unit and the utility or impose a related connection fee or capacity charge, unless the accessory dwelling unit was constructed with a new single-family home.
- (5) For an accessory dwelling unit that is not described in subparagraph (A) of paragraph (1) of subdivision (e), a local agency, special district, or water corporation may require a new or separate utility connection directly between the accessory dwelling unit and the utility. Consistent with Section 66013, the connection may be subject to a connection fee or capacity charge that shall be proportionate to the burden of the proposed accessory dwelling unit, based upon either its square feet or the number of its drainage fixture unit (DFU) values, as defined in the Uniform Plumbing Code adopted and published by the International Association of Plumbing and Mechanical Officials, upon the water or sewer system. This fee or charge shall not exceed the reasonable cost of providing this service.
- (g) This section does not limit the authority of local agencies to adopt less restrictive requirements for the creation of an accessory dwelling unit.
- (h) (1) A local agency shall submit a copy of the ordinance adopted pursuant to subdivision (a) to the Department of Housing and Community Development within 60 days after adoption. After adoption of an ordinance, the department may submit written findings to the local agency as to whether the ordinance complies with this section.
- (2) (A) If the department finds that the local agency's ordinance does not comply with this section, the department shall notify the local agency and shall provide the local agency with a reasonable time, no longer than 30 days, to respond to the findings before taking any other action authorized by this section.
- (B) The local agency shall consider the findings made by the department pursuant to subparagraph (A) and shall do one of the following:
- (i) Amend the ordinance to comply with this section.
- (ii) Adopt the ordinance without changes. The local agency shall include findings in its resolution adopting the ordinance that explain the reasons the local agency believes that the ordinance complies with this section despite the findings of the department.
- (3) (A) If the local agency does not amend its ordinance in response to the department's findings or does not adopt a resolution with findings explaining the reason the ordinance complies with this section and addressing the department's findings, the department shall notify the local agency and may notify the Attorney General that the local agency is in violation of state law.
- (B) Before notifying the Attorney General that the local agency is in violation of state law, the department may consider whether a local agency adopted an ordinance in compliance with this section between January 1, 2017, and January 1, 2020.

(i) The department may review, adopt, amend, or repeal guidelines to implement uniform standards or criteria that supplement or clarify the terms, references, and standards set forth in this section. The guidelines adopted pursuant to this subdivision are not subject to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2.

(j) As used in this section, the following terms mean:

(1) "Accessory dwelling unit" means an attached or a detached residential dwelling unit that provides complete independent living facilities for one or more persons and is located on a lot with a proposed or existing primary residence. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-family or multifamily dwelling is or will be situated. An accessory dwelling unit also includes the following:

(A) An efficiency unit.

(B) A manufactured home, as defined in Section 18007 of the Health and Safety Code.

(2) "Accessory structure" means a structure that is accessory and incidental to a dwelling located on the same lot.

(3) "Efficiency unit" has the same meaning as defined in Section 17958.1 of the Health and Safety Code.

(4) "Living area" means the interior habitable area of a dwelling unit, including basements and attics, but does not include a garage or any accessory structure.

(5) "Local agency" means a city, county, or city and county, whether general law or chartered.

(6) "Neighborhood" has the same meaning as set forth in Section 65589.5.

(7) "Nonconforming zoning condition" means a physical improvement on a property that does not conform with current zoning standards.

(8) "Passageway" means a pathway that is unobstructed clear to the sky and extends from a street to one entrance of the accessory dwelling unit.

(9) "Proposed dwelling" means a dwelling that is the subject of a permit application and that meets the requirements for permitting.

(10) "Public transit" means a location, including, but not limited to, a bus stop or train station, where the public may access buses, trains, subways, and other forms of transportation that charge set fares, run on fixed routes, and are available to the public.

(11) "Tandem parking" means that two or more automobiles are parked on a driveway or in any other location on a lot, lined up behind one another.

(k) A local agency shall not issue a certificate of occupancy for an accessory dwelling unit before the local agency issues a certificate of occupancy for the primary dwelling.

(l) Nothing in this section shall be construed to supersede or in any way alter or lessen the effect or application of the California Coastal Act of 1976 (Division 20 (commencing with Section 30000) of the Public Resources Code), except that the local government shall not be required to hold public hearings for coastal development permit applications for accessory dwelling units.

(m) A local agency may count an accessory dwelling unit for purposes of identifying adequate sites for housing, as specified in subdivision (a) of Section 65583.1, subject to authorization by the department and compliance with this division.

(n) In enforcing building standards pursuant to Article 1 (commencing with Section 17960) of Chapter 5 of Part 1.5 of Division 13 of the Health and Safety Code for an accessory dwelling unit described in paragraph (1) or (2) below, a local agency, upon request of an owner of an accessory dwelling unit for a delay in enforcement, shall delay enforcement of a building standard, subject to compliance with Section 17980.12 of the Health and Safety Code:

(1) The accessory dwelling unit was built before January 1, 2020.

(2) The accessory dwelling unit was built on or after January 1, 2020, in a local jurisdiction that, at the time the accessory dwelling unit was built, had a noncompliant accessory dwelling unit ordinance, but the ordinance is compliant at the time the request is made.

(o) This section shall remain in effect only until January 1, 2025, and as of that date is repealed.

(Amended by Stats. 2019, Ch. 659, Sec. 1.5. (AB 881) Effective January 1, 2020. Repealed as of January 1, 2025, by its own provisions. See later operative version added by Sec. 2.5 of Stats. 2019, Ch. 659.)



GOVERNMENT CODE - GOV

TITLE 7. PLANNING AND LAND USE [65000 - 66499.58] (*Heading of Title 7 amended by Stats. 1974, Ch. 1536.)*

DIVISION 1. PLANNING AND ZONING [65000 - 66301] (*Heading of Division 1 added by Stats. 1974, Ch. 1536.)*

CHAPTER 4. Zoning Regulations [65800 - 65912] (*Chapter 4 repealed and added by Stats. 1965, Ch. 1880.)*

ARTICLE 2. Adoption of Regulations [65850 - 65863.13] (*Article 2 added by Stats. 1965, Ch. 1880.)*

65852.22. (a) Notwithstanding Section 65852.2, a local agency may, by ordinance, provide for the creation of junior accessory dwelling units in single-family residential zones. The ordinance may require a permit to be obtained for the creation of a junior accessory dwelling unit, and shall do all of the following:

- (1) Limit the number of junior accessory dwelling units to one per residential lot zoned for single-family residences with a single-family residence built, or proposed to be built, on the lot.
 - (2) Require owner-occupancy in the single-family residence in which the junior accessory dwelling unit will be permitted. The owner may reside in either the remaining portion of the structure or the newly created junior accessory dwelling unit. Owner-occupancy shall not be required if the owner is another governmental agency, land trust, or housing organization.
 - (3) Require the recordation of a deed restriction, which shall run with the land, shall be filed with the permitting agency, and shall include both of the following:
 - (A) A prohibition on the sale of the junior accessory dwelling unit separate from the sale of the single-family residence, including a statement that the deed restriction may be enforced against future purchasers.
 - (B) A restriction on the size and attributes of the junior accessory dwelling unit that conforms with this section.
 - (4) Require a permitted junior accessory dwelling unit to be constructed within the walls of the proposed or existing single-family residence.
 - (5) Require a permitted junior accessory dwelling to include a separate entrance from the main entrance to the proposed or existing single-family residence.
 - (6) Require the permitted junior accessory dwelling unit to include an efficiency kitchen, which shall include all of the following:
 - (A) A cooking facility with appliances.
 - (B) A food preparation counter and storage cabinets that are of reasonable size in relation to the size of the junior accessory dwelling unit.
- (b) (1) An ordinance shall not require additional parking as a condition to grant a permit.
- (2) This subdivision shall not be interpreted to prohibit the requirement of an inspection, including the imposition of a fee for that inspection, to determine if the junior accessory dwelling unit complies with applicable building standards.
- (c) An application for a permit pursuant to this section shall, notwithstanding Section 65901 or 65906 or any local ordinance regulating the issuance of variances or special use permits, be considered ministerially, without discretionary review or a hearing. The permitting agency shall act on the application to create a junior accessory dwelling unit within 60 days from the date the local agency receives a completed application if there is an existing single-family dwelling on the lot. If the permit application to create a junior accessory dwelling unit is submitted with a permit application to create a new single-family dwelling on the lot, the permitting agency may delay acting on the permit application for the junior accessory dwelling unit until the permitting agency acts on the permit application to create the new single-family dwelling, but the application to create the junior accessory dwelling unit shall still be considered ministerially without discretionary review or a hearing. If the applicant requests a delay, the 60-day time period shall be tolled for the period of the delay. A local agency may charge a fee to reimburse the local agency for costs incurred in connection with the issuance of a permit pursuant to this section.

(d) For purposes of any fire or life protection ordinance or regulation, a junior accessory dwelling unit shall not be considered a separate or new dwelling unit. This section shall not be construed to prohibit a city, county, city and county, or other local public entity from adopting an ordinance or regulation relating to fire and life protection requirements within a single-family residence that contains a junior accessory dwelling unit so long as the ordinance or regulation applies uniformly to all single-family residences within the zone regardless of whether the single-family residence includes a junior accessory dwelling unit or not.

(e) For purposes of providing service for water, sewer, or power, including a connection fee, a junior accessory dwelling unit shall not be considered a separate or new dwelling unit.

(f) This section shall not be construed to prohibit a local agency from adopting an ordinance or regulation, related to parking or a service or a connection fee for water, sewer, or power, that applies to a single-family residence that contains a junior accessory dwelling unit, so long as that ordinance or regulation applies uniformly to all single-family residences regardless of whether the single-family residence includes a junior accessory dwelling unit.

(g) If a local agency has not adopted a local ordinance pursuant to this section, the local agency shall ministerially approve a permit to construct a junior accessory dwelling unit that satisfies the requirements set forth in subparagraph (A) of paragraph (1) of subdivision (e) of Section 65852.2 and the requirements of this section.

(h) For purposes of this section, the following terms have the following meanings:

(1) "Junior accessory dwelling unit" means a unit that is no more than 500 square feet in size and contained entirely within a single-family residence. A junior accessory dwelling unit may include separate sanitation facilities, or may share sanitation facilities with the existing structure.

(2) "Local agency" means a city, county, or city and county, whether general law or chartered.

(Amended by Stats. 2019, Ch. 655, Sec. 2. (AB 68) Effective January 1, 2020.)



City Council Staff Report

DATE: October 7, 2020

AGENDA ITEM NO: Consent Calendar
Agenda Item 3-E

TO: The Honorable Mayor and City Council
FROM: Frank A. Lopez, Interim Director of Public Works / City Engineer
SUBJECT: Waive further reading and adopt an Ordinance amending Monterey Park Municipal Code ("MPMC") Chapter 21.44 regulating development agreements and codifying the Business Recovery Development Agreement Zone ("BRDZ") into MPMC Chapter 21.45

RECOMMENDATION:

It is recommended that the City Council consider:

1. Waiving second reading and adopting the proposed ordinance; and
2. Taking such additional, related, action that may be desirable.

EXECUTIVE SUMMARY:

The introduction and first reading of the Ordinance took place at the September 16, 2020 City Council meeting. The original staff report (from September 16, 2020) is attached for reference. Second reading and adoption of this Ordinance is recommended; it will take effect in 30 days.

Respectfully submitted by:

Frank A. Lopez
Interim Director of Public Works
/City Engineer

Approved by:

Ron Bow
City Manager

Reviewed by:

Karl H. Berger
City Attorney

Attachments:

1. Draft Ordinance
2. September 16, 2020 Staff Report

ATTACHMENT 1
Draft Ordinance

ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER 21.44 REGULATING DEVELOPMENT AGREEMENTS AND CODIFYING THE BUSINESS RECOVERY DEVELOPMENT AGREEMENT ZONE (“BRDZ”) ESTABLISHED BY ORDINANCE NOS. 2184 AND 2185 INTO CHAPTER 21.45 OF THE MONTEREY PARK MUNICIPAL CODE.

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

SECTION 1: *Development Agreement Regulations.* Chapter 21.44 of the Monterey Park Municipal Code (“MPMC”) is amended to read as set forth in attached Exhibit “A,” which is incorporated by reference.

SECTION 2: *BRDZ.* Exhibit C (entitled the Business Recovery Development Agreement Zone) to Ordinance Nos. 2184 (adopted July 15, 2020) and 2185 (adopted on August 5, 2020), is codified into a new Chapter 21.45 of the MPMC with appropriate numbering commencing with Section 21.45.010. A copy of the BRDZ is attached as Exhibit “B” for reference. The findings set forth in Sections 3 and 4 of Ordinance Nos. 2184 and 2185 are reaffirmed. Codification of Exhibit C to Ordinance Nos. 2184 and 2185 constitutes an administrative action only; no further findings are required.

SECTION 3: *Environmental Review.* This ordinance is exempt from review under the California Environmental Quality Act (California Public Resources Code §§ 21000, *et seq.*, “CEQA”) and CEQA regulations (14 California Code of Regulations (“CCR”) §§ 15000, *et seq.*) because it establishes rules and procedures to clarify existing policies and practices related to development agreements; 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, this Ordinance does not constitute a “project” that requires environmental review (see specifically 14 CCR § 15378(b)(4-5)).

SECTION 4: *Ongoing Effectiveness.* Repeal of any provision of the MPMC will 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 5: *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 Director 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 6: *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 7: Construction. This Ordinance must be broadly construed in order 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 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: Effective Date. This Ordinance will take effect on the 30th day following its final passage and adoption.

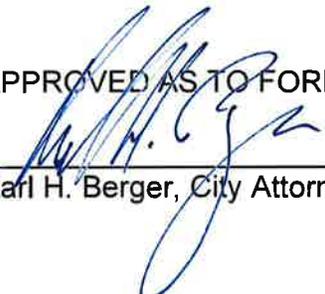
PASSED AND ADOPTED this _____ day of _____, 2020.

Peter Chan, Mayor

ATTEST:

Vincent D. Chang, City Clerk

APPROVED AS TO FORM



Karl H. Berger, City Attorney

EXHIBIT A

“Chapter 21.44

DEVELOPMENT AGREEMENT

21.44.010. Purpose and Intent.

The purpose of this chapter is to establish procedures and requirements for the review and approval of development agreements. The City Council finds that:

- A. Large scale developments are typically phased projects extending over a period of several years, requiring multiple entitlements and long-term commitment of both public and private resources.
- B. Large-scale developments often require integration between public and capital facilities planning, financing and construction phasing of private projects.
- C. Large-scale developments often incorporate mixed-use design opportunities while maintaining land use consistency with surrounding land uses.
- D. Large-scale developments have long-term structuring and development management that requires flexibility in development and entitlement negotiations.

21.44.020. Applicability, Application Filing, Processing, and Review.

- A. Consideration of a development agreement may be initiated by:
 - 1. The City Council; or
 - 2. Any person having a legal or equitable interest in the real property which will be the subject of the proposed development agreement.
- B. While any person proposing a project may request a development agreement, all projects proposing a large-scale development must enter into a development agreement with the City. A “large-scale development” is one with 10 or more residential or commercial units; hotels or motels with more than 25 guest rooms; shopping centers with five or more structures; or industrial projects consisting of either 50,000 or more square feet of building space or on lots greater than 1 acre. Large-scale developments may utilize the BRDZ set forth in chapter 21.45 of this code.
- C. The applicant may file an application with the City Planner to enter into a development agreement provided that:

1. For applicants other than the City Council, the status of the applicant as having legal or equitable interest in the subject real property is established to the satisfaction of the City Planner; and

2. The application is accompanied by all documents, information, and materials pursuant to the site plan submittal requirements provided by this code, an application fee established by city council resolution, and any additional requirements established by the City Planner.

D. **Planner Review.** The City Planner is authorized to receive, review, process, and prepare recommendations for City Council consideration on all applications for development agreements.

E. **Concurrent Processing and Public Hearings.** All development-related applications will be processed and scheduled for public hearing in conjunction with the application for a development agreement. Unless otherwise specifically approved by the City Council in connection with the initial approval of a development agreement, the maximum term for a development agreement is five years.

21.44.030. Content of Development Agreement.

A. **Mandatory Contents.** A development agreement entered into in compliance with this chapter must contain the mandatory provisions (e.g., conditions, requirements, restrictions, and terms) required by California law (Government Code Section 65865.2, as amended) including, without limitation, identification of the public benefit.

B. For development agreements governing projects with 10 or more residential or commercial units, the development agreement must contain clauses requiring the applicant to establish an owner's association in accordance with the Monterey Park Homeowners Association Monitoring Program established by city council resolution.

C. **Permissive Contents.** A development agreement may include any other terms determined to be appropriate and necessary by the City Council, including provisions for the payment to the City of monetary consideration for public benefit.

21.44.040. Execution and Recordation.

A. **Agreement Deemed Withdrawn.** The City Council may authorize the Mayor or City Manager to execute a development agreement. If the applicant has not executed the development agreement and returned the executed agreement to the City Clerk within 30 days after the effective date of the City Council's approval, the development agreement application is deemed

withdrawn and any signature by the Mayor or City Manager is void. The Council may extend the 30 day period for good cause shown if a written request is filed before the expiration.

- B. Other Permits or Entitlements. Nothing in this chapter limits conditions of approval for any other discretionary permit in this code.
- C. Recordation. A development agreement must be recorded with the County Recorder not later than 10 days after it is executed, in compliance with Government Code Section 65868.5, as amended.

21.44.050. Periodic Review.

- A. Periodic Review. Every development agreement approved and executed in compliance with this chapter is subject to annual review by the City Planner, or designee, during the full term of the agreement. Appropriate fees to cover the City's costs to conduct the periodic reviews will be collected in accordance with city council resolution.
- B. Purpose of Periodic Review. The purpose of the periodic review is to determine whether the contracting party or the successor-in-interest has complied in good faith with the terms and conditions of the development agreement. The burden of proof is on the applicant or contracting party or the successor to demonstrate compliance to the full satisfaction of, and in a manner prescribed by, the City.
- C. Result of Periodic Review. If, as a result of a periodic review in compliance with this chapter, the City Planner finds and determines, on the basis of substantial evidence, that the contracting party or the successor-in-interest has not complied in good faith with the terms or conditions of the development agreement, the City Planner will notify the City Council that the development agreement be terminated or modified.

21.44.060. Amendment or Cancellation of Development Agreement.

A development agreement may be amended or canceled, in whole or in part, by mutual consent of all parties to the agreement, or their successor-in-interest, in compliance with Government Code Section 65868, as amended, or as set forth in the agreement. The requested amendment or cancellation will be processed in the same manner specified by this chapter for the adoption of a development agreement.

21.44.070. Failure to Receive Notice.

The failure of any person entitled to notice required by law or this chapter to receive such notice does not affect the authority of the City to enter into nor

invalidate a development agreement entered into by the City or other action taken under this chapter.

21.44.080. Enforcement of Development Agreements.

Except as provided in this chapter or in the development agreement itself, a development agreement may be enforced by any party notwithstanding any change in any applicable general or specific plan, zoning, subdivision, or building regulation adopted by the City which alters or amends the rules, regulations, or policies. ”

EXHIBIT B

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.

ATTACHMENT 2

September 16, 2020 Staff Report



City Council Staff Report

DATE: September 16, 2020

AGENDA ITEM NO:

New Business

Agenda Item 5-B

TO: Honorable Mayor and Members of the City Council

FROM: Mark A. McAvoy, Director of Public Works/City Engineer/City Planner

SUBJECT: Consideration and possible action to introduce and waive first reading of an Ordinance amending Monterey Park Municipal Code ("MPMC") Chapter 21.44 regulating development agreements and codifying the Business Recovery Development Agreement Zone ("BRDZ") into MPMC Chapter 21.45

RECOMMENDATION:

It is recommended that the City Council:

1. Introduce and waive first reading of an Ordinance amending MPMC Chapter 21.44, regulating development agreements, and codifying the BRDZ at MPMC Chapter 21.45; or
2. Take such additional, related action that may be desirable.

BACKGROUND:

If adopted, the draft ordinance would amend MPMC Chapter 21.44 which regulates development agreements ("DA") within the City. It would also codify the previously adopted BRDZ into MPMC Chapter 21.45.

DAs provide an important tool for land use planning within the City. Proposed changes to Chapter 21.44 would include updating the MPMC to both reflect current California law and remove duplicative regulation (i.e., regulations preempted by California law). It would also require a DA for "large-scale developments" as defined in the ordinance. Among other things, this would allow the City to ensure that residential or commercial projects with 10 or more units be required to establish and maintain an owner's association. This will assist the City with code enforcement efforts as reflected in the newly established Monterey Park Homeowners Association Monitoring Program.

The City Council established the BRDZ as part of the 2020 Monterey Park Business Recovery Program. This ordinance would codify the BRDZ into the MPMC as a permanent overlay zone that could be activated with a development agreement.

Overall, the most substantive portion of the proposed ordinance are the regulations helping implement the Monterey Park Homeowners Association Monitoring Program. It is hoped that these will help with the City's overall effort to improve the various multi-unit properties found throughout the community.

FISCAL IMPACT:

There are no identifiable fiscal impacts associated with this action.

Respectfully submitted and prepared by:



Mark A. McAvoy
Director of Public Works/City
Engineer/City Planner

Approved by:



for Ron Bow
City Manager

Reviewed by:



Karl H. Berger
City Attorney

ATTACHMENT(S):

1. Draft Ordinance

ATTACHMENT 1
Draft Ordinance

ORDINANCE NO. ____

AN ORDINANCE AMENDING CHAPTER 21.44 REGULATING DEVELOPMENT AGREEMENTS AND CODIFYING THE BUSINESS RECOVERY DEVELOPMENT AGREEMENT ZONE ("BRDZ") ESTABLISHED BY ORDINANCE NOS. 2184 AND 2185 INTO CHAPTER 21.45 OF THE MONTEREY PARK MUNICIPAL CODE.

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

SECTION 1: *Development Agreement Regulations.* Chapter 21.44 of the Monterey Park Municipal Code ("MPMC") is amended to read as set forth in attached Exhibit "A," which is incorporated by reference.

SECTION 2: *BRDZ.* Exhibit C (entitled the Business Recovery Development Agreement Zone) to Ordinance Nos. 2184 (adopted July 15, 2020) and 2185 (adopted on August 5, 2020), is codified into a new Chapter 21.45 of the MPMC with appropriate numbering commencing with Section 21.45.010. A copy of the BRDZ is attached as Exhibit "B" for reference. The findings set forth in Sections 3 and 4 of Ordinance Nos. 2184 and 2185 are reaffirmed. Codification of Exhibit C to Ordinance Nos. 2184 and 2185 constitutes an administrative action only; no further findings are required.

SECTION 3: *Environmental Review.* This ordinance is exempt from review under the California Environmental Quality Act (California Public Resources Code §§ 21000, *et seq.*, "CEQA") and CEQA regulations (14 California Code of Regulations ("CCR") §§ 15000, *et seq.*) because it establishes rules and procedures to clarify existing policies and practices related to development agreements; 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, this Ordinance does not constitute a "project" that requires environmental review (see specifically 14 CCR § 15378(b)(4-5)).

SECTION 4: *Ongoing Effectiveness.* Repeal of any provision of the MPMC will 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 5: *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 Director 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 6: *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 7: Construction. This Ordinance must be broadly construed in order 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 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: Effective Date. This Ordinance will take effect on the 30th day following its final passage and adoption.

PASSED AND ADOPTED this _____ day of _____, 2020.

Peter Chan, Mayor

ATTEST:

Vincent D. Chang, City Clerk

APPROVED AS TO FORM



Karl H. Berger, City Attorney

EXHIBIT A

"Chapter 21.44

DEVELOPMENT AGREEMENT

21.44.010. Purpose and Intent.

The purpose of this chapter is to establish procedures and requirements for the review and approval of development agreements. ~~The City is hereby authorized to enter into development agreements with the following statements of intent~~The City Council finds that:

- A. Large scale developments are typically phased projects extending over a period of several years, requiring multiple entitlements and long-term commitment of both public and private resources.
- B. Large-scale developments often require integration between public and capital facilities planning, financing and construction phasing of private projects.
- C. Large-scale developments often incorporate mixed-use design opportunities while maintaining land use consistency with surrounding land uses.
- D. Large-scale developments have long-term structuring and development management that requires flexibility in development and entitlement negotiations.

21.44.020. Applicability, Application Filing, Processing, and Review.

- A. Consideration of a development agreement may be initiated by:
 - 1. The City Council; or
 - 2. Any person having a legal or equitable interest in the real property which will be the subject of the proposed development agreement.

B. While any person proposing a project may request a development agreement, all projects proposing a large-scale development must enter into a development agreement with the City. A "large-scale development" is one with 10 or more residential or commercial units; hotels or motels with more than 25 guest rooms; shopping centers with five or more structures; or industrial projects consisting of either 50,000 or more square feet of building space or on lots greater than 1 acre. Large-scale developments may utilize the BRDZ set forth in chapter 21.45 of this code.

B-C. The applicant may request and apply through the Community Development Department file an application with the City Planner to enter into a

development agreement provided that:

1. For applicants other than the City Council, the status of the applicant as having legal or equitable interest in the subject real property is established to the satisfaction of the City Planner; and
2. The application is accompanied by all documents, information, and materials pursuant to the site plan submittal requirements provided ~~in Chapter 21.36, Design Review, by this code, an application fee established by city council resolution,~~ and any additional requirements established by the ~~Community Development Department~~City Planner.

~~C. D.~~ Planner Review. The City Planner ~~shall be authorized to~~ receive, review, process, and prepare recommendations for ~~Planning Commission and City Council~~ consideration on all applications for development agreements. ~~As part of the review, the City Planner shall review whether the development demonstrates phasing and participation.~~

~~D. E.~~ Concurrent Processing and Public Hearings. All development-related applications ~~shall will~~ be processed and scheduled for public hearing ~~concurrently in conjunction~~ with the application for a development agreement. ~~The City Council shall be the final review authority for the development agreement and all associated applications. All project entitlements approved with the development agreement shall expire concurrently.~~ Unless otherwise specifically approved by the City Council in connection with the initial approval of a development agreement, the maximum term for a development agreement ~~shall be is~~ five years.

~~A.~~ ~~The application for approval of a development agreement shall include the processing fee established by the City's fee resolution. Additionally, appropriate fees shall be established and City collected for periodic reviews conducted by the City Planner in compliance with Section 21.44.070(A).~~

~~21.44.030 Public Hearings:~~

~~A.~~ ~~Planning Commission Hearing.~~ The City Planner, upon finding the application for a development agreement is complete, shall set the date for a public hearing before the Planning Commission. Following conclusion of a public hearing, the Planning Commission shall adopt a resolution and make a written recommendation to the City Council that it approve, conditionally approve, or deny the application.

~~B.~~ ~~City Council Hearing.~~ Upon receipt of the Planning Commission's recommendation, the City Clerk shall set a date for a public hearing before the City Council. Following conclusion of the public hearing, the City Council shall approve, conditionally approve, or deny the application with appropriate findings

~~in compliance with subsection (E) of this section.~~

~~If the City Council proposes to adopt a substantial modification to the development agreement not previously considered by the Planning Commission during its hearings, the proposed modification shall be first referred back to the Planning Commission for its recommendation, in compliance with State law (Government Code Section 65867, as amended). Failure of the Planning Commission to report back to the City Council within forty (40) days after the referral, or within a longer time set by the City Council, shall be deemed a recommendation for approval of the proposed modification.~~

~~A. — Notice of the Hearings. Notice of the hearings outlined in subsections (A) and (B) of this section, shall be given in the form of a notice of intention to consider approval of a development agreement in compliance with State law (Government Code Section 65867, as amended).~~

~~B. — Adopting Ordinance. Should the City Council approve or conditionally approve the application, it shall, as a part of the action of approval, direct the preparation of a development agreement embodying the conditions and terms of the application as approved or conditionally approved by it, as well as an ordinance authorizing execution of the development agreement by the Council, in compliance with State law (Government Code Section 65867.5, as amended).~~

~~C. — Required Findings. An ordinance authorizing execution of a development agreement shall contain the following findings and the facts supporting them. It is the responsibility of the applicant to establish the evidence in support of the required findings:~~

~~1. — The development agreement is in the best interests of the City and good land use practices;~~

~~2. — The development agreement is consistent with the actions, goals, objectives and policies of the General Plan, any applicable specific plan, and this Zoning Code;~~

~~3. — The development agreement would promote the public convenience, health, interest, safety, or welfare of the City, and will not adversely affect the orderly development of property or the preservation of property values; and~~

~~4. — The development agreement is in compliance with the conditions, requirements, restrictions, and terms of Section 21.44.040.~~

~~D. — Referendum. The ordinance approving the development agreement is subject to referendum in compliance with State law (Government Code Section 65867.5, as amended).~~

21.44.030. Content of Development Agreement.

~~E.A.~~ Mandatory Contents. A development agreement entered into in compliance with this chapter ~~shall~~ must contain the mandatory provisions (e.g., conditions, requirements, restrictions, and terms) ~~specified~~ required by ~~State~~ California law (Government Code Section 65865.2, as amended) ~~including, without limitation, identification of the public benefit.~~

~~B.~~ For development agreements governing projects with 10 or more residential or commercial units, the development agreement must contain clauses requiring the applicant to establish an owner's association in accordance with the Monterey Park Homeowners Association Monitoring Program established by city council resolution.

~~A.C.~~ Permissive Contents. A development agreement ~~entered into in compliance with this chapter may contain the permissive provisions (e.g., conditions, requirements, restrictions, and terms) specified by State law (Government Code Section 65865.2, as amended), and may include~~ any other terms determined to be appropriate and necessary by the City Council, including provisions for the payment to the City of monetary consideration for public benefit.

21.44.040. **Execution and Recordation.**

~~A. — Effective Date.~~ The City shall not execute any development agreement until on or after the date on which the ordinance approving the development agreement becomes effective, and until it has been executed by the applicant.

~~A.A.~~ Agreement Deemed Withdrawn. The City Council may authorize the Mayor or City Manager to execute a development agreement. If the applicant has not executed the development agreement and returned the executed agreement to the City Clerk within ~~thirty (30)~~ days ~~of~~ after the effective date of the City Council's approval, the development agreement application ~~shall be is~~ deemed withdrawn and any signature by the Mayor or City Manager is void. ~~If this occurs, the mayor shall not execute the development agreement.~~ The Council may extend the ~~thirty (30)~~ day period for good cause shown if a written request is filed before the expiration.

~~A.B.~~ Other Permits or Entitlements. Nothing in this chapter limits conditions of approval for any other discretionary permit in this code. ~~The provisions of this chapter shall not be construed to prohibit the City Planner, Planning Commission or City Council from conditioning approval of a discretionary permit or entitlement on the execution of a development agreement where the condition is otherwise authorized by law.~~

~~A.C.~~ Recordation. A development agreement ~~shall~~ must be recorded with the County Recorder ~~not~~ later than ~~ten (10)~~ days after it is executed, in compliance with ~~State law~~ (Government Code Section 65868.5, as

amended).

~~21.44.060 Environmental Review:~~

~~The approval or conditional approval of a development agreement in compliance with this chapter shall be deemed a discretionary act for purposes of the California Environmental Quality Act (CEQA).~~

21.44.050. **Periodic Review.**

~~A.A.~~ A.A. Periodic Review. Every development agreement approved and executed in compliance with this chapter ~~shall be is~~ subject to annual review by the City Planner, or designee, during the full term of the agreement. Appropriate fees to cover the City's costs to conduct the periodic reviews ~~shall will~~ be collected ~~from the contracting party in compliance with Section 21.44.020(E) in accordance with city council resolution.~~

~~A.B.~~ A.B. Purpose of Periodic Review. The purpose of the periodic review ~~shall be is~~ to determine whether the contracting party or the successor-in-interest has complied in good faith with the terms and conditions of the development agreement. The burden of proof ~~shall be is~~ on the applicant or contracting party or the successor to demonstrate compliance to the full satisfaction of, and in a manner prescribed by, the City.

~~A.C.~~ A.C. Result of Periodic Review. If, as a result of a periodic review in compliance with this chapter, the City Planner finds and determines, on the basis of substantial evidence, that the contracting party or the successor-in-interest has not complied in good faith with the terms or conditions of the development agreement, the City Planner ~~shall notify the Planning Commission which may recommend to will notify~~ the City Council that the development agreement be terminated or modified.

~~The procedures for the termination or modification hearing shall comply with Section 21.44.030.~~

21.44.060. **Amendment or Cancellation of Development Agreement.**

A development agreement may be amended or canceled, in whole or in part, by mutual consent of all parties to the agreement, or their successor-in-interest, in compliance with ~~State law (Government Code Section 65868, as amended)~~, or as set forth in the agreement. The requested amendment or cancellation ~~shall will~~ be processed in the same manner specified by this chapter for the adoption of a development agreement.

~~21.44.090 Effect of Development Agreement:~~

~~Unless otherwise provided by the development agreement, the rules, regulations, and official policies governing allowed uses of the land, governing density, and governing design, improvement, and construction standards and specifications applicable to development of the property subject to a development agreement, are the rules, regulations, and official policies in force at the time of execution of the development agreement.~~

~~A development agreement does not prevent the City, in subsequent actions applicable to the property, from applying new rules, regulations, and policies which do not conflict with those rules, regulations, and policies applicable to the property under the development agreement. Further, a development agreement does not prevent the City from conditionally approving or denying any subsequent development project application on the basis of existing or new rules, regulations, and policies.~~

~~21.44.100 Public Record.~~

~~A copy of any relevant proposed or existing development agreement shall be made available for public review at the City Clerk's office prior to the date of each hearing thereon. Development agreements approved by the City Council shall be on file with the City Clerk.~~

21.44.070. Failure to Receive Notice.

The failure of any person entitled to notice required by law or this chapter to receive such notice ~~shall~~ does not affect the authority of the City to enter into nor invalidate a development agreement entered into by the City or other action taken under this chapter.

~~21.44.120 Subsequently Adopted State and Federal Laws.~~

~~All development agreements shall be subject to the regulations and requirements of the laws of the State, the Constitution of the United States and any codes, statutes or executive mandates and any court decisions, State or Federal, thereunder. In the event that any such law, code, statute, or decision made or enacted after a development agreement has been entered into prevents or precludes compliance with one or more provisions of the development agreement then such provisions of the development agreement shall be modified or suspended as may be necessary to comply with such law, code, statute, mandate or decision, and every such development agreement shall so provide.~~

21.44.080. Enforcement of Development Agreements.

Except as provided in this chapter or in the development agreement itself, a development agreement ~~shall~~ may be ~~enforceable~~ enforced by any party ~~thereto~~ notwithstanding any change in any applicable general or specific plan,

zoning, subdivision, or building regulation adopted by the City which alters or amends the rules, regulations, or policies ~~specified in Section 21.44.090.~~

~~21.44.140 Judicial Review—Time Limitation:~~

~~Any action or proceeding to attack, review, set aside, void, or annul any decision of the City taken pursuant to this chapter shall not be maintained by any person unless the action or proceeding is commenced within ninety (90) days after the date of the decision.~~

~~21.44.150 Condemnation:~~

~~All and every part of the development agreements are subject to condemnation proceedings and entering into such agreements are not intended to restrict the exercise of eminent domain.”~~

EXHIBIT B

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.



City Council Staff Report

DATE: October 7, 2020

AGENDA ITEM NO: Consent Calendar
Agenda Item 3-F

TO: The Honorable Mayor and City Council
FROM: Kelly Gordon, Chief of Police
SUBJECT: A resolution declaring the month of October as Breast Cancer Awareness Month

RECOMMENDATION:

It is recommended that the City Council consider:

1. Adopting a resolution declaring the month of October as Breast Cancer Awareness Month, and:
2. Taking such additional, related, action that may be desirable.

EXECUTIVE SUMMARY:

National Breast Cancer Awareness Month takes place every year during the month of October. It is an annual health campaign organized by major breast cancer charities to increase the awareness of the disease and to raise funds for research into its cause, prevention, diagnosis, treatment and cure.

BACKGROUND:

Breast cancer touches the lives of Monterey Park residents from every background. Though great strides have been made in combating this devastating illness about 42,170 women in the U.S. are expected to die in 2020 from breast cancer, though death rates have been decreasing since 1989. These decreases are thought to be the result of treatment advances, earlier detection through screening, and increased awareness. We recognize the ongoing efforts of dedicated advocates, researchers, and health care providers who strive each day to defeat this terrible disease.

The #PinkPatchProject is a collaborative effort between the Los Angeles County Police Chiefs' Association and numerous public safety agencies in Los Angeles County and beyond. The program centers on vibrant pink versions of the public safety officer's uniform patch. These bright pink patches have been specially designed by each participating agency specifically for the #PinkPatchProject campaign. The Monterey Park Police Department and Monterey Park Police Officers' Association (MPPOA) have partnered with the #PinkPatchProject. MPPD Officers will be wearing a pink version of the uniform patch in support of the awareness campaign in October. The pink patches are intended to stimulate conversation with the community and to encourage public awareness about the importance of early detection and the on-going fight against this

disease. All proceeds from the sale of the pink patch merchandise will be donated to cancer research.

Respectfully Submitted by:



Kelly Gordon
Chief of Police

Approved by:



Ron Bow
City Manager

ATTACHMENT:

1. Draft Resolution

ATTACHMENT 1

Draft Resolution

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MONTEREY PARK, CALIFORNIA DECLARING THE MONTH OF OCTOBER AS BREAST CANCER AWARENESS MONTH

The City Council does resolve as follows:

SECTION 1. The City Council finds and declares that:

- A. About 1 in 8 U.S. women (about 12%) will develop invasive breast cancer over the course of her lifetime.
- B. In 2020, an estimated 276,480 new cases of invasive breast cancer are expected to be diagnosed in women in the U.S., along with 48,530 new cases of non-invasive (in situ) breast cancer.
- C. About 2,620 new cases of invasive breast cancer are expected to be diagnosed in men in 2020. A man's lifetime risk of breast cancer is about 1 in 883.
- D. About 42,170 women in the U.S. are expected to die in 2020 from breast cancer, though death rates have been decreasing since 1989. Women under 50 have experienced larger decreases. These decreases are thought to be the result of treatment advances, earlier detection through screening, and increased awareness.
- E. For women in the U.S., breast cancer death rates are higher than those for any other cancer, besides lung cancer.
- F. Besides skin cancer, breast cancer is the most commonly diagnosed cancer among American women. In 2020, it's estimated that about 30% of newly diagnosed cancers in women will be breast cancers.
- G. As of January 2020, there are more than 3.5 million women with a history of breast cancer in the U.S. This includes women currently being treated and women who have finished treatment.
- H. The #PinkPatchProject is a collaborative effort between the Los Angeles County Police Chiefs' Association and numerous public safety agencies in Los Angeles County and beyond. The program centers on vibrant pink versions of the public safety officer's uniform patch.
- I. The pink patches are intended to stimulate conversation with the community and to encourage public awareness about the importance of early detection and the on-going fight against this disease.

SECTION 2. The City Council further declares:

- A. The Month of October as Breast Cancer Awareness Month and pause to remember all

those who are fighting this disease, including families and friends, advocates, researchers and health care providers as well as those we have lost to breast cancer.

- B. We encourage all our citizens to pursue early detection efforts.
- C. The Monterey Park Police Department and Monterey Park Police Officers' Association (MPPOA) have partnered with the #PinkPatchProject. MPPD Officers will be wearing a pink version of the uniform patch in support of the awareness campaign in October.
- D. All employees are encouraged to wear pink on Fridays in October as a show of support for breast cancer awareness.

SECTION 3. This resolution takes effect immediately upon its adoption.

PASSED, APPROVED, AND ADOPTED this 7th day of October, 2020.

Peter Chan
Mayor
Monterey Park, California

ATTEST:

Vincent D. Chang, City Clerk
Monterey Park, California

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. _____ was duly and regularly adopted by the City Council of the City of Monterey Park at a meeting held on the 7th day of October, 2020, by the following vote:

Ayes:
Naes:
Absent:
Abstain:

Dated this 7th day of October, 2020.

Vincent D. Chang, City Clerk
Monterey Park, California



City Council Staff Report

DATE: October 7, 2020

AGENDA ITEM NO: Consent Calendar
Agenda Item 3-G.

TO: The Honorable Mayor and City Council
FROM: Inez Alvarez, Assistant City Manager
Robert Aguirre, Recreation Manager
SUBJECT: Tree Memorial Program Recommendation for 2020

RECOMMENDATION:

It is recommended that the City Council:

1. Approve to honor Mr. David Kwok with a memorial tree;
2. Approve to honor Mr. Takeshi Yabiku on the Veterans War Memorial Monument;
and
3. Taking such additional, related action that may be desirable.

EXECUTIVE SUMMARY:

Nominations for the Tree Memorial Award were advertised and accepted during the month of February 2020. The Recreation and Community Services Department received three nomination applications; two for David Kwok, and one for Takeshi Yabiku.

Subsequently, the Tree Memorial Program Committee consisting of three Community Participation Commissioners and two Recreation and Parks Commissioners met to review the nominations of Mr. David Kwok and Mr. Takeshi Yabiku and discuss their consideration for a Tree Memorial based on the criteria established in Resolution Nos. 10485 and 11484 (Attachment A).

The Committee reviewed each nominee application. After reviewing the information provided on the nomination application for Mr. David Kwok (Attachment B), the committee voted unanimously to recommend City Council approve to honor Mr. Kwok with a Tree Memorial for his service and positive impact on the Monterey Park Community.

As for the nomination application for Takeshi Yabiku (Attachment C), the Committee is recommending City Council approve Mr. Yabiku be honored for his military service and for the ultimate sacrifice of his life for the defense of our country. Suggestions provided by the Committee included placing Mr. Yabiku's name on the Veterans War Memorial Monument in front of City Hall, which parallels the recognition of other community members military service or have City staff explore other options to honor Mr. Yabiku as well as other deceased Monterey Park veterans.

BACKGROUND:

In an effort to provide a fair and equitable process to honor individuals for their service to the community, the City Council established resolutions outlining the guidelines to conduct the Tree Memorial Program. A Program Committee consisting of three members of the Community Participation Commission and two members of the Recreation and Parks Commission met to review the nomination applications and make recommendations to the City Council.

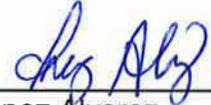
The first nominee, Mr. David Kwok is a long time resident, volunteer, and business leader. Mr. Kwok has served on Recreation & Parks Commission and the Community Participation Commission. David Kwok is also an Army veteran and supporter of the local American Legion Post 397. He has also been involved in numerous local charitable and community service clubs like Merci Foundation, and has supported the Monterey Park Bruggermeyer Library and West San Gabriel Valley Boys and Girls Club.

The second nominee, Mr. Takeshi Yabiku is a deceased veteran of the Vietnam War. In 1969 while serving in the US Army, Mr. Yabiku was awarded the Purple Heart for wounds received in action that resulted in his unfortunate death. During his military tenure he also received the Military Merit Medal, Gallantry Cross with Palm, Air Medal, National Defense Service Medal, Vietnam Service Medal, Vietnam Campaign Ribbon, Sharpshooter Badge with automatic rifle bars and the Marksman Badge with machine gun bar.

FISCAL IMPACT:

The Tree Memorial plaque, engraving on the Veteran's Was Memorial Monument, and ceremonies (when gatherings can resume) would cost approximately \$900 and funding is included in the FY 20-21 adopted budget in the Community Participation Division fund, account no. 1016508-5242.

Respectfully submitted by:

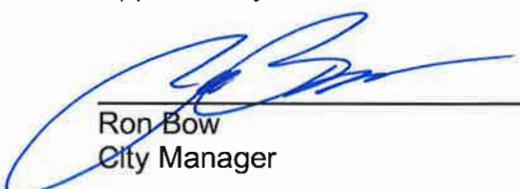


Inez Alvarez
Assistant City Manager

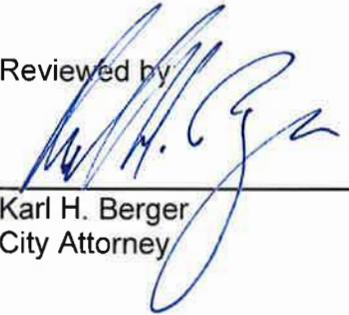
Prepared by:


Robert Aguirre
Recreation Manager

Approved by:



Ron Bow
City Manager

Reviewed by:


Karl H. Berger
City Attorney

ATTACHMENTS:

1. Resolution 10485 and 11484
2. Nomination of David Kwok
3. Nomination of Takeshi Yabiku

ATTACHMENT 1

Resolution 10485 and 11484

RESOLUTION NO. 10485

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MONTEREY PARK, CALIFORNIA TO ESTABLISH A TREE MEMORIAL NOMINATION AND AWARD

WHEREAS, the City of Monterey Park would like to acknowledge important and distinguished members of the City, by recognizing them with the dedication of a tree in their honor; and,

WHEREAS, on August 18, 1999 the City Council of Monterey Park directed staff to form a Committee, consisting of 2 members of the Recreation and Parks Commission and 2 members from the Historical Heritage Commission, to establish guidelines regarding an individual being considered for a Tree Memorial; and,

WHEREAS, members of the above mentioned Commissions have met and have submitted their recommendations to the City; and,

WHEREAS, City has incorporated these recommendations into a nomination process and award to honor such individuals; and,

WHEREAS, each February a committee of 3 members of the Historical Heritage Commission and 2 members of the Recreation and Parks Commission will be assembled as a Nomination Committee to accept applications for nominations; and,

WHEREAS, the Nomination Committee, will review nominations for an honor based on the submission of proper documentation and requirements, and, follow guidelines as set forth by the Tree Memorial Committee, and subsequent alternatives as recommended by staff; and,

WHEREAS, the Nomination Committee will make their recommendations to the City Council in April, with a dedication ceremony to be held in May, close to the anniversary of the City's Incorporation.

NOW, THEREFORE, BE IT RESOLVED that the City of Monterey Park hereby adopts the establishment of the Tree Memorial Nomination and Award, and designates staff to authorize a nomination committee as specified above to accept, review and nominate distinguished individuals as indicated in the following sections.

SECTION 1

MEMORIAL PLAQUE / TREE

Plaques to be consistent with plaques that are existing in front of City Hall. Trees that are to be purchased will be of similar type as existing. Cost for the plaques will be charged to the person or group who nominates the individual (\$500.00) City Council may waive fees at its discretion.

SECTION II

QUALIFICATIONS

The consideration for selection must include a substantial history of Community Service. For Example:

- A. Individual should have been a long term resident (10 years or more) in the City of Monterey Park, and should have provided a service benefit to the entire Community, in one or more of the following ways:
 - 1. Served on a City elected or appointed position for at least two terms or 5 years, whichever is greater;
 - 2. Voluntarily served the City as an officer, or board member of, one or more City recognized Service Clubs, volunteer community based organizations or other City service and charitable service organizations, which provide a direct service to Monterey Park residents;
 - 3. A long term community business leader who has served the Community through his/her financial or voluntary efforts to one or more service and charitable service organization or non profit organization in the City of Monterey Park for a period of no less than 10 years.
 - 4. An individual, resident or non resident, who has made a significant or cumulative and positive impact on the Community.
- B. The term "served" means that the individual must demonstrate an active role in providing a benefit to the Monterey Park Community, in addition to service to City service and charitable service organizations.
- C. Special consideration without regard to the above mentioned qualifications, should be given to an individual, resident or non resident, who has deceased while performing service to our community.

SECTION III

NOMINATION PROCESS

- A. Nominations to be submitted, accepted and considered only one time per year. No limit as to the number of years nominated. No limits imposed on the nomination committee as to how many individuals are recommended each year.
- B. Interested parties will be required to fill out an application which will require detailed justification for consideration, provide a picture and other suitable materials deemed necessary. In order to further determine merit, and to add significance to the prestige of the memorial, any individual whose name is put forth should be supported by at least three letters of reference by community members indicating the contribution made and significance, in their opinion.
- C. A nomination committee consisting of 5 members from the two Commissions, 3 Historical Heritage and 2 Recreation and Parks, shall be assigned to review the application and consider the qualifications.
- D. The time period for nominations are in February, with a selection and ceremony to be held in May, close to the anniversary of the City's incorporation.

PASSED AND APPROVED AND ADOPTED this 15th day of March, 2000.



Rita Valenzuela, Mayor
City of Monterey Park
California

ATTEST:



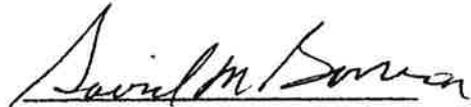
David M. Barron, City Clerk
City of Monterey Park,
California

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

I, David Barron, City Clerk of the City of Monterey Park, California, do hereby certify that the foregoing Resolution No.10485 Was duly and regularly adopted by the City Council of the City of Monterey Park at a meeting held on the 15 day of March , 2000, by the following vote:

AYES:	COUNCILMEMBERS:	CHU, BALDERRAMA, ALONSO, VENTI, VALENZUELA
NAES:	COUNCILMEMBERS:	NONE
ABSENT:	COUNCILMEMBERS:	NONE
ABSTAIN:	COUNCILMEMBERS:	NONE

Dated this 15th day of March , 2000.



David M. Barron, City Clerk
City of Monterey Park
California

RESOLUTION NO. 11484

**A RESOLUTION AMENDING RESOLUTION NO. 10485
REGULATING THE PROCEDURES FOR NOMINATIONS AND
ERECTING TREE MEMORIALS.**

BE IT RESOLVED by the Council of the City of Monterey Park as follows:

SECTION 1: The City Council finds as follows:

- A. In 2000, the Monterey Park City Council adopted a resolution to honor community members whose contributions have made a significant impact on the City of Monterey Park by establishing a Tree Memorial Program, and
- B. The City Council believes the display of these trees and plaques enhances City facilities and inspires citizens to contribute to their community; and
- C. It is in the public interest for persons recognized with a Tree Memorial to be so honored without the need for paying a fee.

SECTION 2: *Amendments.* Resolution No. 10485 is amended as follows:

- A. Section 1 is amended in its entirety to read as follows: "Plaques to be consistent with plaques that are existing in front of City Hall. Similar existing trees at Garvey Ranch Park will be used."
- B. Subsection A of Section 3 is amended in its entirety to read as follows: "Nominations may be submitted, accepted, and considered only once per year. There is no limit to the number of years in which a person may be nominated. Only three nominations will be recommended to the City Council per year. A person may only receive this honor once."

SECTION 3: *City Manager Authorization.* The city manager is authorized to promulgate administrative policies and procedures to implement and facilitate the directives set forth in this Resolution.

SECTION 4: This Resolution will become effective immediately upon adoption and will remain effective unless superseded or repealed.

PASSED AND ADOPTED this 2nd day of May, 2012.



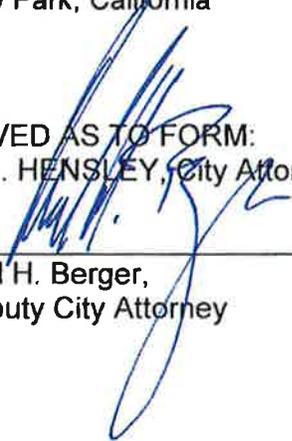
David Lau, Mayor
Monterey Park, California

ATTEST:



David Barron, CMC, City Clerk
Monterey Park, California

APPROVED AS TO FORM:
MARK D. HENSLEY, City Attorney

By: 

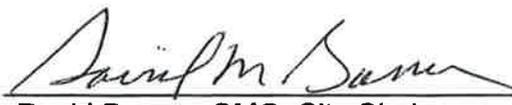
Karl H. Berger,
Deputy City Attorney

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) SS
CITY OF MONTEREY PARK)

I, DAVID M. BARRON, CMC, City Clerk of the City of Monterey Park, California, do hereby certify that the foregoing Resolution No. 11484 was duly and regularly adopted by the City Council of the City of Monterey Park at a meeting held on the 2nd day of May, 2012, by the following vote:

Ayes: Council Members: Chu, Wong, Real Sebastian, Ing, Lau
Naes: Council Members: None
Absent: Council Members: None
Abstain: Council Members: None

Dated this 2nd day of May 2012.



David Barron, CMC, City Clerk
Monterey Park, California

ATTACHMENT 2

Nomination of David Kwok



Recreation and Community Services
 320 West Newmark Avenue
 Monterey Park, CA 91754
 Telephone: (626) 307-1388
 Website: <http://www.montereypark.ca.gov>

APPLICATION FOR TREE MEMORIAL 2020

NAME OF INDIVIDUAL NOMINATED: David Kwok LIVING? Y (Y/N)

ADDRESS: [REDACTED]

NAME OF NOMINATING GROUP OR ORGANIZATION: San Gabriel Valley Entrepreneur Lions Club

CONTACT PERSON: David Lau, charter president & former mayor of MP

ADDRESS: [REDACTED] CITY: [REDACTED] ZIP: [REDACTED]

PHONE: [REDACTED] EMAIL: [REDACTED]

Nomination Process:

Please attach all materials, photos, documentation and letters to this application. The City will make every effort to return materials to the nominating authority listed, however, the City will not guarantee this or the condition of which the materials are returned. Please do not send original documents. Copies of these materials will be sufficient.

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Please provide at least one picture and other suitable materials deemed necessary. In order to further determine merit, and to add significance to the prestige of the memorial, any individual whose name is put forth should be supported by at least three letters of reference by community members indicating the contribution made and significance, in their opinion.

QUALIFICATIONS

(Monterey Park Resolution No. 10485 & 11484)

Individual should have been a long term resident (10 years or more) of the City of Monterey Park, and has provided a service benefit to the entire Community, in one or more of the following ways (check items that apply):

Served on a City elected or appointed position for at least two terms or 5 years, whichever is greater;

Voluntarily served the City as an officer, or board member of, one or more City recognized Service Clubs, Volunteer community based organizations or other City service and charitable service organization, which provide a direct service to Monterey Park residents;

A long term community business leader who has served the Community through his/her financial or voluntary efforts to one or more service and charitable service organization or non profit organization in the City of Monterey Park for a period of no less than 10 years.

An individual, resident ~~or non-resident~~, who has made a significant or cumulative and positive impact on the Community.

The term "served" means that the individual must demonstrate an active role in providing a benefit to the Monterey Park Community, in addition to service to the City and charitable service organizations.

Special consideration without regard to the above mentioned qualifications, should be given to an individual, resident or non resident, who has deceased while performing service to our community.

Nominations may be submitted, accepted, and considered only once per year. There is no limit to the number of years in which a person may be nominated. Only three nominations will be recommended to the City Council per year. A person may only receive this honor once.

Complete resolutions available at:
[https://grmservices.grmims.com/CityofMonterey/\(S\(mnoqvplvaun42o01n5f3jkce\)\)/orc.aspx](https://grmservices.grmims.com/CityofMonterey/(S(mnoqvplvaun42o01n5f3jkce))/orc.aspx)

David Kwok



Resident address:

Office address:

As a resident of Monterey Park, David Kwok has played an active role in the city since 1975. David is currently the chairman of Central Escrow Group which is headquartered in Monterey Park and includes 6 branches throughout Southern California with over 100 employees.

Over the past 45 years, David has been actively involved with Monterey Park with the following former positions:

- Community Participation – Commissioner
- Good Will Ambassador of California
- Park & Recreation of Monterey Park – Commissioner
- Southern California Government Association (SCGA) - Committee member representing Monterey Park area
- Monterey Park Chamber of Commerce - Director
- Salvation Army – Director
- Chinese Professional Association – Founding Director
- American Legion – supporter and leading donor for the Foreign War Monument placed in front of the Monterey Park City Hall.
- Boys and Girls Club – Supporter
- Monterey Park Library – Supporter
- Eastern International Bank – Founding Director
- Mayor’s Community Involvement Award – Recipient
- US Army – Honorable Discharge

City of Monterey Park



The City Council of the City of Monterey Park hereby extends to David Kwok, the "Mayor's Community Involvement Award." This award is given to individuals who make a significant contribution and are the backbone of our community. You are to be commended for your dedicated service and accomplishments in helping our city become the best it can be by creating a culture of responsibility and compassion. We thank you and wish you continued success and happiness in all your future endeavors.

Presented this 19th day of June, 2002

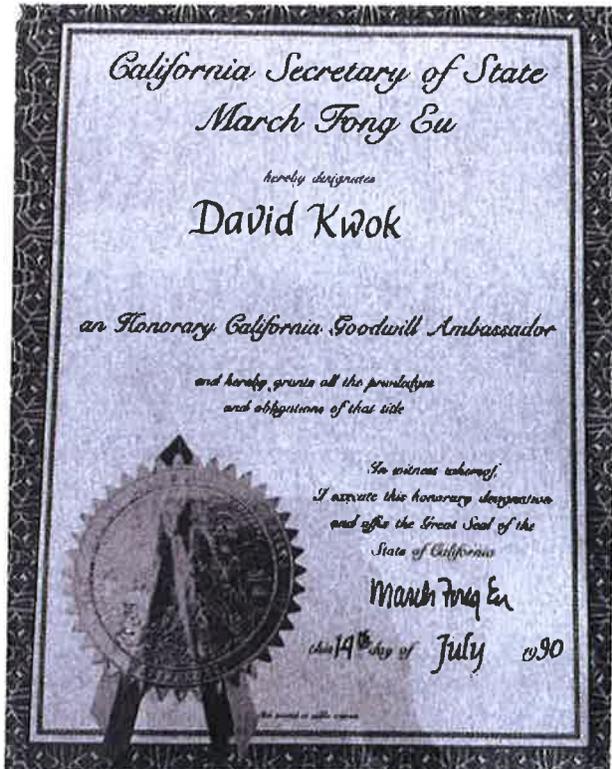
Fred Balderama
Fred Balderama, Mayor

David T. Lau
David T. Lau, Mayor Pro Tem

Sharon Martinez
Sharon Martinez, Council Member

Benjamin "Frank" Veni
Benjamin "Frank" Veni, Council Member

Francisco Alonso
Francisco Alonso, Council Member



Peter Chan

February 27, 2020

Recreation & Community Service
City of Monterey Park
320 W. Newmark Ave.,
Monterey Park, CA 91754

Re: Tree memorial for Mr. David Kwok

Dear Director Inez Alvarez,

I am writing to you to support Mr. David Kwok to have the honor for the Tree Memorial in the City of Monterey Park. The Tree Memorial is designated to honor Monterey Park residents who have contributed greatly to the City and the residents. Mr. David Kwok has been working in the community as City Commissioner, volunteer and contributed greatly to the City and the residents. Please give him the honor he so deserved. Thank you.

Sincerely,

Peter Chan
Council member



美國澳門總商會基金會

Macau Chamber of Commerce Foundation USA

February 26, 2020

Att: Tree Memorial Committee
Recreation and Park Department
320 W. Newmark Ave.
Monterey Park, CA 91754

RE: Recommendation of David Kwok For Tree Memorial Award

Dear Tree Memorial Committee,

I have known David Kwok, a Monterey Park resident over forty years, Mr. Kwok is an American veteran, a big supporter of the Monterey Park American Legion, a generous fund contributor to build the American Veteran Memorial monument on the front lawn of the city hall.

Among the involvement of many charitable organizations and community service clubs, Mr. Kwok served as Directors of Monterey Park Chamber of Commerce, Director of Salvation Army, Committee Member of SCGA, Goodwill Commissioner of California. Commissioner of Community Participation, Commissioner of Recreation and Park Commission, city of Monterey Park. A big supporter and fund donor of the Bruggermeyer Library, Boys and Girls Club, MERCI And American Legion.

Mr. David Kwok has been a resident and successful businessman employing over 100 people in The city of Monterey Park. I highly recommend him to be the recipient of the 2020 Tree Memorial Award.

Sincerely,

Anthony Wong

President

Macau Chamber of Commerce Foundation USA

Former Mayor, Monterey Park

Mailing address: [REDACTED]

Phone: [REDACTED]

Andrew Kwong
[REDACTED]

February 27, 2020

Recreation & Community Service
City of Monterey Park
320 W. Newmark Ave.,
Monterey Park, CA 91754

Re: Support Tree memorial for Mr. David Kwok

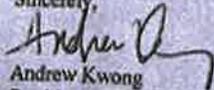
Dear Director Inez Alvarez,

It is my pleasure write a letter in support of Mr. David Kwok having the honor for the Tree Memorial in the City of Monterey Park.

As we know, the Tree Memorial is designated to honor Monterey Park residents who have contributed greatly to the City and the residents. Mr. David Kwok has been working in the community as different positions: City Commissioner of Community Participation and Park & Recreation of Monterey Park, Director of MP Chamber of Commerce, Good Will Ambassador of California, Director of Salvation Army, etc. volunteer and completed greatly to the City and the residents.

We all can see all his accomplishments. Please give him the honor what he deserved and thank you for his contribution.

Sincerely,



Andrew Kwong
President of San Gabriel Valley Entrepreneur Lions Club
Supervisory Board Chair of Chinese Consolidation Benevolent Association of Los Angeles

Alvarez, Inez

Subject: Tree Memorial Recommendation - David Kwok

From: Liang, Hans

Sent: Thursday, February 27, 2020 8:04 AM

To: Alvarez, Inez

Subject: Tree Memorial Recommendation - David Kwok

Inez,

Attached, please find my recommendation letter for David Kwok for tree memorial.

Apologies that I don't have a signature to scan for doc.

Hans

Hans Liang



February 27, 2020

Recreation & Community Service
City of Monterey Park
320 W. Newmark Ave.,
Monterey Park, CA 91754

Re: Tree memorial for Mr. David Kwok

Dear Director Inez Alvarez,

I am writing to support Mr. David Kwok as a 2020 recipient for a Tree Memorial in the City of Monterey Park.

Mr. David Kwok has served our community as a City Commissioner, volunteer and contributed greatly to the City and the residents. He is a deserving candidate for our Tree Memorial program here in the City of Monterey Park.

It is an honor for me to support and recommend Mr. David Kwok for this recognition.

Sincerely,

Hans Liang - Mayor
CITY OF MONTEREY PARK

Castillo, Sandy

From: Alvarez, Inez
Sent: Friday, February 28, 2020 8:18 AM
To: Recreation
Subject: Fwd: Application for Tree Memorial - David Kwok
Attachments: David Kwok Letter from Councilman Peter Chan.doc; ATT00001.htm; David Kwok letter from Anthony Wong.pdf; ATT00002.htm; David Kwok letter from Andrew Kwong.JPG; ATT00003.htm; David Kwok bio 2020 ..pdf; ATT00004.htm; APPL for Tree Memorial 2020 from David Kwok.pdf; ATT00005.htm

Begin forwarded message:

From: David Lau <votedlau@yahoo.com>
Date: February 27, 2020 at 11:38:38 PM PST
To: "Alvarez, Inez" <ialvarez@MontereyPark.ca.gov>
Subject: Application for Tree Memorial - David Kwok

[EXTERNAL EMAIL]

Dear Inez and Tree Memorial Committee Chair,

It is an honor & pleasure for me to write to you to nominate an outstanding resident , community leader & a highly successful businessman to be one of the recipients of the Tree Memorial Award for this year. I have known Mr Kwok for over three decades. He is a person with integrity, fairness, and passion to serve the City & the community as shown in his attached bibliography I.

He is undoubtedly our young people's role model & mentor. He is well respected & well liked by people who know him.

In view of his dedication, commitment & significant contributions to our City & the community, I want to highly recommend him, without any reservation, to your Committee as one of the recipients of this year's Tree Memorial Award. This is just a token appreciation for our residents &

City to show our gratitude for his invaluable services & numerous contributions to our City & community. Mr. Kwok is an unsound hero & definitely well deserves the honor of being an awardee of the Tree Memorial.

Attached please find Mr Kwok's brief summary of his background, work & business experience as well as his recent & past civic & community involvement & accomplishments . In addition, Please also find five more letters of recommendations from our City's current & former elected officials & community leader addressed to your Committee for your review.

I wish to thank you in advance for your Committee's consideration & approval of Mr. Kwok one of the awardees for this year's Tree Memorial. Should you have any questions or require additional information, please feel free to contact me.

Mayor Hans Liang and Councilmember Stephen Lam's letters of reference have been sent to you directly.

David Lau
Charter President of San Gabriel Valley Entrepreneur Lions Club
Former Mayor of City of Monterey Park
Former President of Garvey School District Board of Education

Board Member, LA County, Assessment Appeals Board

**Attachments: David Kwok's Application for Tree Memorial 2020
David Kwok's Biography
Letter from Councilmember Peter Chan
Letter from Former Mayor Anthony Wong
Letter from Andrew Kwong**



Recreation and Community Services
 320 West Newmark Avenue
 Monterey Park, CA 91754
 Telephone: (626) 307-1388
 Website: <http://www.montereypark.ca.gov>

APPLICATION FOR TREE MEMORIAL 2020

NAME OF INDIVIDUAL NOMINATED: David Kwok LIVING? Y (Y/N)

ADDRESS: [REDACTED]

NAME OF NOMINATING GROUP OR ORGANIZATION: Lams Education & Cultural Foundation

CONTACT PERSON: Stephen Lam, Chairman and Founder

ADDRESS: [REDACTED] CITY: [REDACTED] ZIP: [REDACTED]

PHONE: [REDACTED] EMAIL: [REDACTED]

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LAMS EDUCATION & CULTURAL FOUNDATION

February 27, 2020

Dear Nomination Committee,

Lams Education & Cultural Foundation is proud to nominate our long-time Monterey Park resident for over 40 years, Mr. David Kwok to receive the 2020 Tree Memorial reward from the City of Monterey Park.

Mr. David Kwok has been loyal to his country at a young age. He first joined the American military service in the army branch. His devotion and commitment to serve and protect American citizens were honored and we appreciate his excellent service. He continues to serve the local community and their fellow veterans through activities hosted by the American Legion Post 397. As a military service man, he puts his life at risk for us. He protects the freedom of assembly, freedom of speech, and freedom of religion for the people of his hometown. We are so proud of him for his dedication, commitment, and service to his community and this country.

Mr. David Kwok has dedicated and committed his time and funds to the Monterey Park Chamber of Commerce. He was elected as the board of directors of the chamber, where he organizes events and activities to promote local businesses. All of the activities that the Chamber of Commerce have done is for the benefit of local businesses, which in result, help the City of Monterey Park generate revenue and grow in its economy.

Mr. David Kwok has been contributing a tremendous amount of time and money to many non-profit foundations, such as the Salvation Army, the Monterey Park Library, the Boys and Girls Club, Merci Foundation, and Good Will. He is always thinking of other people and how to help those in need. Because of his efforts, leadership, and passion, he has created a harmonious and peaceful community. Therefore, we strongly recommend to the nomination committee that a tree should be dedicated to Mr. David Kwok for his excellent community service.

Sincerely,



Stephen Lam, Founder/Chairman
Lams Education & Cultural Foundation, Inc.

ATTACHMENT 3

Nomination of Takeshi Yabiku



Recreation and Community Services
320 West Newmark Avenue
Monterey Park, CA 91754
Telephone: (626) 307-1388
Website: <http://www.montereypark.ca.gov>

APPLICATION FOR TREE MEMORIAL 2020

NAME OF INDIVIDUAL NOMINATED: TAKESHI YABIKU LIVING? N (Y/N)

ADDRESS: _____

NAME OF NOMINATING GROUP OR ORGANIZATION: _____

CONTACT PERSON: AKIRA SCOTT YABIKU

ADDRESS: _____ CITY: _____ ZIP: _____

PHONE: _____ EMAIL: _____

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Thank you for your consideration for Takeshi Yabiku for Memorial Tree.

Living Tree in his name will forever live on to display Takeshi's commitment to his city, state, and to his country.

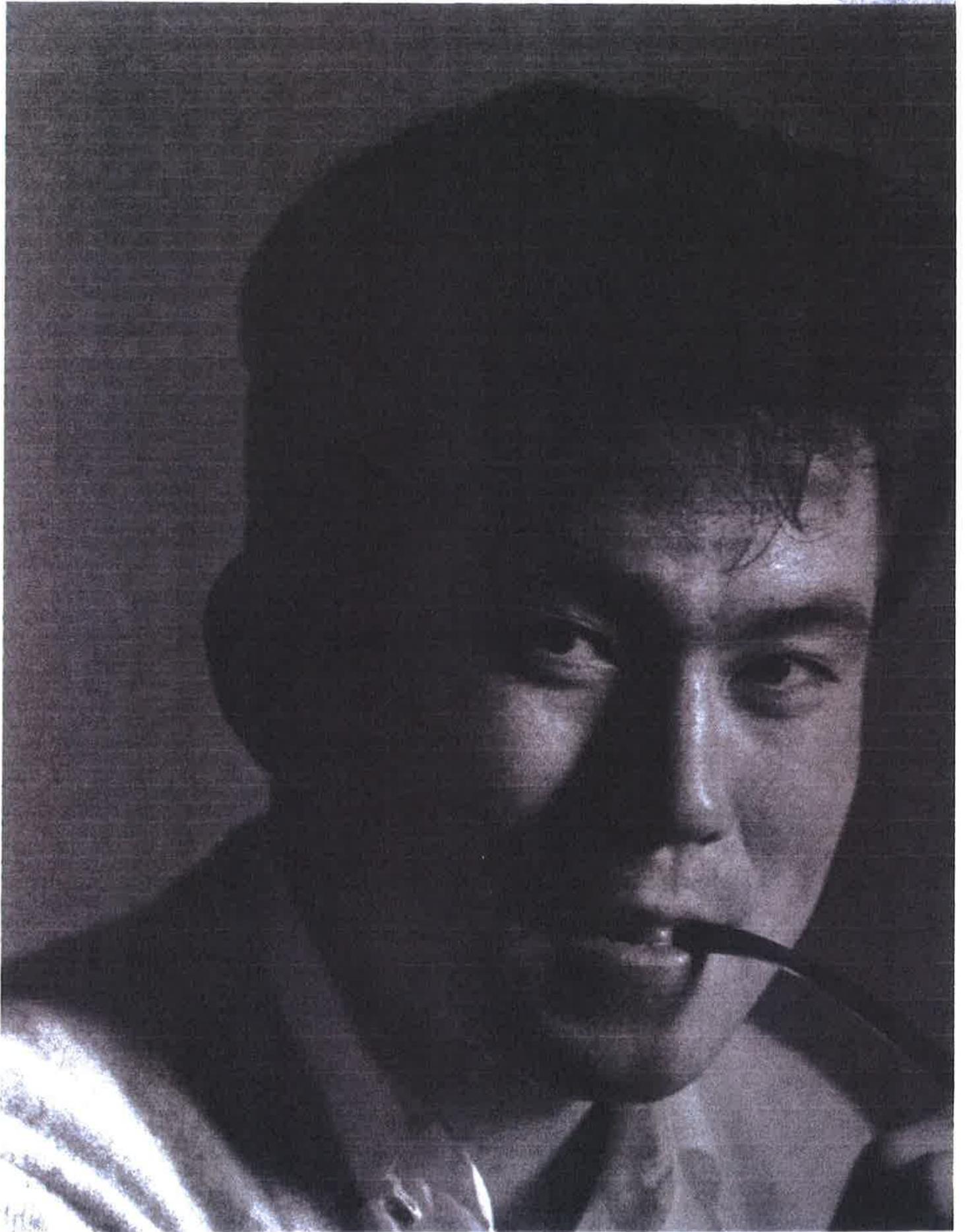
PFC Takeshi Yabiku

2nd Platoon Co. D 6/31st Infantry

9th Infantry Div

Killed in Republic of South Vietnam 1969

Mekong Delta





THE UNITED STATES OF AMERICA

TO ALL WHO SHALL SEE THESE PRESENTS, GREETING:

THIS IS TO CERTIFY THAT
THE PRESIDENT OF THE UNITED STATES OF AMERICA
HAS AWARDED THE

PURPLE HEART

ESTABLISHED BY GENERAL GEORGE WASHINGTON
AT NEWBURGH, NEW YORK, AUGUST 7, 1782
TO

SPECIALIST FOUR TAKESHI YABIKU, US 56 715 988, UNITED STATES ARMY

FOR WOUNDS RECEIVED
IN ACTION

IN VIETNAM RESULTING IN HIS DEATH ON 12 JANUARY 1969

GIVEN UNDER MY HAND IN THE CITY OF WASHINGTON
THIS 14TH DAY OF MARCH 1969

MAJOR GENERAL, USA
THE ADJUTANT GENERAL



SECRETARY OF THE ARMY



THE WHITE HOUSE
WASHINGTON

February 12, 1969

Dear Mrs. Yabiku:

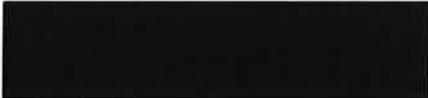
It was with profound regret that I learned of the death of your son, Specialist Four Takeshi Yabiku.

I realize the great sorrow you have been called upon to bear. It is my sincere hope that you will gain consolation from the memory of your son's unselfish dedication to our free world at a critical time when brave and dependable men were so urgently needed. Our country is grateful for your son's contribution to the cause of freedom.

Mrs. Nixon joins me in extending to you our sincere sympathy and you may be sure you will remain in our prayers.

Sincerely,



Mrs. Yukimi Yabiku




DEPARTMENT OF THE ARMY
OFFICE OF THE ADJUTANT GENERAL
WASHINGTON, D. C. 20315

AGPB-AC Yabiku, Takeshi
SSAN 554-68-1143 (12 Jan 69)

23 JUN 1970

Mrs. Yukimi Yabiku



Dear Mrs. Yabiku:

I have the honor to inform you that the Government of the Republic of Vietnam has awarded posthumously to your son the Military Merit Medal and the Gallantry Cross with Palm.

Arrangements are being made to have these awards delivered to you in the near future by a representative of the Commanding General, Sixth United States Army.

The representative selected will communicate with you in the next few weeks to arrange for delivery. Any inquiry or correspondence concerning delivery should be addressed to the Commanding General, Sixth United States Army, Presidio of San Francisco, California 94129.

My continued sympathy is with you.

Sincerely,

A handwritten signature in cursive script, appearing to read "Kenneth G. Wickham".

KENNETH G. WICKHAM
Major General, USA
The Adjutant General



DEPARTMENT OF THE ARMY
OFFICE OF THE ADJUTANT GENERAL
WASHINGTON, D. C., 20315

AGPB-AC Yabiku, Takeshi
US 56 715 988 (12 Jan 69)

19 MAR 1969

Mrs. Yukimi Yabiku
[REDACTED]

Dear Mrs. Yabiku:

I have the honor to inform you that your son has been awarded posthumously the Bronze Star Medal with First Oak Leaf Cluster for heroism, Purple Heart, Good Conduct Medal and the Combat Infantryman Badge.

Prior to death, Takeshi had been awarded the Air Medal, National Defense Service Medal, Vietnam Service Medal, Vietnam Campaign Ribbon, Sharpshooter Badge with automatic rifle and rifle bars and the Marksman Badge with machine gun bar.

Arrangements are being made to have these awards presented to you in the near future by a representative of the Commanding General, Sixth United States Army.

The representative selected will communicate with you in the next few weeks to arrange for presentation. Any inquiry or correspondence concerning presentation should be addressed to the Commanding General, Sixth United States Army, Presidio of San Francisco, California 94129.

My continued sympathy is with you.

Sincerely,

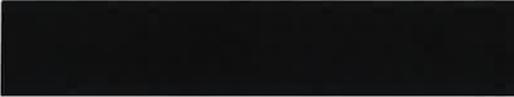
KENNETH G. WICKHAM
Major General, USA
The Adjutant General

HEADQUARTERS
UNITED STATES MILITARY ASSISTANCE COMMAND, VIETNAM
OFFICE OF THE COMMANDER
APO SAN FRANCISCO 96222



3 FEB 1969

Mrs. Yukimi Yabiku



Dear Mrs. Yabiku:

On behalf of the U. S. Military Assistance Command, Vietnam, I wish to extend my sympathy to you over the loss of your son, Specialist Four Takeshi Yabiku, United States Army, and express my condolences during your time of sorrow and bereavement.

It is my hope that you will find a measure of solace in knowing your son gave his life for a noble cause, the defense of liberty in the free world. Rest assured that we who remain here in Vietnam will continue our efforts to bring peace to this troubled land so that your son's sacrifice will not have been in vain.

Sincerely,

CREIGHTON W. ABRAMS
General, United States Army
Commanding

- PFC E3	- PAUL J. FLAHERTY	US51985161	US ARMY
- PFC E3	- STEPHEN H. DEMERJIAN	US54827516	US ARMY

2. As of 8 January 1969

- WO 1	- JON P. ROCHE	W3160828	US ARMY
- PSG E7	- ANGEL L. GONZALEZ-MADERA	RA50128698	US ARMY
- PSG E7	- JOHN C. FITZWATER	RA13687953	US ARMY
- SGT E5	- BILLY E. SMITH	US53452877	US ARMY
- SP4 E4	- JAMES L. WOLTER	US56504057	US ARMY
- SP4 E4	- BILL F. WILLIAMS	RA12809710	US ARMY
- SP4 E4	- WILLIAM B. OFFERDAHL	RA18860415	US ARMY
- SP4 E4	- RONALD L. DAVIDSON	US53581571	US ARMY
- PFC E3	- HARRY SIMS	US67193761	US ARMY
- PFC E3	- STANLEY S. GASTON	RA11889906	US ARMY
- PFC E3	- ALLAN B. HILL	US56721489	US ARMY
- PFC E3	- LEO S. GORLASKI	RA68033348	US ARMY

3. As of 9 January 1969

- SFC E7	- BOBBY J. DUNHAM	RA18555994	US ARMY
- SGT E5	- THOMAS C. MANN	US52814130	US ARMY
- SGT E5	- JOHN R. CAMPBELL	US54818047	US ARMY
- SP4 E4	- REX W. BLISARD	US54565883	US ARMY
- SP4 E4	- JUAN BAUZA-PEREZ	US67194107	US ARMY
- SP4 E4	- FRANCIS C. SULLIVAN	RA11624582	US ARMY
- SP4 E4	- LEAVY C. SOLOMON	US67077062	US ARMY
- SP4 E4	- TODD L. WOOD	US56834749	US ARMY
- SP4 E4	- MICHAEL J. TESSARO	US56594794	US ARMY
- SP4 E4	- RICHARD C. SEE	RA18913985	US ARMY
- SP4 E4	- JOE E. GRAYSON	US67074795	US ARMY
- SP4 E4	- WILLIAM M. RIDDLE	RA16683676	US ARMY
- SP4 E4	- BRUCE B. HARTMAN	US56504617	US ARMY
- PFC E3	- DENNIS H. HAYNES	US53950158	US ARMY
- PFC E3	- MARTIN R. JOHNSON	US54833354	US ARMY
- PFC E3	- LEE R. BRUCE JR	US51673465	US ARMY
- PFC E3	- DARRELL E. MILLER	US51883754	US ARMY
- PFC E3	- ANTHONY J. DEBONO	RA11828359	US ARMY
- PFC E3	- BERNARD G. HITRO JR	US51779126	US ARMY
- PFC E3	- CRAIG J. LOFTUS	RA66005956	US ARMY
- PFC E3	- JOHN M. ROUSCHER	US51918861	US ARMY

4. As of 10 January 1969

- SGT E5	- ROBERT G. HAYES	US53527581	US ARMY
- SGT E5	- FRANCIS X. DE VILLE	US51880132	US ARMY
- SP4 E4	- MATTHEW W. THORNTON	RA11932930	US ARMY
- SP4 E4	- TAKESHI YABIKU	US56715988	US ARMY
- SP4 E4	- RUDY R. TAYLOR	US56717515	US ARMY
- SP4 E4	- MELVIN REED JR	US56722831	US ARMY
- SP4 E4	- CONRAD J. KUFFEL	US56502669	US ARMY
- SP4 E4	- TERRANCE D. J. FRANCIS	US54826415	US ARMY

- SP4 E4 - MICHAEL A. FONTAINE RA12870319 US ARMY
- PFC E3 - NORMAN L. VON AHRENS US51836989 US ARMY

THESE POSTHUMOUS AWARDS ARE TO INCLUDE THE GALLANTRY CROSS WITH PALM

ARTICLE II.- The Prime Minister and the Minister of Defense are charged with the execution of this Decree.

Saigon, 2nd December 1969
Signed: NGUYEN VAN THIEU

OFFICIAL
DIRECTOR GENERAL FOR ADMINISTRATION
Signed: NGUYEN DINH XUONG

CERTIFIED COPY
Saigon, 16 December 1969
Chief of Correspondence
Office of the Prime Minister
PHAM VAN PHANG
/Signed and Sealed/

I certify that this is a true translation.



Chief, MACAV Translation Division



City Council Staff Report

DATE: October 7, 2020

AGENDA ITEM NO: Consent Calendar
Agenda Item 3-H.

TO: The Honorable Mayor and City Council
FROM: Frank A. Lopez, Interim Director of Public Works/City Engineer
SUBJECT: Emergency Repairs of Water Main and Roadway on Verde Vista Drive

RECOMMENDATION:

It is recommended that the City Council consider:

1. Adopting a resolution declaring an emergency and authorizing contracting without the need for bidding pursuant to Public Contracts Code §§ 20168 and 22050;
2. Authorizing the City Manager, or designee, to (a) execute a public works contract between the City of Monterey Park and a qualified contractor(s), for roadway and asphalt repairs on Verde Vista Drive, in a form approved by the City Attorney; and (b) Appropriate funds from the Water Capital accounts from the current fiscal year budget to cover the cost of these repairs;
3. Authorizing the Interim Director of Public Works to approve change orders and contingency as appropriate up to 15% of the contract amount for this project; and
4. Taking such additional, related action that may be desirable.

CEQA (California Environmental Quality Act):

The emergency and extended repairs are categorically exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to 14 California Code of Regulations § 15269 (emergency repair to this public facility is necessary to maintain service essential to the public, health and welfare) and § 15301 (Existing Facilities). The extended repairs would result in minor alterations to existing public facilities involving no significant expansion of the existing use. The project is not anticipated to have any significant impacts with regard to traffic, noise, air quality, or water quality. There are adequate utilities and public services to serve the project.

EXECUTIVE SUMMARY:

On Sunday September 27, 2020 Public Works staff received a report of a City water main break at approximately 7:30 AM. Staff responded and found a significant amount of water flowing up from under the roadway, later estimated at over 700,000 gallons. Additionally, the roadway appeared to begin buckling and sinking as the large amount of water caused the soil to be unearthed and consequently undermining the roadway. Attached is the City Manager's administrative declaration of emergency.

BACKGROUND:

On Sunday September 27, 2020 Public Works staff received a report of a City water main break at approximately 7:30 AM. Staff responded and found a significant amount of water flowing up from under the roadway, later estimated at over 700,000 gallons. Additionally, the roadway appeared to begin buckling and sinking as the large amount of water caused the soil to be unearthed and consequently undermining the roadway.

At approximately 9:30 AM, City staff was finally able to shutdown the water main and begin repairs of the damaged pipe. Water service was restored at around 5:30 PM after which staff proceeded to make temporary repairs to the roadway to allow residents to exit their driveways.

Approximately 350 Linear Feet of roadway from Barranca Drive East to 1923 Verde Vista Drive remains severely undermined and therefore was closed to through traffic. Staff has determined that major rehabilitation of the subsurface and asphalt must be made to permanently repair the road. Additionally, City staff is repairing compromised portions of water service laterals connected to the water main and may exceed typical expenditures for similar repairs due to quantity.

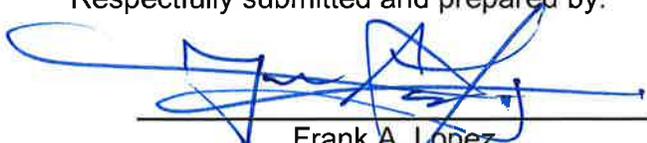
The City does not yet have a firm dollar figure or contractor for this project. While it is an emergency, and the City caused temporary measures to be installed to ensure continued water service and access to homes the City is seeking the lowest dollar figure with the most qualified contractor.

Adopting the proposed resolution will ratify the City Manager's directions during the emergency, authorize staff to execute the appropriate contract with a qualified contractor and restore the roadway and water main to a safe condition.

FISCAL IMPACT:

The Project will be paid for using Water funds.

Respectfully submitted and prepared by:



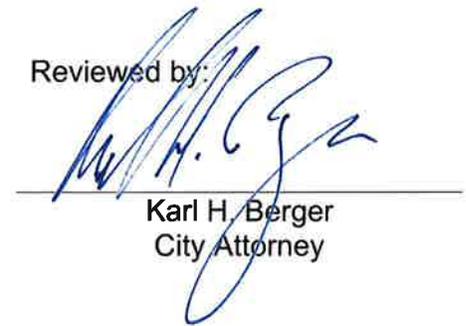
Frank A. Lopez
Interim Director of Public Works

Approved by:



Ron Bow
City Manager

Reviewed by:



Karl H. Berger
City Attorney

ATTACHMENT(S):

1. Declaration of Emergency
2. Resolution No. _____

ATTACHMENT - 1
Declaration of Emergency



CITY OF MONTEREY PARK

City Manager's Office

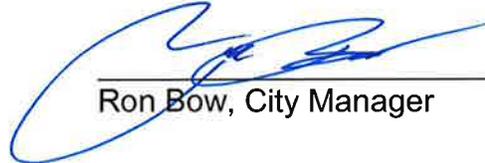
DECLARATION OF EMERGENCY

The City Manager finds:

That conditions of extreme peril to the safety of persons and property have arisen within the City of Monterey Park, as a result of a water main breach generally located at 1945 Verde Vista Drive, commencing on or about September 27, 2020, 9:00 AM.

These conditions of extreme peril warrant and necessitate the proclamation of the existence of a local emergency.

Accordingly, pursuant to Monterey Park Municipal Code § 2.52.060(a)(1), a local emergency is proclaimed to exist within the City of Monterey Park. This action will be taken to the City Council for conformation within seven days.



Ron Bow, City Manager

OCT 1, 2020, 1525 HRS.
Date/Time

ATTACHMENT - 2
Resolution No. _____

RESOLUTION NO. _____

A RESOLUTION ADOPTED PURSUANT TO PUBLIC CONTRACTS CODE § 20168 FINDING THAT AN EMERGENCY EXISTS WITHIN THE CITY AND AUTHORIZING CONTRACTING WITHOUT THE NEED FOR BIDDING PURSUANT TO § 22050 AND MONTEREY PARK MUNICIPAL CODE (“MPMC”) CHAPTER 2.52 AND FINDING THAT THE PROJECT IS EXEMPT FROM REVIEW UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT AS AN EMERGENCY REPAIR.

The City Council does resolve as follows:

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

- A. Pursuant to Public Contracts Code (“PCC”) § 20168, the City Council may, upon a four-fifths vote, declare that public interest and necessity demand the immediate expenditure of public money to safeguard life, health, or property because of an emergency.
- B. In accordance with PCC §§ 20168 and 22050, the City Council may repair or replace a public facility, take any directly related and immediate action required by that emergency, and procure the necessary equipment, services, and supplies for those purposes, without giving notice for bids to let contracts.
- C. Conditions of extreme peril to the safety of persons and property arose on or about September 27, 2020 as a result of a break in an 8-inch asbestos concrete pipe water main.
- D. The break, generally located at 1945 Verde Vista Drive, allowed over 700,000 gallons of water to be released below and above ground causing severe undermining of approximately 350 linear feet of roadway and damage to portions of the pipe (the “emergency”). Additionally, residents were without water for several hours while City crews repaired the break.
- E. In compliance with applicable law, and to protect public, health, safety and welfare, the City Manager caused the Public Works Director to take immediate emergency action to restore water service, and initiate repairs of the pipe and roadway in accordance with Monterey Park Municipal Code (“MPMC”) Chapter 2.52.
- F. The emergency constitutes a sudden and unexpected occurrence that posed a clear and imminent danger to the City property, its citizens, and employees. This threat required immediate action to prevent or mitigate the loss or impairment of essential public services.
- G. Under such emergency conditions, the City Council finds that the delay resulting from public bidding would imperil essential public services.

Resolution No. _____
Page 1 of 4

- H. The City Council recognizes that California law, including, without limitation, *Melton v. City of San Pablo* (1967) 252 Cal.App.2d 794 and *In re Cindy B. v. Eugene B.* (1987) 192 Cal.App.3d 771, allows legislative actions to be retroactively applied when the legislative intent for such retroactivity is clear.

SECTION 2: *Environmental Assessment.* The emergency and extended repairs are categorically exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to 14 California Code of Regulations § 15269 (emergency repair to this public facility is necessary to maintain service essential to the public, health and welfare) and § 15301 (Existing Facilities). The extended repairs would result in minor alterations to existing public facilities involving no significant expansion of the existing use. The project is not anticipated to have any significant impacts with regard to traffic, noise, air quality, or water quality. There are adequate utilities and public services to serve the project.

SECTION 3: *Declaration of Emergency; Ratification of Previous Actions.* Based upon the entirety of the administrative record, the City Council finds that the emergency constitutes an imminent threat to public health and safety that requires immediate action. Accordingly, the City Council ratifies the actions of the City Manager by and through the Public Works Director to take all steps necessary to protect public health, safety and welfare including, without limitation, awarding contracts in accordance with PCC § 22050 and MPMC Chapter 2.52.

SECTION 4: *Design Immunity; Authorization.* In an abundance of caution and to ensure compliance with Government Code § 830.6, the City Council finds as follows:

- A. The design and plans for the extended repairs are determined to be consistent with the City's standards and are approved.
- B. The design approval set forth in this Resolution occurred before actual work on the extended repairs commenced.
- C. The approval granted by this Resolution conforms with the City's General Plan.
- D. The City Engineer, or designee, is authorized to act on the City's behalf in approving any alterations or modifications of the design and plans approved by this Resolution.
- E. The approval and authorization granted by this Resolution is intended to avail the City of all applicable immunities including those set forth in Government Code § 830.6.

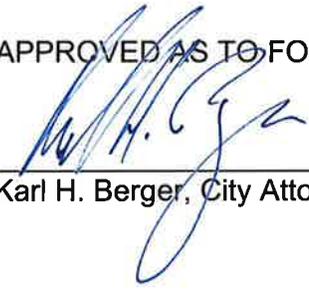
SECTION 5: *Retroactivity.* The City Council specifically intends that this Resolution be retroactively effective since September 27, 2020.

SECTION 6: This Resolution will become effective immediately upon adoption and remain effective unless superseded by a subsequent resolution.

PASSED AND ADOPTED this ____ day of October 2020.

Peter Chan, Mayor

APPROVED AS TO FORM:



Karl H. Berger, City Attorney

Resolution No. _____
Page 3 of 4

CERTIFICATION

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 whole number of members of the City Council of the said City is five; that the foregoing resolution, being RESOLUTION NO. _____ was duly passed and adopted by the said City Council, approved and signed by the Mayor of said City, and attested by the City Clerk of said City, all at a regular meeting of the said Council held on the _____ day of June, 2019, and the same was so passed and adopted by the following vote:

- AYES:
- NOES:
- ABSENT:
- ABSTENTION:
- NOT PARTICIPATING:

WITNESS MY HAND THE OFFICIAL SEAL OF SAID CITY this _____ day of _____, 2019.

Vincent D. Chang, City Clerk
Of the City of Monterey Park,
California
(SEAL)



City Council Staff Report

DATE: October 7, 2020

AGENDA ITEM NO: New Business
Agenda Item 5-A

TO: Honorable Mayor and Members of the City Council

FROM: Martha Garcia, Director of Management Services

SUBJECT: Pension Obligation Bond Update

RECOMMENDATIONS:

It is recommended that the City Council:

1. Receive and file the report; and
2. Take such additional, related, action that may be desirable.

EXECUTIVE SUMMARY:

On September 2, 2020 the City Council retained UFI Financial Solutions as municipal advisor, Ramirez & Co., Inc. to serve as Senior Managing Underwriter, Stifel to serve as Co-Managing Underwriter, Stradling Yocca Carlson & Rauth to serve as Bond and Disclosure Counsel, Bartel and Associates to serve as consulting actuary, and HdL Companies to serve as property tax consultant in connection with the proposed issuance of Pension Obligation Bonds (the "POBs"). Based on the June 2020 CalPERS valuation reports, the City's UAL as of June 30, 2019 is \$43,319,901 and \$65,327,608 for the miscellaneous and safety plans respectively for a total of \$108,647,509.

Traditionally, issuing POBs requires a trip to court for a judicial validation. However, based on a legal review by the City's bond counsel the validation process completed by the City in 2004 allows for the issuance of "additional bonds". As a result, the City is not required to validate the proposed issuance of additional POBs.

The ability to move forward without a new validation has several positive impacts including the following:

- The legal fees of \$25,000 and court costs of approximately \$5,000 which would have been incurred for the validation are no longer required;
- The financing timeline can be accelerated by 3-4 months; and
- While we will not know the interest rate or actual savings until bonds are sold, assuming a POB interest rate of 3.5% versus the CalPERS discount rate of 7%, each month the financing can be accelerated saves \$343,511. A three (3) month acceleration of the schedule could save the City an additional \$1,030,533.

The next phase of the financing is the preparation of legal and bond financing documents. Based on the schedule below, staff and the financing team are estimating document completion and presentation to the City Council in the month of December with the bond closing occurring in late December or early January 2021.

BACKGROUND:

As of the June 30, 2019 actuarial valuation, the City had a total UAL of \$108,647,509, comprised of approximately \$43.320 million for Miscellaneous employees and approximately \$65.328 million for Safety employees. UFI and City staff will continue to work together to evaluate the most efficient and beneficial approach to refinance all or a portion of the City's UAL through issuance of the POBs.

To authorize the sale of the bonds, staff and the financing team must prepare several documents, which will be brought back for Council consideration at a public meeting in December, 2020. Those items include an authorizing resolution which among other legal and disclosure matters includes a not-to-exceed amount for the principal amount and true interest cost (TIC) for the Bonds. Other documents, as described below include a Bond Purchase Agreement, Good Faith Estimate, Preliminary Official Statement, Continuing Disclosure Certificate and First Supplement to the 2004 Trust Agreement.

Bond Purchase Agreement

The POBs will be sold by the City to the Underwriters previously approved by the Council on September 2, pursuant to a Bond Purchase Agreement. Upon the pricing of the POBs, the Bond Purchase Agreement will be finalized to reflect the terms and conditions upon which the POBs will be sold.

SB 450 Good Faith Estimate

In accordance with California Government Code Section 5852.1, the good faith estimate provides the City and community with estimated interest rates, costs of the financing and annual and total debt service payments. The good faith estimate was prepared by Urban Futures, Inc., the City's Municipal Advisor, in consultation with the Underwriters.

Preliminary Official Statement

The Preliminary Official Statement (the "POS") is the "offering document" for the POBs, and is required to be made available to investors pursuant to federal securities laws. The POS must include all information that would be material to a prospective investor's decision whether to purchase the Bonds. While the City's Bond and Disclosure Counsel, Municipal Advisor, and the Underwriters have participated in preparing the POS, the City Council and City staff are ultimately responsible for ensuring that the POS contains all material information, is accurate, contains no misleading information and does not omit any information necessary to make the POS not misleading to investors.

Continuing Disclosure Certificate

Executed for the benefit of bondholders, the Continuing Disclosure Certificate obligates the City to file the most recent audited financial statements of the City and to update

certain financial information set forth in the POS. The City is also required to report certain events which are significant to bondholders when they occur.

First Supplement to Trust Agreement

The First Supplement to the 2004 Trust Agreement contains provisions pertaining to the terms of the POBs, including maturity schedule, interest rates and redemption provisions. The First Supplement amends the Trust Agreement executed in connection with the issuance of the 2004 POBs, which provides for the establishment and maintenance of certain funds and accounts (including a debt service reserve account) and the rights and duties of the Trustee. The Trust Agreement will be finalized following the pricing of the POBs and execution of the Bond Purchase Agreement, to reflect the final terms of the POBs.

PROPOSED FINANCING SCHEDULE:

Initially the financing schedule assumed bonds would be issued in March 2021. Because the validation process is not required for the issuance of POBs, the financing schedule has been accelerated and staff and the City’s financing team now believe POBs can be issued as early as December 2020 (see preliminary financing schedule below).

Preliminary Financing Schedule

Oct 7	POB Update Given to Council
Oct 13 – Oct 27	Bartel pension tax override calculations
Oct 27	Distribute 1 st draft of Preliminary Official Statement (POS) and Legal Documents
Oct 29	Conference Call to review 1 st draft of POS and structuring options presented to team
Nov 5	Circulate 2 nd draft of POS and Legal Documents & Circulate 1 st draft of rating presentation
Nov 12	Circulate 2 nd draft of rating presentation and 3 rd draft of POS
Nov 18	Credit package submitted to rating agencies and bond insurers
Nov 20	Credit rating presentations
Dec 1	Rating and bond insurance bids due; bond insurer selected
Dec 2	City Council final approval of POS and to sell bonds
Dec 9	Pre-Pricing Call
Dec 10	Price Bonds
Dec 22	Pre-Closing
Dec 23	Closing

FISCAL IMPACT:

As stated above, the previous valuation action completed in 2004 allowing for the issuance of additional bonds will accelerate the POB financing timeline by roughly 3

months saving the City over \$1M in interest costs. The unfunded accrued liability (UAL) savings estimate resulting from the issuance of bonds will be updated based on current taxable municipal interest rates when financing documents are presented to the City Council in December.

Respectfully Submitted and prepared by:



Martha Garcia
Director of Management Services

Approved by:



Ron Bow
City Manager

Reviewed by:



Karl H. Berger
City Attorney



City Council Staff Report

DATE: October 7, 2020

AGENDA ITEM NO: New Business
Agenda Item 5-B

TO: The Honorable Mayor and City Council
FROM: Police Chief Kelly Gordon
Fire Chief Matt Hallock
SUBJECT: Consideration and possible action to approve a Resolution approving the fine schedule for violations of the Monterey Park Municipal Code

RECOMMENDATION:

It is recommended that the City Council consider:

1. Adopting a resolution establishing fines for misdemeanor and infraction violations of the Monterey Park Municipal Code; or
2. Take such additional, related action that may be desirable.

CEQA (California Environmental Quality Act):

Adoption of this Resolution is exempt from the California Environmental Quality Act ("CEQA") under CEQA Guidelines § 15061(b)(3) because it can be seen with certainty that there is no possibility that the Resolution may have a significant effect on the environment.

BACKGROUND:

Most violations of the Monterey Park Municipal Code ("MPMC") constitute a misdemeanor that may be punished by a \$1000 fine, six months in jail, or both (MPMC § 4.10.010). This reflects California law (Government Code § 36900 and Penal Code § 802).

The MPMC does allow the City Council to establish penalties in amounts lower than \$1000 for misdemeanors (MPMC § 4.10.020). California law also allows the City Council to establish various penalties for violations of the MPMC that regulate vehicle traffic.

If adopted, the draft Resolution would establish a fine schedule that sets fine amounts less than \$1000 for some violations. For MPMC sections not listed within the schedule, the default \$1000 fine could be imposed for a misdemeanor violation. For infraction violations, the MPMC establishes a default fine schedule of \$100/\$200/\$500.¹

¹ This is slightly higher for violations of the building code and other safety regulations.

Updating the fine schedule will allow the MPPD and MPFD to issue misdemeanor or infraction citations with uniform penalties.

Please note that this fine schedule is different than fines established for administrative citations. Any updates to that fine schedule will be addressed in a future City Council meeting.

FISCAL IMPACT:

Adopting the Resolution itself will not have an identifiable fiscal impact. The City will receive revenue from those fines paid by persons receiving citations. It is difficult to predict exactly how much money, however, the City will receive from such fines.

Respectfully submitted by:



Kelly Gordon, Police Chief



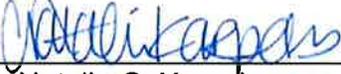
Matt Hallock, Fire Chief

Approved by:

Reviewed by:



Ron Bow
City Manager



Natalie C. Karpeles,
Deputy City Attorney

Attachments:

1. Resolution

ATTACHMENT 1

Draft Resolution

RESOLUTION NO. _____ -

A RESOLUTION ADOPTING A FINE SCHEDULE PURSUANT TO GOVERNMENT CODE § 36900 AND MONTEREY PARK MUNICIPAL CODE § 4.10.020.

The City Council of the city of Monterey Park does resolve as follows:

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

- A. Government Code § 36900 and Monterey Park Municipal Code (“MPMC”) § 4.10.020 allow the City Council to establish fine amounts for misdemeanor violations of the MPMC (MPMC § 4.10.040 establishes fine amounts for infractions);
- B. Relatedly, Vehicle Code §§ 22507.6 (street sweeping); 40000.1(violations as infraction); 40000.28 (misdemeanor upon three or more convictions); 40200 (parking violations subject to civil penalty); and 40203.5 (establishing penalty amounts) provide that the City Council may establish penalties for various violations related to parking, standing, and stopping of vehicles with the City’s jurisdiction; and
- C. To ensure uniform application of penalty amounts that may differ from the standard \$1000 per violations allowed by Penal Code § 802 and MPMC § 4.10.020, the City Council finds it is in the public interest to adopt this Resolution.

SECTION 2: The fine amounts (collectively, “fines”) attached as Exhibit “A” to this Resolution are adopted as the City’s fine schedule for purposes of imposing fines for misdemeanor violations of the MPMC.

SECTION 3: *Preservation.* Repeal or amendment of any previous fine schedule does not affect any penalty, forfeiture, or liability incurred before, or preclude prosecution and imposition of penalties for any violation occurring before this Resolution’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 Resolution.

SECTION 4: *Severability.* If any part of this Resolution 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 provision or application and, to this end, the provisions of this Resolution are severable.

SECTION 5: The Mayor, or presiding officer, is authorized to sign this Resolution signifying its adoption by the City Council of the City of Monterey Park and the City Clerk, or her duly appointed deputy, may attest thereto.

SECTION 6: This Resolution 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 7: This Resolution will become effective immediately upon adoption and will remain effective unless repealed or superseded.

SECTION 8: The City Clerk is directed to mail a copy of this Resolution to the Applicant and to any other person requesting a copy.

PASSED, APPROVED, AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF MONTEREY PARK ON THIS 7th DAY OF OCTOBER 2020.

Peter Chan, Mayor

ATTEST:

Vincent D. Chang, City Clerk

APPROVED AS TO FORM:
KARL H. BERGER, City Attorney

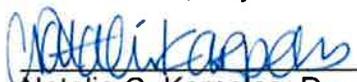
By: _____
Natalie C. Karpeles, Deputy City Attorney

EXHIBIT A

Fine Schedule

MPMC SECTION	DESCRIPTION	FINE AMOUNT
5.08.130	Posting of business license required	\$200
5.08.240	Identification card required to operate mechanical amusement device	\$200
5.64.060	Pawnbrokers and second-hand dealers must report to MPPD as required by MPMC	\$200
5.72.020	Taxicab certificate required before operation	\$200
5.72.350	Taxicab permit may not be transferred	\$200
6.08.030(a)	Unlawful depositing of refuse prohibited	\$250
6.08.035	Collection and disposal of solid waste by mobile food facilities required	\$250
9.21.020	Public dancehalls must be brightly lit during hours of operation	\$200
9.21.040	Dance instructions prohibited in private room or booth to any member of the opposite sex	\$200
Chapter 9.28	Alarms	\$200
9.51.010	Threatening or intimidating persons from entering a location, using goods, or obtaining service prohibited	\$200
9.51.030	Using lumber or wood more than 1/8 inch in thickness to demonstrate/rally/picket/etc. prohibited	\$200
9.57.010	Holding/participating in parade without a permit, unlawful	\$200/\$500/\$1000
Chapter 9.63	Damage to public property prohibited	\$500
9.89.020	Selling tobacco products by means of self-service display, unlawful	\$500
Chapter 9.93	Sale and display of narcotics and other paraphernalia to persons under 18, prohibited when	\$500
9.99.040	Renting harmful material to minors, prohibited	\$100 ¹
10.12.030	Unauthorized traffic direction, prohibited	\$200
Chapter 10.20	Traffic control devices	\$200
Chapter 10.24	Turning movements	\$200
10.40.010	Driving through funeral procession,	\$200

¹ Per MPMC § 9.99.060.

	prohibited	
10.40.050	Driving on restricted access roadways prohibited	\$200
10.44.020(B)	Parking of vehicles over 6000 lbs. on streets not designated as truck traffic routes, prohibited; Parking vehicles on streets designated as traffic truck routes not to exceed two hours	\$65
10.44.030(B)	Designated truck routes must be obeyed	\$500
10.46.010	Driving oversize vehicle without permit prohibited	\$500
10.48.020	Stopping, standing or parking vehicles in parkway, prohibited	\$55
10.48.030(A)	Parking vehicle on street/alley for more than 72 hours, prohibited	\$55
10.48.040(A)	Parking vehicle on roadway for purpose of sale, prohibited	\$55
10.48.040(B)	Parking vehicle on roadway for washing/repair prohibited	\$60
10.48.045	Repair shop parking vehicles on street, prohibited	\$90
10.48.050(B)	Parking in any manner other than permitted by signs/markings prohibited	\$55
10.48.060(B)	Parking adjacent to school contrary to posted sign, prohibited	\$55
10.48.070(B)	Parking on narrow street contrary to posted signs, prohibited	\$55
10.48.080	Parking on hills incorrectly, prohibited	\$55
10.48.090(A)	Stopping or parking prohibited at any place within 25 feet of an intersection	\$60
10.48.090(B)	Parking prohibited within 25 feet of the approach to any traffic signal	\$55
10.48.090(C)	Parking prohibited at any place determined necessary to prevent traffic hazard	\$55
10.48.100(A)	Vending from vehicle for more than 10 minutes prohibited (unless subject to exemptions)	\$55
10.48.110	Parking/standing vehicles where emergency parking signs are present	\$55
10.48.130	Parking vehicles in violation of business-district parking restrictions	\$55
10.48.140	Violating parking time limit on enumerated streets	\$55
10.48.150(A)	Parking vehicle in violation of City Council parking restrictions	\$60

10.48.150(B)	Parking vehicle in violation of street sweeping	\$60
10.48.160	Parking during certain times/hours contrary to posted signs	\$55
10.48.170	Parking prohibited at all times on certain streets	\$55
10.48.175	Parking in disabled parking without plates/placards	\$373
10.48.180	Unauthorized parking on private property prohibited	\$70
10.48.190	Parking vehicle on off-street restricted facility prohibited	\$60
10.48.200	Parking vehicle of excess capacity in residential zone prohibited	\$90
10.48.205	Overnight parking in business districts from two a.m. to five a.m. prohibited	\$55
10.48.215(A)	Parking vehicles which restrict sight or constitute hazard on certain streets prohibited	\$55
10.48.220	Parking vehicle in residential zone that constitutes public nuisance	\$75
10.52.050	Stopping, standing, or parking vehicle in white loading zone for purpose other than loading, prohibited	\$55
10.52.060	Parking in alley for purpose other than loading, prohibited	\$55
10.52.070(F)	Parking any vehicle except a bus in bus zone	\$150
10.56.030	Pedestrian not crossing at right angles	\$100
10.60.040	Second-hand bicycle retailers required to make daily report to police department regarding from whom bicycle obtained	\$200
10.60.050	Removal/alteration of City bicycle license prohibited	\$50
10.60.070	Riding/parking bicycle on sidewalk or more than 5 feet from curb prohibited	\$50
10.60.080	Riding on handlebars prohibited	\$50
10.64.050(A)	Unlawful to park or stand oversized vehicle in residential area or for more than 2 hours in business area	\$55
10.64.060(A)	Unlawful to park any trailer attached to a vehicle upon street in a residential or business area	\$55
10.64.060(B)	Parking unhitched trailers prohibited	\$55
12.04.090	Parking on park property	\$55
12.04.130	Parking in locations other than those	\$58

	specifically designated for such use	
14.08.090	Water customer may only supply water to occupants of premises	\$500/\$1000
Title 17	Any violation of fire code	\$500 ²

Note:

Per MPMC § 4.10.020, “[p]ersons convicted of a misdemeanor, the penalty for which is not otherwise prescribed, will be punished by a fine not to exceed one thousand dollars; by imprisonment for not more than six months; or by both a fine and imprisonment for each violation of this code.”

Per MPMC § 4.10.040, “[e]ach infraction is punishable as follows: (a) A fine not exceeding one hundred dollars for the first violation; (b) A fine not exceeding two hundred dollars for a second violation of the same provision within one year; and (c) A fine not exceeding five hundred dollars for each additional violation of the same provision within one year of the first violation.”

Per MPMC § 4.20.060, violations of building and safety regulations, will have fines imposed as follows:

1. A fine not exceeding one hundred thirty dollars (\$130.00) for the first violation;
2. A fine not exceeding seven hundred dollars (\$700.00) for a second violation of the same provision within one year;
3. A fine not exceeding one thousand three hundred dollars (\$1,300.00) for each additional violation of the same provision within one year of the first violation, or a fine not exceeding two thousand five hundred dollars (\$2000.00) for each additional violation of the same provision within two years from the date of the first violation (if the property is a commercial building and the violation is due to failure by the owner to remove visible refuse or prohibit unauthorized use of the property).

² Per MPMC § 17.03.010.



City Council Staff Report

DATE: October 7, 2020

AGENDA ITEM NO: New Business
Agenda Item 5-C

TO: The Honorable Mayor and City Council
FROM: Kelly Gordon, Police Chief
SUBJECT: Adoption of Ordinances amending the Monterey Park Municipal Code to regulate special event permits within the City.

RECOMMENDATION:

It is recommended that the City Council consider:

1. Adopting an urgency Ordinance regulating special event permits within the City;
2. Waive first reading and introducing an Ordinance regulating special event permits within the City; and
3. Take such additional, related, action that may be desirable.

EXECUTIVE SUMMARY:

A review of the existing regulations in the Monterey Park Municipal Code ("MPMC") show that the process for approving special events is antiquated. It is crucial – particularly in the current circumstances – that the public and the City's officials are clearly informed regarding how to conduct special events; ensure that such events do not unduly interfere with the normal flow of vehicle and pedestrian traffic; protect public health, safety, and property; and promote the public's right to engage in constitutionally protected activities.

BACKGROUND:

The City has issued special event permits for a variety of events and activities over the years. However a formal process is needed to improve consistency and communicate with the public how to apply for and conduct special events. These Ordinances would govern the application process and special event permit requirements.

Recent experiences in major metropolises such as Seattle, Portland, and Washington, D.C., show that it is vital that cities be well-prepared to properly respond to public sentiment regarding the current affairs while also protecting private/public property, health, and safety.

The adoption of the urgency ordinance and regular ordinance will ensure that the City continue to immediately accept special event permit applications while protecting public

health, safety, and property and promote the public's right to engage in constitutionally protected activities.

FISCAL IMPACT:

There are no additional expenses anticipated with adoption of this ordinance. The City currently processes special event permits with existing staff. Any additional costs for City services related to special event permitting would be absorbed by the permittee.

Respectfully submitted by:



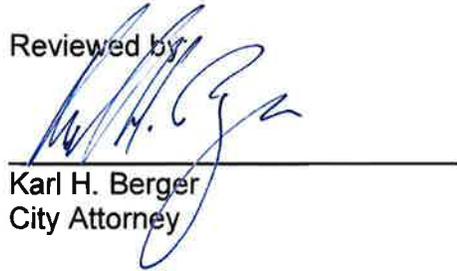
Kelly Gordon
Police Chief

Approved by:



Ron Bow
City Manager

Reviewed by:



Karl H. Berger
City Attorney

ATTACHMENT(S):

1. Urgency Ordinance No. XX
2. Ordinance No. XX

ATTACHMENT 1

Urgency Ordinance No. XX

ORDINANCE NO. _____

AN URGENCY ORDINANCE AMENDING MONTEREY PARK MUNICIPAL CODE CHAPTER 9.57 IN ITS ENTIRETY AND REPEALING SECTION 9.51.030 TO REGULATE SPECIAL EVENTS WITHIN THE CITY.

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 and national protests related to the "Black Lives Matter" movement; the Presidential Election to be held on November 3, 2020; protests related to the economic downturn resulting from the Emergency; and additional unrest that is associated with existing (and anticipated) record-high unemployment rates and bankruptcy;
- D. Recent experiences in major metropolises such as Seattle, Portland, and Washington, D.C., show that it is vital that cities be well-prepared to properly respond to public sentiment regarding the current affairs while also protecting private/public property, health, and safety;
- E. A review of the existing regulations in the Monterey Park Municipal Code ("MPMC") show that the process for approving special events is antiquated. It is crucial – particularly in the current circumstances – that the public and the City's officials are clearly informed regarding how to conduct special events; ensure that such events do not unduly interfere with the normal flow of vehicle and pedestrian traffic; protect public health, safety, and property; and promote the public's right to engage in constitutionally protected activities; and
- 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).

SECTION 2. Chapter 9.57 of the Monterey Park Municipal Code (“MPMC”) is amended in its entirety to read as follows:

“Chapter 9.57

SPECIAL EVENT PERMITS.

§ 9.57.010 Purpose.

This chapter is adopted pursuant to the city’s police powers and California Vehicle Code § 21101(e), and any succeeding statute, for the purpose of regulating parades, athletic events, block parties and public assemblies on or within a city street, parking facility, sidewalk or other public right-of-ways that obstruct, delay or otherwise interfere with the normal flow of vehicle or pedestrian traffic, or which do not comply with applicable traffic laws or controls.

§ 9.57.020 Definitions.

Unless the contrary is stated or clearly appears from the context, the following definitions will govern the construction of the words and phrases used in this chapter.

- G. “Athletic event” means any event where a group of persons collectively engage in a sport or form of physical exercise on or within a city street, parking facility, sidewalk, or other public right-of-way, including, without limitation, jogging, running, racing, bicycling, rollerblading, and roller skating.
- H. “Block party” means a noncommercial sociable gathering on a local, not arterial or collector, street or area requiring partial or complete street closure to vehicular traffic and use of the street for the festival.
- I. “City Manager” means the City Manager or designee.
- J. “Director” means the Public Works Director, or designee.
- K. “Event” means any parade, athletic event, block party, or public assembly that may require partial or complete street closure to vehicular traffic and use of the street for the event.
- L. “Free speech” means activity protected by the First Amendment of the United States Constitution and/or Article 1, Section 2 of the California

Constitution provided that such activity is a significant part of the event.

- M. "Group" means two or more individuals.
- N. "In writing" means telegram, facsimile, electronic mail or any other written document.
- O. "Parade" means any organized march or organized procession of animals, vehicles or persons on or within a city street, parking facility, sidewalk or other public right-of-way.
- P. "Permittee" means a person or entity to which the city issues a permit pursuant to this chapter.
- Q. "Public assembly" means any group of people participating in an organized activity on or within a city street, parking facility, sidewalk or other public right-of-way, other than a group of people participating in an athletic event, block party or parade.
- R. "Public right-of-way" includes, without limitation, real property owned or leased by the City of Monterey Park. Examples include, without limitation, public parks and open areas at City Hall.
- S. "Public safety officer" has the same definition as set forth in Government Code § 3301, and any successor statute.

§ 9.57.030 Administration by Director.

The Director will receive applications, issue and revoke permits, and otherwise implement this chapter according to the procedures herein.

§ 9.57.040 Notices.

- A. Where this chapter require that an applicant/permittee be provided notice, such notice will be served when personally delivered to such applicant/permittee; when electronically mailed to the last known email address; or when deposited in the first class U.S. Mail, addressed to such applicant/permittee at the applicant/permittee's last known address.
- B. Unless otherwise provided, written notification to a permittee/applicant of a permit decision will state with particularity the basis for such decision.

§ 9.57.050 Permit requirements.

- A. Without a valid permit issued pursuant to this chapter, it is unlawful for any

person to conduct, sponsor, or knowingly participate in any event on or within any city street, sidewalk, parking facility, or other public right-of-way that obstructs or interferes with the normal flow of vehicular or pedestrian traffic or which does not comply with applicable traffic laws or controls.

- B. A permit is not valid until the Director receives the applicant's written acceptance in accordance with this chapter.

§ 9.57.060 Exceptions.

A special event permit is not required for a parade consisting of a vehicular funeral procession or wedding procession.

§ 9.57.070 Fees.

- A. Except as otherwise provided by federal, state, or local laws, or other City Council authorized restrictions, all fees applicable to this chapter including, without limitation, fees for using public property, will be established by City Council resolution.
- B. Charges will be imposed for city services provided to a permittee other than public safety and emergency services. Such charges will be determined by the applicable servicing city department(s) and will be based on the actual cost incurred by the city in providing such services. Such service charges will include, without limitation, charges for labor, supervision, overhead, administration and using city equipment or supplies. Additional charges may be imposed to cover the cost of extraordinary permit investigation and staff costs, if the Director determines this necessary.
- C. **Traffic Control Fee.** Permittee will pay the city a fee in an amount equal to the city's total estimated costs for providing all of the personnel and materials, including, without limitation, public safety personnel, necessary to control and monitor pedestrian and vehicular traffic for such event. Such fee will be paid by the permittee before the Director issues a permit. The traffic control fee may be waived by the Director for any permit authorizing an event involving an exercise of free speech rights. Such waiver may be granted only upon a showing of the applicant's inability to pay, which will be supported by a financial declaration.
- D. **Fee Waivers.** Upon an applicant's request, the Director may, but is not required to, seek a fee waiver from the City Council for an event. Fees may only be waived for the following applicants:
 - 1. Non-profit groups with current Internal Revenue Code 501(c)(3) or

501(c)(6) status, government agencies, and public schools; or

2. Community service groups or organizations without current Internal Revenue Code 501(c)(3) status where the City Council, by resolution, determines that the proposed event provides services that meet community needs and it is in the public interest to waive such fees.

§ 9.57.080 Right of Administrative Review.

Except as otherwise provided, an applicant may request administrative review of the Director's decision pursuant to this chapter.

§ 9.57.090 Time for Administrative Review.

- A. Except as otherwise provided, a request for review must be commenced within five days from the date on which written notice of the Director's decision is served on the applicant/permittee.
- B. If request is untimely, the Director may, nevertheless, extend the time for commencing such review for good cause shown.

§ 9.57.100 Commencement of Administrative Review.

A request for administrative review will be on a form provided by the Director and contain the following information:

- A. The name, address and telephone number of the person making the request;
- B. A description of the decision, determination or order which is the subject of the review, and the date such decision, determination or order was made or issued;
- C. A brief description of all grounds for making the request; and
- D. Such other information as may be required by the Director.

§ 9.57.110 Administrative Review.

- A. Upon request for administrative review being filed, the Director will provide a copy of the notice to the City Manager within two business days.
- B. Upon receiving a request for review from the Director, the City Manager will review the request and, within 10 business days of receiving the

request notice, provide the appellant with a written notification that:

1. The Director's decision is affirmed;
 2. The Director's decision is modified;
 3. The Director's decision is reversed and a permit is issued or issued without special conditions.
- C. The City Manager may, but is not required to, conduct a hearing at a time and place determined at the City Manager's sole discretion.
- D. In addition to other provisions of this chapter, any notification to the requestor must set forth any modifications of the Director's decision.

§ 9.57.120 City Council Appeal.

Unless otherwise provided, an applicant may appeal the City Manager's decision to the City Council within 10 days of that decision as provided elsewhere in this code or by city policy and procedure.

§ 9.57.130 Permit Application – Form and Content – All Events.

- A. Permit applications will be filed by a natural person.
- B. Permit applications will be in a form prescribed by the Director and, for all events, will contain the following information:
1. The name, mailing address, and daytime and evening telephone numbers of the person filing the application;
 2. If the event is to be conducted by an organization, the name, mailing address, and daytime telephone number of the organization; and if requested by the Director, written documentation of the authority under which the applicant is applying for the permit on behalf of the organization;
 3. The name, mailing address, and daytime telephone number of the person who will be present during, and responsible for, the event;
 4. The name, mailing address, and daytime and evening telephone number of any workers to be employed during the event;
 5. 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;
6. The nature of the event;
 7. The proposed date and estimated starting and ending time of the event;
 8. The proposed location of the event, including its boundaries;
 9. The estimated number of participants in the event;
 10. The type and estimated number of vehicles, animals and structures that will be used in the event;
 11. A description of any sound amplification equipment to be employed at the event;
 12. The number, size, and material of construction of any signs or banners to be used in the event;
 13. The parking requirements for the event;
 14. The location of any water, first aid, or comfort stations to be provided at the event;
 15. The type and number of any vendors who will sell food, beverages or other goods or services at the event for which a business license is required by this code;
 16. The type of entertainment;
 17. Any temporary structure(s) including, without limitation, stages for performances and entertainment; and
 18. Location and number of portable restroom facilities.

§ 9.57.140 Additional Information Required for Parades.

In addition to the information required in this chapter, every application for a parade will include the following information:

- A. The time when units of the parade will begin to assemble;
- B. The proposed assembly point for the parade;

- C. The proposed parade route;
- D. The interval space to be maintained between units of the parade; and
- E. The number, types and size of floats.

§ 9.57.150 Additional Information Required for Block Parties.

In addition to the information required by this chapter, every applicant for a block party will include the following information:

- A. The number of occupied houses within the proposed block party boundaries;
- B. A drawing of the street layout, block party boundaries and proposed barricades; and
- C. The written consent for the block party of at least 2/3 of the property owners/residents on the street within the affected area. The petition must clearly state the time, date, place and sponsor of the event. The name, address, telephone and signature of the persons giving consent must be included.

§ 9.57.160 Supplemental Information Required by the Director.

In addition to the information required by this chapter, applications for all permits authorizing an event will include such supplemental information which the Director may find reasonably necessary, given the nature of the event, in order to determine whether to approve or deny a permit authorizing such event in the manner hereinafter provided by this chapter.

§ 9.57.170 Action on Permit Application – Review by City Officers.

- A. After an event permit application is filed, the Director will immediately forward the application to Directors, or designees (collectively “reviewing officers”), whose departments are affected by the proposed event for their recommendations. The reviewing officers must include the Fire Chief, Police Chief, and Risk Manager.
- B. Upon receiving an application, the reviewing officers will consider the application, conduct any necessary investigation, and provide the Director with written recommendations regarding:
 - 1. Any special conditions for a permit;

2. Whether, based on the scope of the proposed event, a pre-event operational meeting is required. Should such a meeting be necessary, the Director will notify the applicant of the time and place of the meeting within a reasonable time before the event; and
 3. Any additional recommendations.
- C. The reviewing officers must complete their review within the time that the Director must make a decision on the application.

§ 9.57.180 Time Requirements – Events.

- A. Except as provided in this chapter, completed applications for a permit authorizing an event must be filed in the Director's office at least:
1. Seventy days before the date of such event to ensure administrative and City Council appeals;
 2. Thirty days before the date of such event, in which case the applicant will waive its ability for a City Council appeal; or
 3. A lesser time period approved by the Director provided that there is sufficient time to process the application pursuant to this chapter. Any applicant submitting an application pursuant to this section less than 30 days before an event waives the administrative review and City Council appeal.
- B. Except as provided in this chapter, completed applications for a permit authorizing an event will be denied, approved, or conditionally approved by the Director within 15 business days after receiving the completed application. Following his/her decision, the Director will promptly attempt to notify the applicant orally and will provide written notification to the applicant.
- C. Unless otherwise provided, the applicant's acceptance of the approval or conditional approval must be received by the Director within five business days after the applicant was served with notification of the decision. Failure of affected persons to receive actual notice of an event after permittee has provided reasonable notice will not invalidate a permit.

§ 9.57.190 Time Requirements – Block Parties.

- A. Completed applications for a permit authorizing a block party:
1. Will be filed in the Director's office at least 15 business days before

the date of such event or 10 business days if the applicant wishes to waive his/her administrative review rights;

2. Will be denied, approved, or conditionally approved by the Director within seven business days after receiving the application. The Director will promptly attempt to notify the applicant orally and provide written notification to the applicant and City Manager.
- B. Applicant's acceptance of the approval or conditional approval must be received by the Director within three business days after the applicant is served with notice. Failure to accept the decision or to timely file a request for administrative review will be deemed a withdrawal of the application.
- C. If the applicant filed a completed application at least 15 business days before the event and the permit is denied or conditioned, the applicant may request an administrative review to the Director in writing within three business days of being served with notice of the decision.
- D. Applicant will be deemed to have waived his/her administrative review rights should the applicant fail to:
1. Submit a completed application at least 15 days before the event;
 2. Fail to request review of the Director's decision; or
 3. Fail to attend the administrative hearing personally or through an authorized representative.
- E. The Director's decision is a final determination. There will be no right of City Council appeal.

§ 9.57.200 Time Requirements – Free Speech Event.

- A. Completed applications for a permit authorizing a free speech event:
1. Will be filed in the Director's office at least two business days before the date of such event to ensure an administrative review. The Director may, but is not required to, accept a completed application less than two business days before an event upon good cause shown. Applications will not be accepted less than 24 hours before an event.
 2. Will be denied, approved, or conditionally approved by the Director within one business day after receiving the application. The Director will promptly attempt to notify the applicant orally and provide written

notification to the applicant and City Manager. Such notice will provide detailed facts and reasons for any denial or conditional approval.

3. The Director will consult with the city attorney's office before denying, or specially conditioning, a permit for a free speech event.
- B. Applicant's acceptance of the approval or conditional approval must be received by the Director at least 24 hours before the event except for good cause shown. Failure to accept the Director's decision or to timely file an administrative review request will be deemed a withdrawal of the application.
 - C. The applicant may appeal to the City Manager in writing within one business day of either oral or written notification, whichever is first.
 - D. An administrative hearing will be held at a time and place mutually agreeable to the parties. If the parties cannot agree on the time or place, then it will be held the next business day after the Director's decision at 4:00 P.M. either electronically or in the City Manager's office. The City Manager will issue a decision orally at the conclusion of the hearing and will also notify the applicant and the Director in writing of the City Manager's decision. Any notification will describe, with particularity, the facts and reasons supporting the decision.
 - E. The City Manager's decision is a final determination. There will be no right of City Council appeal.
 - F. Applicant waives administrative review rights should the applicant fail to:
 1. File a completed application at least two days before an event;
 2. Seek review of the Director's decision; or
 3. Attend the administrative hearing personally or through an authorized representative.

§ 9.57.210 Action on Permit Application – Permit Issuance.

- A. The Director must issue a permit if
 1. The application was complete in accordance with this chapter;
 2. There are no grounds for denying the permit; and

3. Applicant accepts the permit approval or conditional approval in writing.
- B. Use of any permit issued pursuant to this chapter will conform to the general permit conditions of this chapter and, if applicable, special permit conditions reasonably deemed necessary by the Director to protect public, safety or welfare. Such special conditions may include, without limitation, conditions for controlling pedestrian or vehicle traffic and for protecting public or private property.

§ 9.57.220 Action on Permit Application – Permit Denial.

A permit may be denied for the following reasons:

- A. The application is incomplete;
- B. The applicant failed to provide reasonable supplemental application information requested by the Director;
- C. Information submitted by the applicant is materially false;
- D. Applicant seeks approval for an event that is so close in time and location to another event scheduled for the same date as to cause unreasonable traffic congestion or to overextend public safety or emergency services;
- E. The event's time, route, or method will unreasonably interrupt the safe and orderly movement of traffic contiguous to the site or route of the event;
- F. The concentration of persons, animals, or vehicles at the event, or at the site of an assembly or disbanding, prevents public safety or emergency services from reaching areas at or contiguous to the event;
- G. The size of the event will overextend public safety or emergency services to the extent that the safety of event participants, attendees, or the remainder of the city will be seriously jeopardized. This provision does not authorize denying a permit because of the need to protect participants from the conduct of others if reasonable permit conditions can be imposed;
- H. The event consists of a parade that will not move from its point of origin to its point of termination in three hours or less;
- I. The location of the event will substantially interfere with construction or maintenance work previously scheduled to take place on or along the city street, parking facility, sidewalk or other public right-of-way to be occupied

by the event;

- J. The event will occur along a route or location adjacent to a hospital or extended care facility, and the noise created by the event would substantially disrupt the operation of the hospital or extended care facility or disturb the patients within;
- K. The event will occur at a time when a school is in session and along a route or at a location adjacent to the school or a class thereof, and the noise created by the activities of the event will substantially disrupt the educational activity of such school or class;
- L. The decorative material on parade floats is not fire resistive or flame retardant or motorized parade floats and towing apparatus are not provided with portable fire extinguisher readily accessible to the operator, as provided in the latest adopted edition of the California Fire Code, or any similar provision in subsequent revisions of such code;
- M. The application is not timely submitted and there is insufficient time to investigate and process the application pursuant to the timelines herein.

§ 9.57.230 Alternative time, place, or manner.

If the Director denies a permit for an event that would be acceptable by changing the event's time, place, or manner, then the Director will inform the applicant of such alternatives. Should the applicant accept the alternative time, place, or manner then the Director will issue a permit in accordance with this chapter.

§ 9.57.240 General Permit Conditions – Indemnification Agreement.

Permittees must execute a hold harmless agreement in a form approved by the city attorney which will, in part, indemnify city, its officers, employees, and agents, from any liability arising from permittee's event in a form approved by the city attorney's office. Such agreement must be filed with the Director before a permit is issued.

§ 9.57.250 General Permit Conditions – Liability Insurance.

- A. Insurance Requirements. Permittee must obtain the insurance required by City Council resolution.
- B. Waiver of Insurance Requirements. The insurance required by this section must be waived by the Director for any permit authorizing an event involving an exercise of free speech rights.

§ 9.57.260 General Permit Conditions – Notice To Adjoining Property Owners.

Permittees must attempt to notify all affected persons, by any reasonable means, regarding the event's nature, date, and time as specified by the Director. Failure of the permittee to give such notice will not invalidate a permit.

§ 9.57.270 Special Permit Conditions.

- A. Grounds for Special Permit Conditions. The Director may condition a permit with reasonable requirements concerning the time, place, or manner of holding such event as necessary to protect the safety of persons and property or to control vehicular and pedestrian traffic in and around the site of the event, provided that these requirements will not be imposed in a manner that will unreasonably restrict the exercise of free speech rights.
- B. Conditions may include, without limitation, the following:
 - 1. Assembly or disbanding area for a parade;
 - 2. Accommodating an event's pedestrian and vehicular traffic, including restricting events to city sidewalks, portions of a city street, parking facility, or other public right-of-way;
 - 3. Avoiding substantial interference with public safety and/or emergency service access;
 - 4. The number and type of vehicles, animals, or structures to be displayed or used in the event;
 - 5. Inspection and approval by city personnel of stages, booths, floats and other structures or vehicles to be used or operated in the event, to ensure that such structures or vehicles are safely constructed and can be safely operated;
 - 6. A cleaning deposit if the event includes using structures; displaying or using horses or other large animals; operation of water stations; food sales; beverage sales; and/or or sale of other goods or services;
 - 7. Use of traffic cones and barricades;
 - 8. Operation of first aid stations or sanitary facilities, including handicap-accessible sanitary facilities;

9. Use of garbage containers, and the cleanup and restoration of the site of the event at the termination of the event;
10. Use of sound amplification equipment, and restrictions on the amount of noise generated by motors and other equipment used during the event;
11. The manner for providing notice of permit conditions to event participants;
12. Use of emergency services;
13. Alternate sites, times, dates or modes for exercising free speech rights;
14. Obtaining of all business licenses required by this code for the sale of food, beverage or other goods or services at the event; and
15. The manner of which alcohol sales and service, if any, will be conducted.

§ 9.57.280 Subsequent Conditions.

- A. Grounds for Special Permit Subsequent Conditions. The Director may condition previously issued permits upon learning or discovering facts not previously disclosed or reasonably discoverable.
- B. Notice of Special Permit Subsequent Conditions. Should subsequent conditions be required, the Director will serve written notice on the permittee of this decision. When acting upon information obtained 24 hours before an event, the Director may orally inform the permittee, and city personnel overseeing the event, of the new conditions.
- C. Except where otherwise provided, a permittee may seek review of imposition of subsequent conditions to the Director as provided in this chapter. The Director's decision is a final determination. There will be no right of administrative or City Council appeal.
- D. Except where otherwise provided, an applicant conducting a free speech event may appeal the decision to impose subsequent conditions through a hearing before the City Manager. The City Manager's decision is a final determination. There will be no right of City Council appeal.
 1. An applicant is entitled to an appeals hearing provided the applicant

appeals the Director's decision within 24 hours of receiving notice of such conditions and the event's purpose is for free speech.

2. The hearing will be electronic or at the City Manager's office at 4:00 P.M. the next business day after the hearing is requested, unless otherwise agreed upon. The City Manager will issue a decision orally at the conclusion of the hearing and will also notify the applicant and the Director in writing of the City Manager's decision. Any notification will describe, with particularity, the facts and reasons supporting the decision.

§ 9.57.290 Permit Revocation.

- A. The Director will revoke an event permit upon learning or discovering facts requiring permit denial not previously disclosed or reasonably discoverable.
- B. The Director may revoke an event permit when the permittee or event violates the permit's terms and conditions, or when event participants violate applicable laws or regulations; provided, however, that this subsection will not authorize revoking a permit because of the need to protect participants from the conduct of others; and, provided further, that the Director will not revoke a permit without warning the permittee and allowing him/her to correct the violation(s) within a reasonable time.
- C. If the Director revokes a permit before the date of the event, the Director will immediately serve written notice of revocation on the permittee and will provide copies of the notice to all city personnel charged with carrying out any responsibility under this chapter. If the Director revokes a permit on the day of the event after learning of facts justifying revocation less than 24 hours before the event commenced, the Director will announce such action to the event participants, to those city officers and employees monitoring or controlling traffic during the event, and to the person in charge of the event, if such person can be located at the site of the event. Written notice will be delivered after such action to the permittee and City Manager.
- D. An applicant is entitled to an appeals hearing before the City Manager provided
 1. The applicant appeals the Director's decision within 24 hours of receiving notice of such conditions; and
 2. The event is scheduled at least 48 hours after the hearing time.

3. The hearing will be at the City Manager's office at 4:00 P.M. the day after the hearing is requested, unless otherwise agreed upon. The City Manager will issue a decision orally at the conclusion of the hearing and will also notify the applicant, the Director in writing of the City Manager's decision.
 4. Content of Notices of Revocation. Any notification of action, whether oral or written, will describe with particularity the facts and the reasons for the decision.
- E. The City Manager's decision is a final determination. There will be no right of City Council appeal.
- F. The Director or City Manager can only revoke a permit for a free speech event after consulting with the City Attorney.

§ 9.57.300 Emergency Suspension of Authorized Event.

The Director and any sworn public safety officer may temporarily suspend an event whenever there is an emergency that requires such action to protect public safety. Should this occur, the permittee and event participants will immediately comply with the suspending officer's instructions. The Director will immediately attempt to notify the applicant orally and will notify the applicant and the City Manager in writing, within 24 hours after the suspension, citing with particularity the facts and the reasons for the suspension.

§ 9.57.310 Expedited Judicial Review.

Pursuant to Code of Civil Procedure § 1094.8(c), and any successor statute or regulation, actions related to the conditioning or denial of free speech event permits in this chapter are designated for expedited judicial review pursuant to the procedure set forth in Code of Civil Procedure § 1094.8.

§ 9.57.320 Cordoning Off the Route or Site of an Event.

The Director is authorized and directed to establish traffic and crowd control devices on or within the city's streets, parking facilities, sidewalks, or other public rights-of-way, and to undertake other actions necessary to cordon off the route or site of an event. In addition, the Director will, when appropriate, cause the route or site of such event to be posted as a no-parking zone for the duration of the event and sufficiently in advance thereof as may be necessary to prevent vehicles from parking along the route or at the site of the event.

§ 9.57.330 Public Conduct during an Authorized Event.

- A. Interference with Event. It is unlawful to physically obstruct, impede, hamper or otherwise interfere with any event authorized by a permit or with any person, animal or vehicle participating or used in such event.
- B. Driving Through the Site of Parade or Athletic Event. It is unlawful to drive a vehicle between vehicles or persons traversing the route of a parade or athletic event authorized by a permit when such vehicles or persons are in motion.
- C. Prohibited Parking. It is unlawful to park along or within any portion of the route or site of an event authorized by a permit, when the route or site had been posted as a no-parking zone by the Director in the manner authorized by this chapter.
- D. Prohibited Items. It is unlawful for any person participating in an event to possess any of the following:
 - 1. Any length of lumber wood, wood, or wood lath that is longer than 12 inches unless that object meets all of the following criteria: (a) is made of wood; (b) is one-quarter inch or less in thickness; and (c) is blunted at all ends;
 - 2. Any length of metal or plastic pipe, whether hollow or solid that is longer than 12 inches except that hollow plastic piping that meets all of the following criteria may be used solely to support a sign, banner, placard, puppet or other similar expressive display: (a) is one-quarter inch or less in its thickest dimension; (b) is blunted at all ends; and (c) is not filled with any material, liquid, gas or solid;
 - 3. Signs, posters, banners, plaques or notices, whether or not mounted on a length of material permitted under subsections (1) and (2) of this section, unless such sign, poster, banner, plaque or notice is constructed solely of soft material, such as cloth, paper, soft plastic capable of being rolled or folded, or cardboard material no greater than one-quarter inch in thickness;
 - 4. Baseball or softball bats, regardless of composition or size, except that such items are permissible when configured of cloth, cardboard, soft plastic, foam or paper for expressive purposes;
 - 5. Any aerosol spray, tear gas, mace, pepper spray or bear repellent;
 - 6. Any projectile launcher or other device, such as a catapult or wrist

rocket, which is commonly used for the purpose of launching, hurling or throwing any object, liquid, material or other substance, whether through force of air pressure, spring action or any other mechanism;

7. Weapons such as firearms, knives, swords, sabers or other bladed devices, axes, hatchets, hammers, ice picks, razor blades, nunchucks or martial arts weapons of any kind, box cutters, pellet guns, BB guns, conducted electrical weapons (CEWs), including, without limitation, tasers or stun guns, metal/composite/wooden knuckles, or any chain greater than 20 inches in length or greater than one-quarter inch in diameter;
 8. Balloons, bottles or any other container, such as water cannons or super soakers, filled with any flammable, biohazard or other noxious matter which is injurious, or nauseous, sickening or irritating to any of the senses, with intent to throw, drop, pour, disperse, deposit, release, discharge or expose the same in, upon or about any demonstration, rally, protest, picket line or public assembly;
 9. Glass bottles, whether empty or filled;
 10. Open flame torches, lanterns or other devices that utilize combustible materials such as gasoline, kerosene, propane or other fuel sources;
 11. Shields made of metal, wood, hard plastic or any combination thereof; or
 12. Bricks, rocks, pieces of asphalt, concrete, pellets or ball bearings.
 13. Nothing in this section prohibits an individual from carrying a cane or using a walker or other device necessary for providing mobility so that the person may participate in an event. Further, nothing in this section prohibits imposing specific conditions for activities expressly authorized under a permit issued this chapter.
- E. Warnings. When feasible, excluding exigent circumstances, a warning must be issued before enforcement of the provisions of this section. Such warning is sufficient if provided orally by posted signs or by amplified announcement.”

SECTION 3. MPMC § 9.51.030 is repealed:

~~9.51.030 Demonstration equipment.~~

~~No person shall carry or possess while participating in any demonstration, rally, picket line or public assembly any length of lumber, wood or wood lath unless that object is one eighth inch or less in thickness and one inch or less in width and three feet or less in length, except as otherwise permitted pursuant to Chapter 9.57.~~

SECTION 4. *Environmental Review.* This Ordinance is exempt from review under the California Environmental Quality Act (California Public Resources Code §§ 21000, *et seq.*, "CEQA") and CEQA Guidelines (14 California Code of Regulations §§ 15000, *et seq.*) because it establishes rules and procedures to permit operation of existing facilities; minor temporary use of land; ensure maintenance, restoration and protection of the environment; and regulate normal operations of facilities for public gatherings. This Ordinance, therefore, is categorically exempt from further CEQA review under CEQA Guidelines §§ 15061(b)(3), 15301, 15304(e), 15308, and 15323.

SECTION 5. *Effectiveness.* Repeal of any provision of the Monterey Park Municipal Code will 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 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 designee, 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, 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 immediately upon adoption pursuant to Government Code §§ 36934 and 36937 for the immediate

**City of Monterey Park
Ordinance No. xxxx
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preservation of the public peace, health, safety, and welfare. Pursuant to those statutes this Ordinance is adopted by four-fifths vote of the City Council.

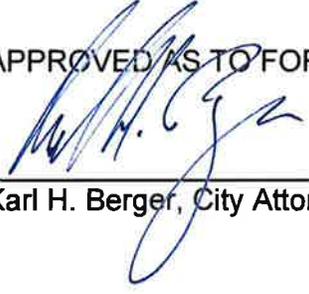
PASSED AND ADOPTED this _____ day of _____, 2020.

Peter Chan, Mayor

ATTEST:

Vincent D. Chang, City Clerk

APPROVED AS TO FORM:



Karl H. Berger, City Attorney

ATTACHMENT 2

Ordinance No. XX

ORDINANCE NO. _____

AN ORDINANCE AMENDING MONTEREY PARK MUNICIPAL CODE CHAPTER 9.57 IN ITS ENTIRETY AND REPEALING SECTION 9.51.030 TO REGULATE SPECIAL EVENTS WITHIN THE CITY.

The City Council does ordain as follows:

SECTION 1. Chapter 9.57 of the Monterey Park Municipal Code (“MPMC”) is amended in its entirety to read as follows:

“Chapter 9.57

SPECIAL EVENT PERMITS.

§ 9.57.010 Purpose.

This chapter is adopted pursuant to the city’s police powers and California Vehicle Code § 21101(e), and any succeeding statute, for the purpose of regulating parades, athletic events, block parties and public assemblies on or within a city street, parking facility, sidewalk or other public right-of-ways that obstruct, delay or otherwise interfere with the normal flow of vehicle or pedestrian traffic, or which do not comply with applicable traffic laws or controls.

§ 9.57.020 Definitions.

Unless the contrary is stated or clearly appears from the context, the following definitions will govern the construction of the words and phrases used in this chapter.

- A. “Athletic event” means any event where a group of persons collectively engage in a sport or form of physical exercise on or within a city street, parking facility, sidewalk, or other public right-of-way, including, without limitation, jogging, running, racing, bicycling, rollerblading, and roller skating.
- B. “Block party” means a noncommercial sociable gathering on a local, not arterial or collector, street or area requiring partial or complete street closure to vehicular traffic and use of the street for the festival.
- C. “City Manager” means the City Manager or designee.
- D. “Director” means the Public Works Director, or designee.

- E. "Event" means any parade, athletic event, block party, or public assembly that may require partial or complete street closure to vehicular traffic and use of the street for the event.
- F. "Free speech" means activity protected by the First Amendment of the United States Constitution and/or Article 1, Section 2 of the California Constitution provided that such activity is a significant part of the event.
- G. "Group" means two or more individuals.
- H. "In writing" means telegram, facsimile, electronic mail or any other written document.
- I. "Parade" means any organized march or organized procession of animals, vehicles or persons on or within a city street, parking facility, sidewalk or other public right-of-way.
- J. "Permittee" means a person or entity to which the city issues a permit pursuant to this chapter.
- K. "Public assembly" means any group of people participating in an organized activity on or within a city street, parking facility, sidewalk or other public right-of-way, other than a group of people participating in an athletic event, block party or parade.
- L. "Public right-of-way" includes, without limitation, real property owned or leased by the City of Monterey Park. Examples include, without limitation, public parks and open areas at City Hall.
- M. "Public safety officer" has the same definition as set forth in Government Code § 3301, and any successor statute.

§ 9.57.030 Administration by Director.

The Director will receive applications, issue and revoke permits, and otherwise implement this chapter according to the procedures herein.

§ 9.57.040 Notices.

- A. Where this chapter require that an applicant/permittee be provided notice, such notice will be served when personally delivered to such applicant/permittee; when electronically mailed to the last known email address; or when deposited in the first class U.S. Mail, addressed to such applicant/permittee at the applicant/permittee's last known address.

- B. Unless otherwise provided, written notification to a permittee/applicant of a permit decision will state with particularity the basis for such decision.

§ 9.57.050 Permit requirements.

- A. Without a valid permit issued pursuant to this chapter, it is unlawful for any person to conduct, sponsor, or knowingly participate in any event on or within any city street, sidewalk, parking facility, or other public right-of-way that obstructs or interferes with the normal flow of vehicular or pedestrian traffic or which does not comply with applicable traffic laws or controls.
- B. A permit is not valid until the Director receives the applicant's written acceptance in accordance with this chapter.

§ 9.57.060 Exceptions.

A special event permit is not required for a parade consisting of a vehicular funeral procession or wedding procession.

§ 9.57.070 Fees.

- A. Except as otherwise provided by federal, state, or local laws, or other City Council authorized restrictions, all fees applicable to this chapter including, without limitation, fees for using public property, will be established by City Council resolution.
- B. Charges will be imposed for city services provided to a permittee other than public safety and emergency services. Such charges will be determined by the applicable servicing city department(s) and will be based on the actual cost incurred by the city in providing such services. Such service charges will include, without limitation, charges for labor, supervision, overhead, administration and using city equipment or supplies. Additional charges may be imposed to cover the cost of extraordinary permit investigation and staff costs, if the Director determines this necessary.
- C. Traffic Control Fee. Permittee will pay the city a fee in an amount equal to the city's total estimated costs for providing all of the personnel and materials, including, without limitation, public safety personnel, necessary to control and monitor pedestrian and vehicular traffic for such event. Such fee will be paid by the permittee before the Director issues a permit. The traffic control fee may be waived by the Director for any permit authorizing an event involving an exercise of free speech rights. Such waiver may be granted only upon a showing of the applicant's inability to pay, which will be supported by a financial declaration.

- D. Fee Waivers. Upon an applicant's request, the Director may, but is not required to, seek a fee waiver from the City Council for an event. Fees may only be waived for the following applicants:
1. Non-profit groups with current Internal Revenue Code 501(c)(3) or 501(c)(6) status, government agencies, and public schools; or
 2. Community service groups or organizations without current Internal Revenue Code 501(c)(3) status where the City Council, by resolution, determines that the proposed event provides services that meet community needs and it is in the public interest to waive such fees.

§ 9.57.080 Right of Administrative Review.

Except as otherwise provided, an applicant may request administrative review of the Director's decision pursuant to this chapter.

§ 9.57.090 Time for Administrative Review.

- A. Except as otherwise provided, a request for review must be commenced within five days from the date on which written notice of the Director's decision is served on the applicant/permittee.
- B. If request is untimely, the Director may, nevertheless, extend the time for commencing such review for good cause shown.

§ 9.57.100 Commencement of Administrative Review.

A request for administrative review will be on a form provided by the Director and contain the following information:

- A. The name, address and telephone number of the person making the request;
- B. A description of the decision, determination or order which is the subject of the review, and the date such decision, determination or order was made or issued;
- C. A brief description of all grounds for making the request; and
- D. Such other information as may be required by the Director.

§ 9.57.110 Administrative Review.

- A. Upon request for administrative review being filed, the Director will provide a copy of the notice to the City Manager within two business days.
- B. Upon receiving a request for review from the Director, the City Manager will review the request and, within 10 business days of receiving the request notice, provide the appellant with a written notification that:
 - 1. The Director's decision is affirmed;
 - 2. The Director's decision is modified;
 - 3. The Director's decision is reversed and a permit is issued or issued without special conditions.
- C. The City Manager may, but is not required to, conduct a hearing at a time and place determined at the City Manager's sole discretion.
- D. In addition to other provisions of this chapter, any notification to the requestor must set forth any modifications of the Director's decision.

§ 9.57.120 City Council Appeal.

Unless otherwise provided, an applicant may appeal the City Manager's decision to the City Council within 10 days of that decision as provided elsewhere in this code or by city policy and procedure.

§ 9.57.130 Permit Application – Form and Content – All Events.

- A. Permit applications will be filed by a natural person.
- B. Permit applications will be in a form prescribed by the Director and, for all events, will contain the following information:
 - 1. The name, mailing address, and daytime and evening telephone numbers of the person filing the application;
 - 2. If the event is to be conducted by an organization, the name, mailing address, and daytime telephone number of the organization; and if requested by the Director, written documentation of the authority under which the applicant is applying for the permit on behalf of the organization;
 - 3. The name, mailing address, and daytime telephone number of the person who will be present during, and responsible for, the event;

4. The name, mailing address, and daytime and evening telephone number of any workers to be employed during the event;
5. 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;
6. The nature of the event;
7. The proposed date and estimated starting and ending time of the event;
8. The proposed location of the event, including its boundaries;
9. The estimated number of participants in the event;
10. The type and estimated number of vehicles, animals and structures that will be used in the event;
11. A description of any sound amplification equipment to be employed at the event;
12. The number, size, and material of construction of any signs or banners to be used in the event;
13. The parking requirements for the event;
14. The location of any water, first aid, or comfort stations to be provided at the event;
15. The type and number of any vendors who will sell food, beverages or other goods or services at the event for which a business license is required by this code;
16. The type of entertainment;
17. Any temporary structure(s) including, without limitation, stages for performances and entertainment; and
18. Location and number of portable restroom facilities.

§ 9.57.140 Additional Information Required for Parades.

In addition to the information required in this chapter, every application for

a parade will include the following information:

- A. The time when units of the parade will begin to assemble;
- B. The proposed assembly point for the parade;
- C. The proposed parade route;
- D. The interval space to be maintained between units of the parade; and
- E. The number, types and size of floats.

§ 9.57.150 Additional Information Required for Block Parties.

In addition to the information required by this chapter, every applicant for a block party will include the following information:

- A. The number of occupied houses within the proposed block party boundaries;
- B. A drawing of the street layout, block party boundaries and proposed barricades; and
- C. The written consent for the block party of at least 2/3 of the property owners/residents on the street within the affected area. The petition must clearly state the time, date, place and sponsor of the event. The name, address, telephone and signature of the persons giving consent must be included.

§ 9.57.160 Supplemental Information Required by the Director.

In addition to the information required by this chapter, applications for all permits authorizing an event will include such supplemental information which the Director may find reasonably necessary, given the nature of the event, in order to determine whether to approve or deny a permit authorizing such event in the manner hereinafter provided by this chapter.

§ 9.57.170 Action on Permit Application – Review by City Officers.

- A. After an event permit application is filed, the Director will immediately forward the application to Directors, or designees (collectively “reviewing officers”), whose departments are affected by the proposed event for their recommendations. The reviewing officers must include the Fire Chief, Police Chief, and Risk Manager.

- B. Upon receiving an application, the reviewing officers will consider the application, conduct any necessary investigation, and provide the Director with written recommendations regarding:
 - 1. Any special conditions for a permit;
 - 2. Whether, based on the scope of the proposed event, a pre-event operational meeting is required. Should such a meeting be necessary, the Director will notify the applicant of the time and place of the meeting within a reasonable time before the event; and
 - 3. Any additional recommendations.
- C. The reviewing officers must complete their review within the time that the Director must make a decision on the application.

§ 9.57.180 Time Requirements – Events.

- A. Except as provided in this chapter, completed applications for a permit authorizing an event must be filed in the Director's office at least:
 - 1. Seventy days before the date of such event to ensure administrative and City Council appeals;
 - 2. Thirty days before the date of such event, in which case the applicant will waive its ability for a City Council appeal; or
 - 3. A lesser time period approved by the Director provided that there is sufficient time to process the application pursuant to this chapter. Any applicant submitting an application pursuant to this section less than 30 days before an event waives the administrative review and City Council appeal.
- B. Except as provided in this chapter, completed applications for a permit authorizing an event will be denied, approved, or conditionally approved by the Director within 15 business days after receiving the completed application. Following his/her decision, the Director will promptly attempt to notify the applicant orally and will provide written notification to the applicant.
- C. Unless otherwise provided, the applicant's acceptance of the approval or conditional approval must be received by the Director within five business days after the applicant was served with notification of the decision. Failure of affected persons to receive actual notice of an event after permittee has provided reasonable notice will not invalidate a permit.

§ 9.57.190 Time Requirements – Block Parties.

- A. Completed applications for a permit authorizing a block party:
 - 1. Will be filed in the Director's office at least 15 business days before the date of such event or 10 business days if the applicant wishes to waive his/her administrative review rights;
 - 2. Will be denied, approved, or conditionally approved by the Director within seven business days after receiving the application. The Director will promptly attempt to notify the applicant orally and provide written notification to the applicant and City Manager.
- B. Applicant's acceptance of the approval or conditional approval must be received by the Director within three business days after the applicant is served with notice. Failure to accept the decision or to timely file a request for administrative review will be deemed a withdrawal of the application.
- C. If the applicant filed a completed application at least 15 business days before the event and the permit is denied or conditioned, the applicant may request an administrative review to the Director in writing within three business days of being served with notice of the decision.
- D. Applicant will be deemed to have waived his/her administrative review rights should the applicant fail to:
 - 1. Submit a completed application at least 15 days before the event;
 - 2. Fail to request review of the Director's decision; or
 - 3. Fail to attend the administrative hearing personally or through an authorized representative.
- E. The Director's decision is a final determination. There will be no right of City Council appeal.

§ 9.57.200 Time Requirements – Free Speech Event.

- A. Completed applications for a permit authorizing a free speech event:
 - 1. Will be filed in the Director's office at least two business days before the date of such event to ensure an administrative review. The Director may, but is not required to, accept a completed application less than two business days before an event upon good cause

shown. Applications will not be accepted less than 24 hours before an event.

2. Will be denied, approved, or conditionally approved by the Director within one business day after receiving the application. The Director will promptly attempt to notify the applicant orally and provide written notification to the applicant and City Manager. Such notice will provide detailed facts and reasons for any denial or conditional approval.
 3. The Director will consult with the city attorney's office before denying, or specially conditioning, a permit for a free speech event.
- B. Applicant's acceptance of the approval or conditional approval must be received by the Director at least 24 hours before the event except for good cause shown. Failure to accept the Director's decision or to timely file an administrative review request will be deemed a withdrawal of the application.
- C. The applicant may appeal to the City Manager in writing within one business day of either oral or written notification, whichever is first.
- D. An administrative hearing will be held at a time and place mutually agreeable to the parties. If the parties cannot agree on the time or place, then it will be held the next business day after the Director's decision at 4:00 P.M. either electronically or in the City Manager's office. The City Manager will issue a decision orally at the conclusion of the hearing and will also notify the applicant and the Director in writing of the City Manager's decision. Any notification will describe, with particularity, the facts and reasons supporting the decision.
- E. The City Manager's decision is a final determination. There will be no right of City Council appeal.
- F. Applicant waives administrative review rights should the applicant fail to:
1. File a completed application at least two days before an event;
 2. Seek review of the Director's decision; or
 3. Attend the administrative hearing personally or through an authorized representative.

§ 9.57.210 Action on Permit Application – Permit Issuance.

- A. The Director must issue a permit if
 - 1. The application was complete in accordance with this chapter;
 - 2. There are no grounds for denying the permit; and
 - 3. Applicant accepts the permit approval or conditional approval in writing.

- B. Use of any permit issued pursuant to this chapter will conform to the general permit conditions of this chapter and, if applicable, special permit conditions reasonably deemed necessary by the Director to protect public, safety or welfare. Such special conditions may include, without limitation, conditions for controlling pedestrian or vehicle traffic and for protecting public or private property.

§ 9.57.220 Action on Permit Application – Permit Denial.

A permit may be denied for the following reasons:

- A. The application is incomplete;
- B. The applicant failed to provide reasonable supplemental application information requested by the Director;
- C. Information submitted by the applicant is materially false;
- D. Applicant seeks approval for an event that is so close in time and location to another event scheduled for the same date as to cause unreasonable traffic congestion or to overextend public safety or emergency services;
- E. The event's time, route, or method will unreasonably interrupt the safe and orderly movement of traffic contiguous to the site or route of the event;
- F. The concentration of persons, animals, or vehicles at the event, or at the site of an assembly or disbanding, prevents public safety or emergency services from reaching areas at or contiguous to the event;
- G. The size of the event will overextend public safety or emergency services to the extent that the safety of event participants, attendees, or the remainder of the city will be seriously jeopardized. This provision does not authorize denying a permit because of the need to protect participants from the conduct of others if reasonable permit conditions can be imposed;

- H. The event consists of a parade that will not move from its point of origin to its point of termination in three hours or less;
- I. The location of the event will substantially interfere with construction or maintenance work previously scheduled to take place on or along the city street, parking facility, sidewalk or other public right-of-way to be occupied by the event;
- J. The event will occur along a route or location adjacent to a hospital or extended care facility, and the noise created by the event would substantially disrupt the operation of the hospital or extended care facility or disturb the patients within;
- K. The event will occur at a time when a school is in session and along a route or at a location adjacent to the school or a class thereof, and the noise created by the activities of the event will substantially disrupt the educational activity of such school or class;
- L. The decorative material on parade floats is not fire resistive or flame retardant or motorized parade floats and towing apparatus are not provided with portable fire extinguisher readily accessible to the operator, as provided in the latest adopted edition of the California Fire Code, or any similar provision in subsequent revisions of such code;
- M. The application is not timely submitted and there is insufficient time to investigate and process the application pursuant to the timelines herein.

§ 9.57.230 Alternative time, place, or manner.

If the Director denies a permit for an event that would be acceptable by changing the event's time, place, or manner, then the Director will inform the applicant of such alternatives. Should the applicant accept the alternative time, place, or manner then the Director will issue a permit in accordance with this chapter.

§ 9.57.240 General Permit Conditions – Indemnification Agreement.

Permittees must execute a hold harmless agreement in a form approved by the city attorney which will, in part, indemnify city, its officers, employees, and agents, from any liability arising from permittee's event in a form approved by the city attorney's office. Such agreement must be filed with the Director before a permit is issued.

§ 9.57.250 General Permit Conditions – Liability Insurance.

- A. Insurance Requirements. Permittee must obtain the insurance required by City Council resolution.
- B. Waiver of Insurance Requirements. The insurance required by this section must be waived by the Director for any permit authorizing an event involving an exercise of free speech rights.

§ 9.57.260 General Permit Conditions – Notice To Adjoining Property Owners.

Permittees must attempt to notify all affected persons, by any reasonable means, regarding the event's nature, date, and time as specified by the Director. Failure of the permittee to give such notice will not invalidate a permit.

§ 9.57.270 Special Permit Conditions.

- A. Grounds for Special Permit Conditions. The Director may condition a permit with reasonable requirements concerning the time, place, or manner of holding such event as necessary to protect the safety of persons and property or to control vehicular and pedestrian traffic in and around the site of the event, provided that these requirements will not be imposed in a manner that will unreasonably restrict the exercise of free speech rights.
- B. Conditions may include, without limitation, the following:
 - 1. Assembly or disbanding area for a parade;
 - 2. Accommodating an event's pedestrian and vehicular traffic, including restricting events to city sidewalks, portions of a city street, parking facility, or other public right-of-way;
 - 3. Avoiding substantial interference with public safety and/or emergency service access;
 - 4. The number and type of vehicles, animals, or structures to be displayed or used in the event;
 - 5. Inspection and approval by city personnel of stages, booths, floats and other structures or vehicles to be used or operated in the event, to ensure that such structures or vehicles are safely constructed and can be safely operated;
 - 6. A cleaning deposit if the event includes using structures; displaying or using horses or other large animals; operation of water stations;

food sales; beverage sales; and/or or sale of other goods or services;

7. Use of traffic cones and barricades;
8. Operation of first aid stations or sanitary facilities, including handicap-accessible sanitary facilities;
9. Use of garbage containers, and the cleanup and restoration of the site of the event at the termination of the event;
10. Use of sound amplification equipment, and restrictions on the amount of noise generated by motors and other equipment used during the event;
11. The manner for providing notice of permit conditions to event participants;
12. Use of emergency services;
13. Alternate sites, times, dates or modes for exercising free speech rights;
14. Obtaining of all business licenses required by this code for the sale of food, beverage or other goods or services at the event; and
15. The manner of which alcohol sales and service, if any, will be conducted.

§ 9.57.280 Subsequent Conditions.

- A. Grounds for Special Permit Subsequent Conditions. The Director may condition previously issued permits upon learning or discovering facts not previously disclosed or reasonably discoverable.
- B. Notice of Special Permit Subsequent Conditions. Should subsequent conditions be required, the Director will serve written notice on the permittee of this decision. When acting upon information obtained 24 hours before an event, the Director may orally inform the permittee, and city personnel overseeing the event, of the new conditions.
- C. Except where otherwise provided, a permittee may seek review of imposition of subsequent conditions to the Director as provided in this chapter. The Director's decision is a final determination. There will be no right of administrative or City Council appeal.

- D. Except where otherwise provided, an applicant conducting a free speech event may appeal the decision to impose subsequent conditions through a hearing before the City Manager. The City Manager's decision is a final determination. There will be no right of City Council appeal.
 - 1. An applicant is entitled to an appeals hearing provided the applicant appeals the Director's decision within 24 hours of receiving notice of such conditions and the event's purpose is for free speech.
 - 2. The hearing will be electronic or at the City Manager's office at 4:00 P.M. the next business day after the hearing is requested, unless otherwise agreed upon. The City Manager will issue a decision orally at the conclusion of the hearing and will also notify the applicant and the Director in writing of the City Manager's decision. Any notification will describe, with particularity, the facts and reasons supporting the decision.

§ 9.57.290 Permit Revocation.

- A. The Director will revoke an event permit upon learning or discovering facts requiring permit denial not previously disclosed or reasonably discoverable.
- B. The Director may revoke an event permit when the permittee or event violates the permit's terms and conditions, or when event participants violate applicable laws or regulations; provided, however, that this subsection will not authorize revoking a permit because of the need to protect participants from the conduct of others; and, provided further, that the Director will not revoke a permit without warning the permittee and allowing him/her to correct the violation(s) within a reasonable time.
- C. If the Director revokes a permit before the date of the event, the Director will immediately serve written notice of revocation on the permittee and will provide copies of the notice to all city personnel charged with carrying out any responsibility under this chapter. If the Director revokes a permit on the day of the event after learning of facts justifying revocation less than 24 hours before the event commenced, the Director will announce such action to the event participants, to those city officers and employees monitoring or controlling traffic during the event, and to the person in charge of the event, if such person can be located at the site of the event. Written notice will be delivered after such action to the permittee and City Manager.
- D. An applicant is entitled to an appeals hearing before the City Manager provided

1. The applicant appeals the Director's decision within 24 hours of receiving notice of such conditions; and
 2. The event is scheduled at least 48 hours after the hearing time.
 3. The hearing will be at the City Manager's office at 4:00 P.M. the day after the hearing is requested, unless otherwise agreed upon. The City Manager will issue a decision orally at the conclusion of the hearing and will also notify the applicant, the Director in writing of the City Manager's decision.
 4. Content of Notices of Revocation. Any notification of action, whether oral or written, will describe with particularity the facts and the reasons for the decision.
- E. The City Manager's decision is a final determination. There will be no right of City Council appeal.
- F. The Director or City Manager can only revoke a permit for a free speech event after consulting with the City Attorney.

§ 9.57.300 Emergency Suspension of Authorized Event.

The Director and any sworn public safety officer may temporarily suspend an event whenever there is an emergency that requires such action to protect public safety. Should this occur, the permittee and event participants will immediately comply with the suspending officer's instructions. The Director will immediately attempt to notify the applicant orally and will notify the applicant and the City Manager in writing, within 24 hours after the suspension, citing with particularity the facts and the reasons for the suspension.

§ 9.57.310 Expedited Judicial Review.

Pursuant to Code of Civil Procedure § 1094.8(c), and any successor statute or regulation, actions related to the conditioning or denial of free speech event permits in this chapter are designated for expedited judicial review pursuant to the procedure set forth in Code of Civil Procedure § 1094.8.

§ 9.57.320 Cordoning Off the Route or Site of an Event.

The Director is authorized and directed to establish traffic and crowd control devices on or within the city's streets, parking facilities, sidewalks, or other public rights-of-way, and to undertake other actions necessary to cordon off

the route or site of an event. In addition, the Director will, when appropriate, cause the route or site of such event to be posted as a no-parking zone for the duration of the event and sufficiently in advance thereof as may be necessary to prevent vehicles from parking along the route or at the site of the event.

§ 9.57.330 Public Conduct during an Authorized Event.

- A. Interference with Event. It is unlawful to physically obstruct, impede, hamper or otherwise interfere with any event authorized by a permit or with any person, animal or vehicle participating or used in such event.
- B. Driving Through the Site of Parade or Athletic Event. It is unlawful to drive a vehicle between vehicles or persons traversing the route of a parade or athletic event authorized by a permit when such vehicles or persons are in motion.
- C. Prohibited Parking. It is unlawful to park along or within any portion of the route or site of an event authorized by a permit, when the route or site had been posted as a no-parking zone by the Director in the manner authorized by this chapter.
- D. Prohibited Items. It is unlawful for any person participating in an event to possess any of the following:
 - 1. Any length of lumber wood, wood, or wood lath that is longer than 12 inches unless that object meets all of the following criteria: (a) is made of wood; (b) is one-quarter inch or less in thickness; and (c) is blunted at all ends;
 - 2. Any length of metal or plastic pipe, whether hollow or solid that is longer than 12 inches except that hollow plastic piping that meets all of the following criteria may be used solely to support a sign, banner, placard, puppet or other similar expressive display: (a) is one-quarter inch or less in its thickest dimension; (b) is blunted at all ends; and (c) is not filled with any material, liquid, gas or solid;
 - 3. Signs, posters, banners, plaques or notices, whether or not mounted on a length of material permitted under subsections (1) and (2) of this section, unless such sign, poster, banner, plaque or notice is constructed solely of soft material, such as cloth, paper, soft plastic capable of being rolled or folded, or cardboard material no greater than one-quarter inch in thickness;
 - 4. Baseball or softball bats, regardless of composition or size, except

that such items are permissible when configured of cloth, cardboard, soft plastic, foam or paper for expressive purposes;

5. Any aerosol spray, tear gas, mace, pepper spray or bear repellent;
 6. Any projectile launcher or other device, such as a catapult or wrist rocket, which is commonly used for the purpose of launching, hurling or throwing any object, liquid, material or other substance, whether through force of air pressure, spring action or any other mechanism;
 7. Weapons such as firearms, knives, swords, sabers or other bladed devices, axes, hatchets, hammers, ice picks, razor blades, nunchucks or martial arts weapons of any kind, box cutters, pellet guns, BB guns, conducted electrical weapons (CEWs), including, without limitation, tasers or stun guns, metal/composite/wooden knuckles, or any chain greater than 20 inches in length or greater than one-quarter inch in diameter;
 8. Balloons, bottles or any other container, such as water cannons or super soakers, filled with any flammable, biohazard or other noxious matter which is injurious, or nauseous, sickening or irritating to any of the senses, with intent to throw, drop, pour, disperse, deposit, release, discharge or expose the same in, upon or about any demonstration, rally, protest, picket line or public assembly;
 9. Glass bottles, whether empty or filled;
 10. Open flame torches, lanterns or other devices that utilize combustible materials such as gasoline, kerosene, propane or other fuel sources;
 11. Shields made of metal, wood, hard plastic or any combination thereof; or
 12. Bricks, rocks, pieces of asphalt, concrete, pellets or ball bearings.
 13. Nothing in this section prohibits an individual from carrying a cane or using a walker or other device necessary for providing mobility so that the person may participate in an event. Further, nothing in this section prohibits imposing specific conditions for activities expressly authorized under a permit issued this chapter.
- E. Warnings. When feasible, excluding exigent circumstances, a warning

must be issued before enforcement of the provisions of this section. Such warning is sufficient if provided orally by posted signs or by amplified announcement.”

SECTION 2. MPMC § 9.51.030 is repealed:

~~9.51.030 Demonstration equipment.~~

~~No person shall carry or possess while participating in any demonstration, rally, picket line or public assembly any length of lumber, wood or wood lath unless that object is one-eighth inch or less in thickness and one inch or less in width and three feet or less in length, except as otherwise permitted pursuant to Chapter 9.57.~~

SECTION 3. *Environmental Review.* This Ordinance is exempt from review under the California Environmental Quality Act (California Public Resources Code §§ 21000, *et seq.*, “CEQA”) and CEQA Guidelines (14 California Code of Regulations §§ 15000, *et seq.*) because it establishes rules and procedures to permit operation of existing facilities; minor temporary use of land; ensure maintenance, restoration and protection of the environment; and regulate normal operations of facilities for public gatherings. This Ordinance, therefore, is categorically exempt from further CEQA review under CEQA Guidelines §§ 15061(b)(3), 15301, 15304(e), 15308, and 15323.

SECTION 4. *Effectiveness.* Repeal of any provision of the Monterey Park Municipal Code will 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 5. *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 6. *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 7. *Recordation.* The City Clerk, or designee, 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, and cause it to be published or posted in accordance with California law.

City of Monterey Park
Ordinance No. xxxx
Page 20 of 20

SECTION 8. *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 9. *Effective Date.* This Ordinance will become effective 30 days after its adoption.

PASSED AND ADOPTED this _____ day of _____, 2020.

Peter Chan, Mayor

ATTEST:

Vincent D. Chang, City Clerk

APPROVED AS TO FORM:



Karl H. Berger, City Attorney



City Council Staff Report

DATE: October 7, 2020

AGENDA ITEM NO: New Business
Agenda Item 5-D

TO: The Honorable Mayor and City Council
FROM: Ron Bow, City Manager
SUBJECT: The Greater Monterey Park Chamber of Commerce Lease Agreement of El Encanto – Update

RECOMMENDATION:

It is recommended that the City Council consider:

1. Receiving and filing this report;
2. If desirable, providing direction to the City Manager and City Attorney regarding the use of El Encanto
3. If desirable, providing direction to the City Manager and City Attorney regarding future promotion of businesses within the City including, without limitation, the potential creation of a community development corporation; and
4. Taking such additional, related, action that may be desirable.

EXECUTIVE SUMMARY:

Last week, the City Manager's office discovered that, among other things, the corporate status of the Greater Monterey Park Chamber of Commerce (Chamber) was suspended by the State of California. Additional investigation into the matter resulted in the City Attorney's office sending the attached letter (dated September 23, 2020) to the Chamber. After a Special Meeting held on September 24, 2020, the City Council authorized the City Attorney to initiate litigation against the Chamber.

Since September 24th, the Chamber failed to comply with most of the direction provided by the City Attorney in his September 23rd demand letter. On October 1st, however, the Chamber did provide the City with a copy of its 2015 taxes that were filed with the State of California. A copy is attached.

This matter was placed onto the agenda at the City Council's direction on September 24th to discuss "next steps" for both El Encanto and the City's relationship with the Chamber, if any.

BACKGROUND:

A brief history of El Encanto and the City's relationship with the Chamber is attached for reference. In brief, the Chamber is the successor agency to a previous 501(c)(6) entity; it entered a lease for using El Encanto in 2016.

In March 2020, the Chamber submitted a proposal requesting additional support and funding from the City and indicated that it was experiencing financial hardships and was struggling to pay for monthly overhead, utilities, and interior maintenance costs. After several discussions with the Chamber representatives, City staff began working on a potential alternative partnership agreement and subsequently discovered the Chamber's corporate status was suspended.

On September 24th, the City Council held a Special Meeting to discuss the matter. The Chamber's Treasurer, Mr. Caleb Kwok, spoke during public comment regarding the matter. His comments were mainly focused on restoring the Chamber's legal ability to operate under California law, i.e., reinstating its corporate status with the State.

Based upon the City Council's direction on September 24th (and in accordance with the City Attorney's September 23rd letter), the Chamber was directed to vacate El Encanto. The City Manager's office will ensure that the City assumes the day-to-day operations, maintenance, and utilities of the El Encanto facility and program/utilize as needed to continue to support the business community during these difficult times.

This is a crossroads moment for the City Council. There is a long relationship between the City and the Chamber (including its predecessor). For the City, the relationship has generally been a struggle: assisting the Chamber has cost the City time, money, and resources. Yet, it appears that the Chamber continues to be unable to meet its operating expenses, expand its membership, or substantially contribute to the City's overall economic well-being. From the staff's perspective, the City Council really has two choices: (1) continue trying to assist the Chamber; or (2) explore other opportunities.

As to the latter, one option the City Council may wish to explore is creation of a Community Development Corporation ("CDC"). This would be a 501(c)(3) nonprofit public benefit corporation. Among other things, the City Council would be able to select its board of directors and the City could offer it funding (and other assistance). An overview of CDCs is included as an attachment for information. In other words, the City Council would help shape the future path for economic development with its own, separate, nonprofit corporation. Were the City Council to choose this path, the City would cut ties with the Chamber and instead invest its limited resources in the newly created CDC.

It is not easy to provide these recommendations to the City Council. A chamber of commerce seems to be a fixture in every community. It gives businesses within a community an opportunity to network and flourish. In these troubled times, however, the City Council has undertaken a massive effort to restart the local economy and stave off economic hardship. It seems only prudent – and in the public interest – for the City Council to consider real alternatives when existing efforts seem ineffective.

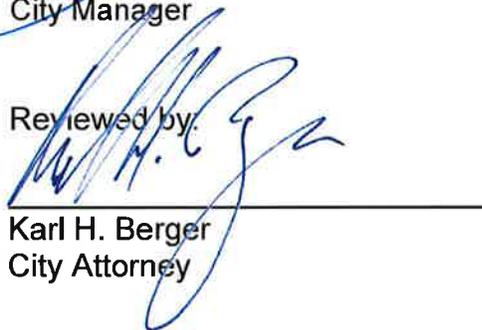
FISCAL IMPACT:

City will maintain El Encanto and manage day-to-day operations and utilities for an approximate cost of \$18,000 per year.

Respectfully Submitted and Approved by:



Ron Bow
City Manager



Reviewed by:

Karl H. Berger
City Attorney

Attachments:

1. Letter dated September 23, 2020 from the City Attorney
2. Historical overview of El Encanto and the Chamber
3. Communication from Mr. Caleb Kwok dated October 1, 2020
4. FAQ regarding CDC

ATTACHMENT 1
Letter dated September 23, 2020
from the City Attorney

CITY OF MONTEREY PARK

320 West Newmark Avenue • Monterey Park • California 91754-2896
www.montereypark.ca.gov



City Council
Peter Chan
Hans Liang
Henry Lo
Fred Sornoso
Yvonne Yiu

City Clerk
Vincent D. Chang

City Treasurer
Joseph Leon

September 23, 2020

Sent via First Class U.S. Mail and Certified Mail

Dora Leung, President
Monterey Park Chamber of Commerce
700 El Mercado Avenue
Monterey Park, California 91754

Re: **Notice of Breach: Agreement No. 1479-AA (700 El Mercado Avenue Lease)**

Dear Ms. Leung:

As you know, the Greater Monterey Park Chamber of Commerce (the "Chamber") leases Jardin El Encanto located at 700 El Mercado Avenue (the "Property") from the City via an agreement dated September 6, 2016 and designated as Agreement No. 1479-AA (the "Lease"). This letter constitutes a **NOTICE OF BREACH** of that Lease. The specifics of the breach follow:

1. Section 2 of the Lease provides that the term ended on September 30, 2019 (the City Manager did not extend the Lease). Section 16 of the Lease provides that if the Chamber continues to occupy the Property (with the City's permission), it is required to pay the City fair market rent. The City does not have any record of the City granting permission for a holdover nor of the Chamber paying the City rent. Based upon the City's review of commercial properties within Monterey Park, fair market rent for the Property is \$86,108 per year (\$22.00 per square foot at 3,914 sq. ft.). Demand is made that the Chamber immediately remit \$86,108 (calculated from October 1, 2019) to the City for late rent.
2. Section 25 of the Lease requires the Chamber to surrender the Property to the City on the last date of the term. The Chamber continues to occupy the Property.
3. Section 5 of the Lease provides that the Chamber may use the Property only for General Office Uses. Section 5(B) states that "[n]o other use is permitted on the Property without the written consent of [the City], **which may be withheld in [the City's] sole and absolute discretion**" (emphasis added). The City is informed that the Chamber is planning an event at the Property on or about September 29, 2020 which is neither permitted by the Lease nor approved by the City. Demand is made that the Chamber immediately inform the City

regarding such reported event and, if it is planned, seek the City's permission to conduct the event.

4. The Lease includes the implied covenant of good faith and fair dealing which it appears the Chamber breached as follows: (a) according to the California Secretary of State website, the Chamber's corporate status is suspended; and (b) according to the website for the Internal Revenue Service, the Chamber's tax-exempt status was revoked on November 15, 2017. The City does not have any record of the Chamber informing the City of these events. Yet, the Chamber continues to use the Property to improperly operate and collect donations from both its members and the general public while purporting to be a tax-exempt entity.

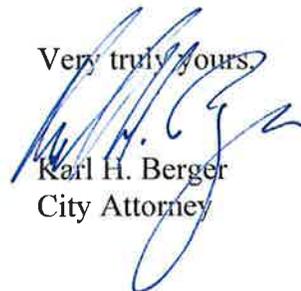
The Chamber may cure these breaches as follows:

- Remit to the City \$86,108 in owed rent. This amount must be paid not later than October 2, 2020.
- Surrender the Property not later than October 2, 2020.
- Immediately inform the City regarding any planned event for September 29, 2020 and seek the City's permission to conduct any such event.
- Not later than October 2, 2020, provide the City evidence that the Chamber is both authorized to operate under California law as a corporation and that it is a tax-exempt entity (IRC § 501(c)(6)) recognized by federal law.

Note that the City Council will be holding a special meeting on September 24, 2020 at 11:00 a.m. in closed session to determine whether to initiate litigation against the Chamber for the breaches identified in this Notice. Public comment may be provided to the City Council before it deliberates in closed session.

Thank you for your prompt attention to this matter.

Very truly yours,



Karl H. Berger
City Attorney

C: Honorable Mayor, Mayor Pro Tem, and City Councilmembers
Ron Bow, City Manager

ATTACHMENT 2

Historical overview of El Encanto and the Chamber



CITY OF MONTEREY PARK
INTEROFFICE MEMO

DATE: October 1, 2020

TO: Ron Bow, City Manager

FROM: Inez Alvarez, Director of Recreation & Community Services
Joseph Torres, Economic Development Manager

SUBJECT: Historical Information – Jardin El Encanto

Jardin El Encanto was originally constructed in 1928. In 1989 the City received a grant of \$160,000 from the State's Office of Historic Preservation to assist in the restoration of Jardin El Encanto. The City's grant application specified the building would be used for small meetings and for civic uses. Examples of such functions would be: a) Community organization meetings b) Art displays - exhibits of local artists c) Tours to visiting dignitaries d) Small business or cultural seminars e) School tours to share the local heritage and f) Lectures to educate on business programs. The building was renovated in 1994 with State of California Historic Grant Funds and was reopened on February 27, 1994. The building is one of the City's few historic links to its past and stands as an important landmark for the City of Monterey Park.

Originally built to serve as a community meeting place, it remained the City's desire to retain El Encanto as a community meeting place and visitor attraction while simultaneously finding an efficient way to utilize the building. The building consists of a large main room, two smaller rooms, storage areas, and restrooms.

In order to meet this goal the City prepared a Request for Proposals in 1995. One proposal was received from the Monterey Park Chamber of Commerce which proposes to use the facility for their business offices.

Below is a timeline of past lease agreements and the rent rates for reference. There were several shifts (City or Chamber) in responsibility of utilities, interior and/or exterior maintenance, and landscaping, etc.

1995 Initial lease agreement with the Monterey Park Chamber of Commerce and monthly rent was \$700 (continued to renew three year lease agreements and no change to monthly rent)

2013 Monthly rent was adjusted to \$350 per month as the Monterey Park Chamber of Commerce fell behind on payments

2014 Renewed three year lease agreement with monthly rent of \$350 and was set to expire in 2017, however due to continued financial struggles the Monterey Park Chamber of Commerce would eventually dissolve

2015 Greater Monterey Park Chamber of Commerce, Inc. was incorporated in August 2015 and took over month-to-month payments of \$350 with the City paying for utilities.

2016 Greater Monterey Park Chamber of Commerce negotiated a three year lease beginning October 1, 2016 and expiring September 30, 2019. The lease agreement provided that the nonprofit corporation would pay base rent of \$1 per year and would also pay for all utilities.

In March 2020, the Greater Monterey Park Chamber of Commerce had submitted a proposal requesting funding from the City and indicated that the Corporation was struggling to continue to pay for monthly overhead costs and utilities.

ATTACHMENT 3
Communication from Mr. Caleb Kwok dated
October 1, 2020

From: [Caleb Kwok](#)
To: [Karl Berger](#)
Cc: [Dora Leung](#); rbow@montereypark.ca.gov
Subject: Re: MP - Chamber Future and Next Steps
Date: Thursday, October 1, 2020 2:57:35 PM
Attachments: [2015 CA Tax Return - 199N Filing Confirmation.pdf](#)

Mr. Berger,

We just filed Chamber's back tax return of 2015 which was the cause of the suspension of the Chamber corporate status. The attached filing confirmation is for your file. We will continue to work until we get the corporate status back.

With regard to vacating the Chamber, I am wondering if the City can give us more time. As I mentioned in my previous email, most of our manpower relies on volunteers. It is next to an impossibility to move everything out from El Encanto with such short notice, and the COVID-19 adds many more challenges to the task. While we can move our personal belongings, there are many things belong to the communities.

Thank you for your consideration!

Caleb Kwok
Voice/Text: 626-888-9746 | Fax: (626)408-6654

On Tuesday, September 29, 2020, 07:25:44 PM PDT, Karl Berger <kberger@hensleylawgroup.com> wrote:

Mr. Kwok:

Thank you. Based upon your below statements, I have no choice but to move forward with the litigation as directed by the City Council. I suggest that the Chamber use its best efforts to vacate the building to avoid additional rental payments that will be due for ongoing occupation.

The Chamber's inability to provide the documents demanded, or the rent owed, is very troubling. Progress regarding this matter will be reported to the City Council on October 7, 2020.

Should the Chamber retain counsel, please inform me immediately. Thank you.

From: Caleb Kwok <caleb@fsicinvestments.com>
Reply-To: Caleb Kwok <caleb@fsicinvestments.com>
Date: Tuesday, September 29, 2020 at 5:15 PM

Confirmation

Print this page for your records. The Confirmation Number below is proof that you successfully filed your 199N e-Postcard.

We received your 199N e-Postcard on 10/1/2020 1:52:00 PM.

Confirmation Number: 381489727501

Entity ID: 3814897
Entity Name: THE GREATER MONTEREY PARK
CHAMBER OF COMMERCE INC.

Account Period Information

Account Period Beginning: 8/7/2015
Account Period Ending: 12/31/2015

This is your entity's first year in business.

Your entity has not terminated or gone out of business.

Your entity has not changed the account period.

Gross Receipts: \$10376

This is not an amended return.

An IRS Form 1023/1024 is pending.

Date IRS Form 1023/1024 filed: 10/1/2020

Entity Information

FEIN: 475441182
Doing Business As:
Website Address:

Entity's Mailing Address

700 EL MERCADO AVE
MONTEREY PARK CA 91754

Principal Officer's Information

DORA LEUNG
700 EL MERCADO AVE
MONTEREY PARK CA 91754

Contact Information

Name: QING HUANG
Phone: 6267880888

After we process your 199N e-Postcard, you may receive a bill if the three year [gross receipt average](#) is greater than the amount allowed for filing a 199N e-Postcard.

Print

Log Out

ATTACHMENT 4

FAQ regarding CDC

**League Task Force on the Next Generation of Economic Development Tools
Background Report: Community Development Corporations**

April 12, 2012

For the past few months, the League Task Force on the Next Generation of Economic Development Tools has been examining potential tools for cities to use to promote economic development. Community Development Corporations (CDCs) are one such tool that has been used throughout the United States to promote community revitalization goals.

The City of Roseville is one such community. This background report was originally prepared by the City in September, 2010 before the elimination of redevelopment agencies; it has been edited and updated by the League. The report explains:

- CDCs—what they are and how they function;
- Funding resources available to a CDC;
- The benefits of forming a CDC;
- How CDCs have been used by other jurisdictions; and
- First steps to implement a CDC

The League gratefully acknowledges the assistance of John Sprague, Roseville CDC's Chief Executive Officer and report author Kevin Payne, Vice President, Development, for permission to use excerpts from its report to help League members learn more about this important tool. The original report and the Roseville CDC's Business Plan are online at

<http://www.roseville.ca.us/rcdc.asp>

+++++

What are Community Development Corporations (CDCs)?

Community Development Corporations (CDCs) are non-profit, community based organizations that secure private and public capital through development of both residential and commercial property. Additionally, these organizations undertake economic development efforts and offer programs which benefit the community. The types of projects and activities include: developing affordable housing; redeveloping properties to create mixed use, commercial and office projects; economic development and social programs; and in some instances, providing on-going property management.

Formed to provide an alternative mechanism to advance redevelopment and revitalization goals within communities, CDCs have expanded rapidly in size and numbers. An industry survey published in 2006 found that 4,600 CDCs throughout the nation promote community economic stability by developing over 86,000 units of affordable housing and 8.75 million square feet of commercial and industrial space a year.

What are the functions of a CDC?

A CDC is a non-profit entity characterized by their community based leadership which differentiates them from other types of non-profits. A typical CDC that is structured to promote redevelopment activities has a board appointed by the supporting governmental entity or Council. CDCs typically produce workforce housing and create jobs for community residents through securing financing, funding, and attracting private investment to construct mixed use and commercial development projects.

CDCs have strongly influenced many of the communities in which they work. A 2002 Urban Institute study of 23 cities found that CDCs had noticeably improved multiple neighborhoods in eight cities, one neighborhood in each of another eleven cities, with more limited “block-by-block” impacts in the remaining four cities. (<http://www.urban.org/publications/410638.html>)

Successful CDCs examined as part of this evaluation are the “Centre City Development Corporation” in San Diego, the “Portland Development Commission” and the “El Cajon Development Corporation”. Each of these organizations has acted as a private development company, implementing key development projects that have resulted in achieving the vision established by their individual communities.

What are the benefits of establishing a CDC?

In 2010, the City of Roseville expected the following benefits from developing a CDC:

- ✓ Leverages existing community knowledge and resources that are tied to real estate development, financing and construction;
- ✓ Establishes a long-term mechanism for promoting revitalization (no time limit);
- ✓ Creates an earlier development and revitalization scenario than if left to the current private sector market;
- ✓ Provides for additional funding resources that were not otherwise available (tax credits, Build America Bonds, etc.);
- ✓ Agency would enter into agreements for projects with the Development Corporation dictating the business terms. Development Corporation would enter into financing agreements with developers or develop projects itself.
- ✓ Funds can revolve through Development Corporation for future Downtown development projects and create revolving loan funds;
- ✓ Provides a non-profit that can own and manage assets long term while channeling profits for redevelopment purposes.
- ✓ Nonprofit can receive charitable donations for agency purposes.
- ✓ Expands the geographical area for revitalization (beyond the Redevelopment Plan Area);
- ✓ Could receive financial returns on redevelopment financing using funds that originated as tax exempt bond proceeds, whereas the Redevelopment Agency could not under the Internal Revenue Code;
- ✓ It is a business entity and expected to operate as such;
- ✓ Provides for continual re-investment back into the community;
- ✓ Promotes a better environment to attract private investment;
- ✓ Focus is on job creation and expansion of the existing tax base; and,
- ✓ Allows for coordination of multiple housing, economic development and redevelopment activities.

What funding resources are available to a CDC?

There are multiple mechanisms available to fund a CDC. In reviewing how other jurisdictions have approached funding their associated non-profits, it is clear that each CDC can be uniquely crafted to take advantage of multiple funding sources. Funding sources that have been identified include:

General Funds – Cities can allocate General Fund money to this type of organization. In the Portland model the staffing and administrative costs are funded through the general fund.

Gifts and Bequest – Private parties are eligible for tax deductions for donations made to a non-profit. Funding and/or assets can be gifted to the organization and the contributors can write down their tax obligations in accordance with the Tax Code.

Special Revenue Funds – Special Revenue Funds include funds that are typically generated through Enterprise Zones, Housing and Community Development (HCD) contracts, Housing Acquisitions and other federal grants. These funds account for the proceeds for specific revenue sources that are dedicated for specific purposes. Generally, these funds account for federal, state, local grant and private activities. Typical grant programs categorized in this revenue source include the HOME program and the Environmental Protection Agency's brownfield revolving loan program.

Tax Credits - Tax credits also become available to a CDC as they are a substantial provider of affordable workforce housing. New Market Tax Credits are a relatively new financing mechanism that is available to a CDC. For CDCs that establish for-profit subsidiaries, limited liability companies or partnerships may be eligible for equity investments by New Market Tax Credit investors. To structure the use of these funds the CDC extends loans to qualified local businesses which are then eligible for tax allocation credit, to be purchased by private investors. (More about New Market Tax Credits at <http://www.irs.gov/pub/irs-utl/atqnmctc.pdf>)

Enterprise Loans – As part of Portland's approach, this revenue source consists of Housing and Economic Development loan funds which are self-sustaining by the collection of principal and interest from borrowers. This funding source can also include Private Lender Proceeds.

Income and Asset Management Funds – Funding secured through loan repayments, property ownership, development participation and on-going property management is also a resource that becomes available to the CDC.

How have other jurisdictions used CDCs?

As previously noted, San Diego, Portland and El Cajon have utilized CDCs to forward their revitalization strategies. In order to better understand the benefit that this type of organization provides to a community, staff from the City of Roseville researched three CDCs. The following is a brief overview of each CDC and a comparison of how each addresses Governance, Function/Responsibilities, and Financing. Appendix 1 compares how each CDC functions.

Centre City Development Corporation, San Diego: Key points:

- **Formation:** This non-profit organization was formed in 1975 to assist the Redevelopment Agency accomplish revitalization goals.
- **Governance:** 9 member board appointed by City Council.
- **Responsibilities:** The CDC is responsible for strategic planning; urban design; property acquisition and development; business and resident relocation; public improvements; and securing public financing.
- **Other Responsibilities:** Developed and implements the social issues strategy that addresses homelessness and crime.
- **Major Projects:** Major projects have included the San Diego Convention Center, Horton Plaza shopping center, improvements associated with the Gas Lamp District and Petco Park.
- **Accomplishments:**
 - ✓ Investment to-date = \$7.5 billion dollars;
 - ✓ Public Improvement Investment = \$898 million dollars; and,

- ✓ Job Creation = 26,000 permanent jobs and 33,400 construction related jobs.

Portland Development Corporation, Portland: Key points:

- **Formation:** This non-profit organization was formed in 1958 by the voters.
- **Governance:** 5 member board appointed by City Council.
- **Responsibilities:** The CDC is responsible for housing, promotion and development associated with revitalization efforts and economic development. Associated with these activities is the approval of: urban renewal districts, bond sales, development projects and major economic development initiatives.
- **Major Projects:** Major projects have included:
 - ✓ Development of Museum Place, Pioneer Courthouse Square, Light Rail to the Airport, Walnut Park Retail Center and the redevelopment of the North Park Blocks;
 - ✓ Renovations of historic structures into affordable housing (Sally McCracken Building, The Golden West Building, etc...);
 - ✓ Thousands of homeowner repair loans have been granted; and,
 - ✓ A variety of Economic Development Projects including recruitment of such major companies as Qwest Communications.

El Cajon Development Corporation, El Cajon, CA: Key points:

- **Formation:** This non-profit organization was formed in 1996 to assist the Redevelopment Agency accomplish revitalization goals.
- **Governance:** 7 member board.
- **Responsibilities:** The CDC is responsible for strategic planning, urban design, property acquisition and development, business and resident relocation, public improvements, and securing public financing.
- **Other Responsibilities:** Providing promotional events, marketing and maintenance activities as supported by a PBID.
- **Major Projects:** Major projects have included the recent completion of the \$3.5 million dollar streetscape enhancement project for Downtown.
- **Accomplishments:**
 - ✓ TOT increase of 36% and commercial lease rate increase of 56%;
 - ✓ 200,000 visitors come downtown annually as a result of CDC related events;
 - ✓ Crime has decreased by 16%; and
 - ✓ Investment to-date = \$46 million dollars;

How are CDCs formed?

There are several steps that are required to form a CDC. The first tasks are:

- Incorporate;
- Create a board of directors;
- Get insurance;
- Obtain tax exempt status;
- Set up payroll and tax filings;
- Set up bank accounts;
- Establish annual audits and bookkeeping,
- Develop meeting procedures and minutes, and
- Create a business plan.

In order to become a non-profit entity organized under section 501 (c) (3) of the Internal Revenue Code these aforementioned actions are required; each is a critical component of meeting this IRS designation. With this designation the organization will be able to obtain grants and gifts from any government, corporate, foundation or individuals. The following provides more detail about the basic yet critical steps to form a CDC.

Incorporate: The basic documents required to incorporate a CDC are bylaws and articles of incorporation. Bylaws set out the structure of the board, frequency of board meetings, how the board members are chosen and other details about the board, its committees and its officers. Articles of Incorporation include the general purpose ("mission"), convening the board of directors, legal address, and other governmental-related accountability details.

Create a business plan: A business plan is a formal statement of a set of business goals, the reasons why they are believed attainable, and the plan for reaching those goals. For-profit business plans typically focus on financial goals, such as profit or creation of wealth. Non-profit business plans tend to focus on the "organizational mission" which is the basis for their governmental status or their non-profit, tax-exempt status, respectively—although non-profits may also focus on optimizing revenue. The primary difference between Profit and Non-Profit organizations is that "For Profit" organizations look to maximize wealth while Non-Profit Organizations aim to provide a greater good to society. A business plan is critical to outlining the criteria for success and describing the CDC's goals for the first two to three years.

Create a board of directors: Roseville proposed a CDC board consisting of five members with development expertise including, but not limited to real estate development, architecture, engineering, business, real estate financing, property appraisal or other development related experience. The City Council appoints the members of this body.

Get insurance: Incorporation may protect board and staff members from personal liability however there is no absolute protection from personal liability. Therefore it is critical that the organization maintain director and officer liability insurance which protects the members of the board, individually, from legal issues and concerns.

Obtain Tax-Exempt Status: In order to raise charitable funds from foundations, corporations and individuals, as well as take advantage of tax credit financing the CDC must be established as a Section 501 (c) (3) corporation under the federal tax code. This allows donors and investors to take a tax deduction for their funds. The organization also needs to obtain a federal tax identification number (or EIN).

Set up bank accounts: The organization will require a checking and savings account at a local bank. It is recommended that this be an institution that will be involved in funding projects developed by the CDC. The bank will require authorized signers for the accounts. Typically, this is one of the first actions taken by the board and recorded as part of the board minutes.

Establish annual audits and bookkeeping: Annual audits are a typical check and balance as part of this type of business entity. The City/Agency as well as most funders will require an

independent annual audit of the organization's finances. The audit firm should be established early-on, so this critical detail is completed after the first year of operation.

Develop meeting procedures and minutes: Meeting procedures are critical to the operations of the board. These will provide the framework for the board members to operate under. It will also focus the actions of the board given the topics presented. The records of every formal board meeting, or minutes, are an important operational management tool. These minutes will record the activities of the board and become an important corporate document.

Appendix 1-CDC Comparison

This table summarizes three CDCs as of 2010 and compares how each addresses Governance, Function/Responsibilities, and Structure and Financing.

GOVERNANCE			
Item	San Diego	Portland	El Cajon
Non-profit 501(c)(3)	Yes	Yes	Yes
Mayor Council Appointed Board	Yes	Yes	unknown
Council Seated on Board	No	No	One Seat
Meetings Subject to the Brown Act	Yes	No (By-laws)	Yes
Subject to Public Records Act	Yes	Yes	Yes
Size of Board	9 members	5 members	7 members
Board Terms	3 year terms	3 year Terms	3 year terms
Board Compensation	No compensation	No compensation	No compensation
Board Background/Qualifications	Experience in finance, general business, real estate development, law or architecture	Experience in finance, general business, real estate development, law or architecture	PBID representative, neighborhood representatives, Council rep. and County rep.
Subcommittees	Real Estate, Budget/Finance/ Admin. & Audit (3 members from board per comm.)	Unknown	Organizational, Advisory, Executive and additional as warranted.
Operations	Board appoints a President (CEO), Chief Financial Officer (CFO), Individual Dept. Heads	Board appoints a Executive Director, Chief Financial Officer (CFO),	Board appoints a Chief Executive Officer
Annual Budget Approval	Agency Approves work program/budget annually for Agency funded projects.	Budget incorporates annual City Council goals. Budget submitted to Council for inclusion with City Budget.	unknown
Public Service Transference	San Diego operates outside of the PERS system.	Merit based personnel system providing opportunity for "public service"	unknown
Term	As a private non-profit there is no term. Corporation needs to remain economically viable.	As a private non-profit there is no term. Corporation needs to remain economically viable.	As a private non-profit there is no term. Corporation needs to remain economically

			viable
Dissolution	Funds & Assets revert to the City	Unknown	unknown
Legislation/Political Support	Corporation cannot be utilized to influence any outcomes.	Unknown	unknown

FUNCTION/RESPONSIBILITIES			
Item	San Diego	Portland	El Cajon
Effectuation of plans and policies adopted by the City/RDA.	Yes	Yes	Yes
Property acquisition, development, sales and leases.	Yes	Yes – must be in the name of the City of Portland (By-laws)	Yes
Specific Programs	Affordable Housing Business Attraction Centre City Green Downtown Education Lighting Master Plan Downtown Parking Downtown Wayfinding Façade Improvements Long-term Planning Parks and Open Space	Housing – development, loans and repair. Development – Planning, public private investment, revitalization and standard development. Economic Development – Business Development, assistance and retention.	Housing Promotional Events Development – Planning, public private investment, revitalization and standard Economic Development – Business Development, assistance and retention.
Public Outreach	CCAC – 28 member diverse stakeholder group acting on Design Review, Affordable Housing, Parking & Transportation, Street lighting, Homelessness, and social issues	When associated with public improvement projects.	When associated with public improvement projects
Issuance of RFP/RFQ's and Construction Bids	Yes	Yes	Yes
Public Works Projects	Yes	Yes	Yes
Park Development Projects	Yes	Yes	Yes
On-going maintenance for CDC Assets	RDA funding no maintenance funds	unknown	unknown
On-going maintenance for City Assets/Landscaping/Lighting/plazas	PBID funds maintenance	unknown	PBID funds maintenance

FINANCING			
Item	San Diego	Portland	El Cajon
General Fund Monies	Yes	Yes	Yes
Federal/State Funds Including (CDBG, HOME, New Market Tax Credits, etc.)	Yes	Yes	Yes
PBID	Yes	unknown	Yes
Gifts/Bequests	Yes	unknown	Yes
Income on Assets/Management	No	Yes	No
Private Sector Loans	Yes	Yes	Yes
Redevelopment Agency (note: as of 2010) (T.I.F./Bonds)	Yes	Yes	Yes