

LOCATION:

El Monte City Hall – East
City Council Chambers
11333 Valley Boulevard
El Monte, CA 91731



DATE AND TIME:

Friday,
June 5, 2020
2:10 p.m.

Members of the public wishing to observe the meeting may do so in one of the following ways:

- (1) Turn your TV to Channel 3; and
- (2) City's website at <http://www.elmonteca.gov/378/Council-Meeting-Videos>

Members of the public wishing to make public comment may do so via the following way:

- (1) Email – All interested parties can submit questions/comments in advance to the City Clerk's general email address: CityClerk@elmonteca.gov

[Instruction regarding accommodation under the Americans with Disabilities Act can be found on the last page of this Agenda.](#)

SPECIAL MEETING AGENDA OF THE CITY COUNCIL OF THE CITY OF EL MONTE

MEETING JOINTLY AND REGULARLY WITH THE EL MONTE HOUSING AUTHORITY; EL MONTE PUBLIC FINANCING AUTHORITY; EL MONTE WATER AUTHORITY; EL MONTE PARKING AUTHORITY; SUCCESSOR AGENCY TO THE FORMER EL MONTE COMMUNITY REDEVELOPMENT AGENCY; HOUSING SUCCESSOR AGENCY; AND, FROM TIME TO TIME, SUCH OTHER BODIES OF THE CITY WHOSE MEMBERSHIP IS COMPOSED EXCLUSIVELY OF THE MEMBERSHIP OF THE CITY COUNCIL

COUNCILMEMBERS/AUTHORITY MEMBERS:

Andre Quintero, Mayor

♦ Maria Morales, Mayor Pro Tem ♦ Jessica Ancona, Councilmember

♦ Victoria Martinez Muela, Councilmember ♦ Jerry G. Velasco, Councilmember

Special City Council Meeting of June 5, 2020

1. CALL TO ORDER OF SPECIAL MEETING:

2. ROLL CALL FOR CITY COUNCIL AND AUTHORITY BODIES:

Andre Quintero, Mayor/Chair
Maria Morales, Mayor Pro Tem/Authority Member
Jessica Ancona, Councilmember/Authority Member
Victoria Martinez Muela, Councilmember/Authority Member
Jerry G. Velasco, Councilmember/Authority Member

3. APPROVAL OF AGENDA:

4. INVOCATION:

5. FLAG SALUTE:

6. SPECIAL MEETING PUBLIC COMMENT REGARDING AGENDIZED MATTERS ONLY:

As provided under **Government Code Section 54954.3**, this time has been set aside for persons in the audience to provide comment or make inquiries on matters appearing on this **Special Meeting agenda only**. Although no person is required to provide their name and address as a condition to attending a meeting, persons who wish to address the body are asked to state their name and address. Each speaker will be limited to three (3) continuous minutes. Speakers may not lend any portion of their speaking time to other persons or borrow additional time from other persons. All comments or queries presented by a speaker shall be addressed to the body as a whole and not to any specific member thereof. No questions shall be posed to any member of the body except through the presiding official of the meeting, members of the body are under no obligation to respond to questions posed by speakers but may provide brief clarifying responses to any comment made or questions posed. The body may not engage in any sort of prolonged discussion or deliberation with any speaker or group of speakers on matters that are not listed on this Special Meeting agenda.

Enforcement of Decorum: The Chief of Police of the City of El Monte, or such member, or members of the Police Department as the Chief of Police may designate, shall serve as the Sergeant-at-Arms of the meeting. The Sergeant-at-Arms shall carry out all orders and instructions given by the presiding official for the purpose of maintaining order and decorum at the meeting. While members of the public are free to level criticism of policies and the action(s) or proposed action(s) of the body or its members, members of the public may not engage in behavior that is disruptive to the orderly conduct of the proceedings, including, but not limited to, conduct that prevents other members of the public from being heard when it is their opportunity to speak or which prevents members of the audience from hearing or seeing the proceedings.



Special City Council Meeting of June 5, 2020

Members of the public may not threaten any person with physical harm or act in a manner that may reasonably be interpreted as an imminent threat of physical harm. All persons attending the meeting must adhere to policies barring harassment based upon a person's race, religious creed, color, national origin, ancestry, physical handicap, medical condition, marital status, gender, sexual orientation or age.

In addition to written comments submitted prior to the start of the City Council meeting, when each of the items of business below is introduced, members of the public will have five (5) minutes from the time the Mayor introduces the item to submit written comments via e-mail. The City Council will be under no obligation to consider comments submitted after this 5 minute window period. Comment should be e-mailed to cityclerk@elmonteca.gov.

7. CONSENT CALENDAR:

7.1 Consideration and Approval of a Resolution of the City Council of the City of El Monte, California Declaring a Local Emergency due to Civil Unrest in the City and the Region due to the Death of George Floyd.

RECOMMENDATION OF BUSINESS ITEM UNDER CONSIDERATION:

It is recommended that the City Council:

1. Adopt the attached Resolution declaring a local emergency due to civil unrest in the City and the region due to the death of George Floyd.

Total Cost: N/A

Account No: N/A

Is the cost of this item budgeted? N/A

Resolution No. 10137

8. PUBLIC HEARINGS:

8.1 A Public Hearing to Consider and Approve by 4/5 Vote Uncodified Urgency Ordinance of the City Council of the City of El Monte, California Affirming Effective as of June 1, 2020, the Application of the Eviction Moratorium of the County of Los Angeles to the City of El Monte Relating to the Non-Payment of Rent Due to Covid-19 Pandemic and its Related Effects.

RECOMMENDATION OF BUSINESS ITEM UNDER CONSIDERATION:

It is recommended that the City Council:

1. Open the public hearing;
2. Receive a brief overview from staff and pose questions;
3. Receive public comment;
4. Close the public comment portion of the public hearing;
5. Pose closing questions to staff;



Special City Council Meeting of June 5, 2020

6. Deliberate and then close the public hearing; and
7. Approve the Urgency Ordinance by 4/5 vote of the City Council.

Total Cost: N/A

Account No: N/A

Is the cost of this item budgeted? N/A

Ordinance No. 2979

9. ADJOURNMENT:

The next Regular Meeting of the City Council will be held on **June 16, 2020** at 6:00 p.m. This Agenda will be posted on the City's website, www.ci.el-monte.ca.us, and physically posted no less than 72 hours prior to the start of the subject regular meeting. Although it is the City's practice and desire to electronically post a copy of this Agenda along with supporting material as part of its website posting, the size or formatting of certain supporting materials may render their website posting infeasible. Nevertheless, all supporting materials related to any item on this Agenda, that is made available to the members of the council may be inspected by members of the public at the City Clerk's Office located at 11333 Valley Boulevard, El Monte, Monday through Thursday, 7:00 am – 5:30 pm. For more information, please call the City Clerk's Office at 626-580-2016.

To the extent that public meetings and any other authorized gatherings of the City are conducted at a physical location within the City, such meetings and gatherings shall be accessible to persons with disabilities, provided that reasonable requests for accommodation are made by contacting the City Clerk at least forty-eight (48) hours prior to the time of the meeting. With respect to meetings conducted telephonically or through other electronic means during the State, County and local emergency conditions brought on by the novel coronavirus (COVID-19), reasonable requests for accommodation may be made by calling the office of the City Clerk at least twenty-four hours prior to the meeting, if possible. The City Clerk may be contacted at (626) 580-2016. The City will use its best efforts to provide reasonable accommodation given the timing, circumstances and economic feasibility of the request, particularly in light of the current emergency conditions. This Agenda and copies of documents distributed at the meeting are available in alternative formats upon request.

Posted: June 4, 2020 at 2:10 p.m.





CITY OF EL MONTE

CITY ATTORNEY'S OFFICE
CITY COUNCIL AGENDA REPORT

CITY COUNCIL SPECIAL MEETING OF JUNE 5, 2020

June 4, 2020

The Honorable Mayor and City Council
City of El Monte
11333 Valley Boulevard
El Monte, CA 91731

Honorable Mayor and City Council:

CONSIDERATION AND APPROVAL OF A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EL MONTE, CALIFORNIA DECLARING A LOCAL EMERGENCY DUE TO CIVIL UNREST IN THE CITY AND THE REGION DUE TO THE DEATH OF GEORGE FLOYD

IT IS RECOMMENDED THAT THE CITY COUNCIL:

1. Adopt the attached Resolution (Attachment 1) declaring a local emergency due to civil unrest in the City and the region due to the death of George Floyd.

BACKGROUND/ JUSTIFICATION OF RECOMMENDED ACTION:

Since at least May 28, 2020, there has been widespread arson, looting, assaults, vandalism and rioting in cities throughout California and across the country in reaction to the May 25, 2020 death of Minneapolis, Minnesota resident George Floyd.

On May 30, 2020 Board of Supervisors for the County of Los Angeles issued a Proclamation declaring the Existence of a Local Emergency by the Chair of the Los Angeles County Board of Supervisors and Requesting a State Proclamation in connection with the above-referenced civil unrest.

Also on May 30, 2020, Governor Gavin Newsom, at the request of the County of Los Angeles and the City of Los Angeles, issued a Proclamation of a State of Emergency for Los Angeles County and the City of Los Angeles (the "Governor's Civil Unrest Proclamation") which contained the following orders:

1. All agencies of the state government to use and employ state personnel, equipment and facilities or perform any and all activities consistent with the direction of the Office of Emergency Services and the State Emergency Plan.

2. All residents to heed the advice of emergency officials with regard to the Governor's Civil Unrest Proclamation to protect their safety.
3. The Office of Emergency Services to provide assistance to Los Angeles County and the City of Los Angeles, if appropriate and necessary under the authority of the California Disaster Assistance Act, Govt. Code Section 8550 et seq. and California Code of Regulations, Title 19, Section 2900 et seq.
4. The California National Guard to mobilize under Military and Veterans Code sections 143 and 146 to support response efforts in Los Angeles County and the City of Los Angeles.

DISCUSSION

Although peaceful demonstrations are essential to our democratic system, some individuals have engaged in dangerous and unlawful activity, threatening the safety of lawful demonstrators, surrounding communities, and first responders, thereby necessitating immediate action by the Director of Emergency Services.

This Resolution, pursuant to Sections 2.36.060 and 2.36.070 of the El Monte Municipal Code, will empower the City Manager of the City of El Monte, designated the "Director of Emergency Services" (hereinafter, the "Director"), to make and issue rules and regulations on matters reasonably related to the protection of life and property as affected by any proclamation of local emergency or by the proclamation of a "state of emergency" by the Governor or the Director of the State Office of Emergency Services.

Additionally, per Section 2.36.120 of the El Monte Municipal Code, the Director is empowered upon the declaration of a local emergency or a declaration of a state of emergency to establish and enforce a curfew subject to the terms and conditions set forth under Section 2.36.120 of the El Monte Municipal Code.

During the existence of this local emergency the powers, functions, and duties of the emergency organization of the City shall be those prescribed by state law, by ordinances, and resolutions of the City or as prescribed by the County of Los Angeles and/or the County Sheriff (collectively, the "County") to the extent any order or proclamation of the County applies to the City of El Monte.

FISCAL IMPACT

The majority of protocols established by this Resolution do not have any immediate foreseeable financial impact on the City. It should also be noted that certain costs of the City attributable to its response to the civil unrest may be reimbursable from Federal, State, and County emergency funding sources.

RECOMMENDATION

It is recommended that the City approve the attached Resolution declaring a local emergency due to civil unrest in the City and the region due to the death of George Floyd.

Respectfully submitted,

ALMA K. MARTINEZ
City Manager

RICHARD PADILLA
Assistant City Attorney

Attachment 1: Resolution

DATE: June 5, 2020
PRESENTED TO EL MONTE CITY COUNCIL
<input type="checkbox"/> APPROVED <input type="checkbox"/> DENIED <input type="checkbox"/> PULLED <input type="checkbox"/> RECEIVE AND FILE <input type="checkbox"/> CONTINUED
<input type="checkbox"/> REFERRED TO
CHIEF DEPUTY CITY CLERK

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EL MONTE, CALIFORNIA DECLARING A LOCAL EMERGENCY DUE TO CIVIL UNREST IN THE CITY AND THE REGION DUE TO THE DEATH OF GEORGE FLOYD

WHEREAS, since at least May 28, 2020, there has been widespread arson, looting, assaults, vandalism and rioting in cities throughout California and across the country in reaction to the May 25, 2020 death of Minneapolis, Minnesota resident George Floyd while in detained by the Minneapolis Police Department; and

WHEREAS, there has been arson, looting, assaults, vandalism and rioting in the nearby City of Los Angeles, and other nearby cities since May 30, 2020, and continuing to the present in connection with the same; and

WHEREAS, on May 30, 2020 Board of Supervisors for the County of Los Angeles issued a Proclamation declaring the Existence of a Local Emergency by the Chair of the Los Angeles County Board of Supervisors and Requesting a State Proclamation in connection with the above-referenced civil unrest; and

WHEREAS, on May 30, 2020, Governor Gavin News, at the request of the County of Los Angeles and the City of Los Angeles, issued a Proclamation of a State of Emergency for Los Angeles County and the City of Los Angeles (the “Governor’s Civil Unrest Proclamation”); and

WHEREAS, under the State Civil Unrest Proclamation, the Governor has orders:

1. All agencies of the state government to use and employ state personnel, equipment and facilities or perform any and all activities consistent with the direction of the Office of Emergency Services and the State Emergency Plan.
2. All residents to head the advice of emergency officials with regard to the Governor’s Civil Unrest Proclamation to protect their safety.
3. The Office of Emergency Services to provide assistance to Los Angeles County and the City of Los Angeles, if appropriate and necessary under the authority of the California Disaster Assistance Act, Govt. Code Section 8550 et seq. and California Code of Regulations, Title 19, Section 2900 et seq.
4. The California National Guard to mobilize under Military and Veterans Code sections 143 and 146 to support response efforts in Los Angeles County and the City of Los Angeles; and

WHEREAS, there is particularized concern for civil unrest in the City of El Monte (“City”) due to a May 23, 2020 confrontation between El Monte Police Officers and a crowd of bystanders which occurred as officers attempted to take suspects into police custody at the conclusion of a police pursuit; and

WHEREAS, the May 23, 2020 confrontation, which was filmed and posted to social media, has been the subject of notoriety in the City; has resulted in protests at El Monte City Hall and is expected to draw additional protests in the coming days, particularly in light of national protests relating to the George Floyd incident; and

WHEREAS, on June 1, 2020 protests involving as many as 200 people occurred at El Monte City Hall in connection with both the George Floyd incident and the May 23, 2020 incident involving El Monte law enforcement; and

WHEREAS, Government Code Section 8634 provides in relevant part:

“During a local emergency the governing body of a political subdivision, or officials designated thereby, may promulgate orders and regulations necessary to provide for the protection of life and property, including orders or regulations imposing a curfew within designated boundaries where necessary to preserve the public order and safety. Such orders and regulations and amendments and rescissions thereof shall be in writing and shall be given widespread publicity and notice. The authorization granted by this chapter to impose a curfew shall not be construed as restricting in any manner the existing authority of counties and cities and any city and county to impose pursuant to the police power a curfew for any other lawful purpose.”; and

WHEREAS, pursuant to Sections 2.36.060 and 2.36.070 of the El Monte Municipal Code, the City Manager of the City of El Monte is designated the “Director of Emergency Services” (hereinafter, the “Director”) and as such is empowered to make and issue rules and regulations on matters reasonably related to the protection of life and property as affected by any proclamation of local emergency or by the proclamation of a “state of emergency by the Governor or the Director of the State Office of Emergency Services; and

WHEREAS, per Section 2.36.120 of the El Monte Municipal Code, the City Council and the Director are empowered upon the declaration of a local emergency or a declaration of a state of emergency to establish and enforce a curfew subject to the terms and conditions set forth under Section 2.36.120 of the El Monte Municipal Code; and

WHEREAS, both the City Council and the Director find that an extreme threat to public health and safety now exists in the City of El Monte due to the violence surrounding the protests concerning the tragic death of George Floyd and the May 23, 2020 confrontation referenced above; and

WHEREAS, the City Council and the Director further find that the above conditions constitute the existence of conditions of extreme peril to the safety of persons and property within the City, which conditions are likely to be beyond the control of the services, personnel, equipment and facilities of the City and require the combined forces of other political subdivision to combat; and

WHEREAS, the County of Los Angeles issued a series of overnight Countywide curfews beginning on May 31, 2020 through the morning of June 4, 2020 in response to civil unrest throughout the County of Los Angeles, including areas close to the City of El Monte; and **WHEREAS**, although peaceful demonstrations are essential to our democratic system, some individuals have engaged in dangerous and unlawful activity, threatening the safety of lawful demonstrators, surrounding communities, and first responders, thereby necessitating immediate action by the Director of Emergency Services.

BASED UPON THE ABOVE RECITALS, THE CITY COUNCIL OF THE CITY OF EL MONTE, CALIFORNIA, DOES HEREBY FIND, DETERMINE AND RESOLVE AS FOLLOWS:

SECTION 1. The City Council hereby finds that the foregoing recitals are true and correct and are incorporated into the body of this Resolution by this reference.

SECTION 2. That a Local Emergency exists in the City of El Monte incident to ongoing civil unrest sparked by the May 25, 2020 George Floyd incident and additional potential civil unrest relating to the May 23, 2020 El Monte confrontation, both referenced, above.

SECTION 3. That during the existence of said Local Emergency the powers, functions, and duties of the emergency organization of the City shall be those prescribed by state law, by ordinances, and resolutions of the City or as prescribed by the County of Los Angeles and/or the County Sheriff (collectively, the "County") to the extent any order or proclamation of the County applies to the City of El Monte.

SECTION 4. That all City Departments shall review and revise their operational plans, in coordination with the Director, to address the risks the Local Emergency poses to their critical functions; and shall coordinate all crisis communications to employees and the public with the Director and the Director's designated crisis communication team.

SECTION 5. That (i) a copy of this Proclamation be forwarded to the Los Angeles County Office of Emergency Management, to be forwarded to the Director of California Governor's Office of Emergency Services, requesting that the Director find it acceptable in accordance with State law; and (ii) the Governor declare the City of El Monte to be in a state of emergency.

SECTION 6. That the City shall seek reimbursement and financial assistance from any and all sources available to it, including, but not limited to: 1) the Federal Emergency Management Administration (FEMA); 2) the California Governor's Office of Emergency Services (Cal-OES); and 3) the California Disaster Assistance Act (CDAA) to offset expenditures related to the costs of its response to the civil unrest, including but not limited to: a) changes to the public safety work schedule (12 hours on/12 hours off), b) mutual aid responses and overtime costs to refill positions; c) damages to City-owned property; and d) administrative costs to prepare requests for resources.

SECTION 7. That this Declaration of a Local Emergency shall take effect immediately and that widespread publicity and notice shall be given of this Resolution throughout the City as directed by the Director.

SECTION 8. That City Manager shall report to the City Council on the status of the Local Emergency declared herein at the earliest possible opportunity.

PASSED, APPROVED AND ADOPTED by the City Council of the City of El Monte at its special meeting on this 5th day of June 2020.

André Quintero
Mayor of the City of El Monte

ATTEST:

Catherine A. Eredia
City Clerk of the City of El Monte

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) SS:
CITY OF EL MONTE)

I, Catherine A. Eredia, City Clerk of the City of EL Monte, hereby certify that the foregoing Resolution No. _____ was passed and adopted by the City Council of the City of El Monte, signed by the Mayor and attested by the City Clerk at a special meeting of said Council held on the 5th day of June 2020 and that said Resolution was adopted by the following vote, to-wit:

AYES:

NOES:

ABSTAIN:

ABSENT:

Catherine A. Eredia
City Clerk of the City of El Monte



CITY OF EL MONTE

CITY ATTORNEY'S OFFICE
CITY COUNCIL AGENDA REPORT

CITY COUNCIL SPECIAL MEETING OF JUNE 5, 2020

JUNE 4, 2020

The Honorable Mayor and City Council
City of El Monte
11333 Valley Boulevard
El Monte, CA 91731

Dear Mayor and City Council:

A PUBLIC HEARING TO CONSIDER AND APPROVE BY 4/5 VOTE UNCODIFIED URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF EL MONTE, CALIFORNIA AFFIRMING EFFECTIVE AS OF JUNE 1, 2020 THE APPLICATION OF THE EVICTION MORATORIUM OF THE COUNTY OF LOS ANGELES TO THE CITY OF EL MONTE RELATING TO THE NON-PAYMENT OF RENT DUE TO COVID-19 PANDEMIC AND ITS RELATED EFFECTS

IT IS RECOMMENDED THAT THE CITY COUNCIL:

1. Open the public hearing.
2. Receive a brief overview from staff and pose questions.
3. Receive public comment.
4. Close the public comment portion of the public hearing.
5. Pose closing questions to staff.
6. Deliberate and then close the public hearing.
7. It is recommended the Council either (a) approve the ordinance as a regular ordinance for first reading by simple majority vote; or, in the alternative (b) approve the same as an urgency ordinance by 4/5 of the City Council.

BACKGROUND

Given the severe and unprecedented nature of the COVID-19 outbreak federal, State and local authorities have declared emergency conditions and protocols to halt the spread of the virus. At its meeting of March 17, 2020, the El Monte City Council ("City Council") declared a local emergency in light of the COVID-19 pandemic and has subsequently updated and extended the local emergency declaration. At its meeting of March 19, 2020, the City Council approved an Urgency Ordinance immediately implementing a temporary 60-day residential eviction moratorium to protect El Monte renters who may be at risk of eviction due to non-payment of rent attributable to economic repercussions brought about by the COVID-19 crisis. The City's anti-eviction moratorium was later modified by way of a second Urgency Ordinance approved April 7,

2020 which expanded anti-eviction protections to certain qualified commercial tenancies.

In March 2020, the Los Angeles County Board of Supervisors (the “County”) acted to implement the County’s own anti-eviction moratorium (the “County Moratorium”) applicable to both commercial and residential tenancies. Although the County’s moratorium took effect retroactively to March 4, 2020, it only applied to unincorporated areas of Los Angeles County. On April 14, 2020, however, the County changed course and expanded its anti-eviction to include incorporated cities, provided those cities did not already have their own local anti-eviction moratorium in place. Since the time of publication of the City’s last iteration of the El Monte-specific Urgency Ordinance, the California State Judicial Council also adopted emergency rules of court to address evictions during the statewide COVID-19 emergency (“Judicial Rules”).

As indicated above, the City Council implemented an El Monte-specific moratorium at a time when the County’s moratorium did not reach to incorporated cities. With the County’s expansion of the current moratorium to incorporated cities, the question presented now is whether the City may wish to repeal its local moratorium in favor of protections now afforded by the County moratorium – some of which are more favorable to tenants.

PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION

Both the Judicial Rules and the County Moratorium are more protective than the local moratorium last adopted by the City on April 7, 2020. The Judicial Rules effectively suspend residential and commercial evictions throughout California for sixty (60) days and prevent any new eviction actions for ninety (90) days after the state of emergency ends regardless of the grounds for the eviction.

The County Moratorium applies retroactively to March 4, 2020 and remains in effect until June 30, 2020, unless extended. Among other protections, the County Moratorium bans evictions for nonpayment of rent, prohibits late fees and/or interest for unpaid rent, and allows up to twelve (12) months to pay back rent. By comparison, the City Ordinance grants a six-month payback period and does not address rent increases. Qualifying reasons under the County Moratorium are broader and include no-fault evictions and violations due to additional occupants. And documentation requirements are less stringent, allowing tenants to self-certify their inability to pay. It also explicitly bans landlords from harassing or intimidating tenants who assert their rights. Tenants must notify their landlord within seven (7) days after rent is due, as compared to thirty (30) days under the local El Monte-specific moratorium. However, the County Moratorium also includes a qualification for extenuating circumstances to notify a landlord beyond the required timeframe. Neither relieves tenants of their ultimate obligation to pay rents owed.

The proposed action supports the intention of the prior City moratorium, which was to help stabilize the residential and commercial rental market and preserve public health

and safety by reducing avoidable displacement. Providing tenants protection from eviction continues to be of critical importance to help prevent the spread of the virus until the emergency restrictions are lifted. The proposed ordinance, however, will be considered effective as of June 1, 2020. Accordingly, disputes for unpaid rent applicable to the months of March through May shall will remain subject to the City's local moratorium.

Parenthetically, the term of the City's local moratorium was tied the expiration of the Governor's Executive Order N-37-20 which expired on May 31, 2020. It should be noted that on May 29, 2020, the Governor issued Executive Order N-66-20 which did not extend Executive Order N-37-20 and did not even make reference to it but which did purport to extend a prior Executive Order that was itself superseded by Executive Order N-37-20 (namely, Executive Order N-28-20). Accordingly, there is some confusion as to the Governor's intent. Nevertheless, the plain wording of the City's local moratorium states that it expires when Executive Order N-37-20 expires (i.e., on May 31, 2020). Nothing in the Governor's May 29, 2020 extension order extends Executive Order N-37-20.

FISCAL IMPACT/FINANCING

Beyond the efforts to inform tenants and landlords of the proposed change, there is no immediately identifiable cost associated with this Ordinance.

RECOMMENDATION

It is recommended that the City Council approve the attached Urgency Ordinance by 4/5.

HONORABLE MAYOR AND CITY COUNCIL
JUNE 4, 2020
PAGE 4

Respectfully submitted,

ALMA K. MARTINEZ
City Manager

RICHARD PADILLA
Assistant City Attorney

Attachment 1: Urgency Ordinance.

DATE: June 5, 2020
PRESENTED TO EL MONTE CITY COUNCIL
<input type="checkbox"/> APPROVED <input type="checkbox"/> DENIED <input type="checkbox"/> PULLED <input type="checkbox"/> RECEIVE AND FILE <input type="checkbox"/> CONTINUED
<input type="checkbox"/> REFERRED TO
CHIEF DEPUTY CITY CLERK

URGENCY ORDINANCE NO. _____

AN UNCODIFIED URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF EL MONTE, CALIFORNIA AFFIRMING EFFECTIVE AS OF JUNE 1, 2020 THE APPLICATION OF THE EVICTION MORATORIUM OF THE COUNTY OF LOS ANGELES TO THE CITY OF EL MONTE RELATING TO THE NON-PAYMENT OF RENT DUE TO COVID-19 PANDEMIC AND ITS RELATED EFFECTS

WHEREAS, in late December 2019, several cases of unusual pneumonia began to emerge in the Hubei province of China. On January 7, 2020, a novel coronavirus now known as COVID-19 was identified as the likely source of the illness; and

WHEREAS, on January 30, 2020, the World Health Organization (“WHO”) declared COVID-19 a Public Health Emergency of International Concern. On January 31, 2020, the United States Secretary of Health and Human Services declared a Public Health Emergency; and

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

WHEREAS, on March 11, 2020, WHO publicly characterized COVID-19 as a pandemic; and

WHEREAS, on March 16, 2020, Governor Newsom issued Executive Order N-28-20 which suspended “[a]ny provision of state law that would preempt or otherwise restrict a local government’s exercise of its police power to impose substantive limitations on residential or commercial evictions ... including, but not limited to, any such provision of Civil Code Sections 1940 et seq.” to the extent such provisions would otherwise restrict such exercise; and

WHEREAS, on March 16, 2020, the County of Los Angeles (the “County”) ordered the closure of all gyms, bars, and ordered all restaurants to close their sit-in areas and offer take-out or delivery services only; and

WHEREAS, on March 19, 2020, the County issued a Mandatory Stay at Home Order, ordering the closure of all non-essential businesses until April 19, 2020; and

WHEREAS, on March 19, 2020, the Chair of the County Board of Supervisors issued an Executive Order establishing a temporary moratorium which was later ratified by the County Board of Supervisors on March 31, 2020, on residential and commercial evictions in the unincorporated areas of the County in response to the COVID-19 pandemic; and

WHEREAS, on March 19, the City of El Monte (the “City”) adopted Urgency Ordinance No. 2971 enacting a temporary moratorium on evictions due to the nonpayment of rent for residential tenants; and

WHEREAS, on March 27, 2020, Governor Newsom issued Executive Order N-37-20 (“Executive Order N-37-20”) which prevents evictions for a period of 60 days of “a tenant from a residence or dwelling unit for nonpayment of rent” who satisfies requirements set forth in said order; and

WHEREAS, the moratorium established under Executive Order N-28-20 currently expires on May 31, 2020; and

WHEREAS, on April 7, 2020, the City repealed Urgency Ordinance No. 2971 and replaced it with Urgency Ordinance No. 2974 (the “COVID-19 Eviction Moratorium Ordinance”), which expanded the parameters of the City eviction moratorium; and

WHEREAS, on April 14, 2020, the County Board of Supervisors expanded the County's anti-eviction moratorium to include all jurisdictions countywide except those jurisdictions that have adopted their own moratoria; and

WHEREAS, on May 12, 2020, the County Board of Supervisors further modified its countywide eviction moratorium to, among other things, extend the same to June 30, 2020; and

WHEREAS, the City COVID-19 Eviction Moratorium Ordinance and the County's eviction moratorium provide conflicting parameters regarding the terms of eviction such as the time of notice that is required for a tenant to notify a landlord of its inability to pay rent; and

WHEREAS, in order to avoid confusion between the City COVID-19 Eviction Moratorium Ordinance and County's eviction moratorium, the City desires to repeal its Urgency Ordinance No. 2974.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF EL MONTE, CALIFORNIA DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. Recitals. The recitals above are true and correct and incorporated herein by reference. For purposes of this Ordinance, the term "County Eviction Moratorium" shall mean the eviction moratorium first approved by the County Board of Supervisors' March 19, 2020 Executive Order establishing a temporary moratorium which was later ratified by the County Board of Supervisors on March 31, 2020, as the same was subsequently modified and expanded by action of the County Board of Supervisors on April 14, 2020 and on May 12, 2020, and as the same may be further modified by subsequent action of the County Board of Supervisors.

SECTION 2. Effective Date. This Urgency Ordinance shall be effective as of 12:00AM on June 1, 2020. Urgency Ordinance No. 2974 shall have no application to tenants whose rent becomes past due and remains unpaid as of the effective date of this Urgency Ordinance.

SECTION 3. Findings and Application.

- A. The purpose of this Ordinance is to repeal the COVID-19 Eviction Moratorium Ordinance in order to avoid confusion between the COVID-19 Eviction Moratorium Ordinance and the County Eviction Moratorium, which shall apply to the City from the Effective Date of this Ordinance. It is also stressed that the underlying objective of this Ordinance and the City's prior eviction moratorium ordinances is to prevent tenants from becoming homeless as a result of adverse economic impacts brought on by the COVID-19 crisis. A surge in homelessness attributable to evictions would only exacerbate the spread of COVID-19 as evicted tenants would be forced out into the streets and would further strain City resources already strained by efforts to respond to the pandemic. This Ordinance is therefore adopted as an Urgency Ordinance for the immediate preservation of the public peace, health and safety within the meaning of Government Code Section 36937(b), and therefore shall be passed immediately upon its introduction and shall become effective at 12:00AM on May 6, 2020 upon its adoption by a minimum of 4/5 vote of the City Council. This Urgency Ordinance is created pursuant to the City's general police powers to protect the health, safety, and welfare of its residents and exists in addition to any rights and obligations under state and federal law.
- B. It is the intent of the City Council that as of the effective date of this Ordinance all residential and commercial tenants in the City of El Monte shall be subject to all of the protections afforded under the County Eviction Moratorium, subject to any enhanced protection set forth in this Ordinance, below.
- C. The application of the County Eviction Moratorium to tenants in the City of El

Monte shall be subject to the following limited modification: Commencing upon the start date under the County Eviction Moratorium of the 12-month period for the repayment of unpaid rent, each Tenant and Landlord shall establish a prorated repayment schedule of the unpaid rent that is at least 25% of the deferred amount of the rent due at the end of each 3-month period within the 12-month repayment period of the County Eviction Moratorium or any further extended repayment period as the County may approve. If the Tenant terminates the tenancy during the repayment period, the total amount of deferred rent shall be come due immediately. Nothing this in this Ordinance shall operate to prevent a Tenant and a Landlord from agreeing to different repayment terms.

- D. Except to the limited extent set forth under paragraph C of this Section, above, it is the intent of the City Council that effective 12:00AM on June 1, 2020 all of the protections, rights and responsibilities set forth in the County Eviction Moratorium, as the same may be further amended by the County of Los Angeles shall apply to all residential and commercial tenants in the City of El Monte to the extend afforded under the County Eviction Moratorium and for the duration of the County Eviction Moratorium as the same may be modified, amended or extended by the County of Los Angeles.

SECTION 4. Environmental. This Ordinance is exempt from the requirements of the California Environmental Quality Act (“CEQA”) pursuant to State CEQA Guidelines, as it is not a “project” and has no potential to result in a direct or reasonably foreseeable indirect physical change to the environment. (Cal. Code Regs., tit.14, § 15378, subd. (a).) Further, this Ordinance is exempt from CEQA as there is no possibility that it or its implementation would have a significant negative effect on the environment. (Cal. Code Regs., tit.14, § 15061, subd. (b)(3).)

SECTION 5. Inconsistent Provisions. Any provision of the El Monte Municipal Code or appendices thereto inconsistent with the provisions of this Ordinance, to the extent of such inconsistencies and no further, is hereby repealed or modified to the extent necessary to implement the provisions of this Ordinance.

SECTION 6. Severability. If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this Ordinance, or any part thereof, is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance or any part thereof. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase thereof, irrespective of the fact that any one or more section, subsection, subdivision, paragraph, sentence, clause or phrase would be subsequently declared invalid or unconstitutional.

SECTION 7. Construction. The City Council intends this Ordinance to supplement, not to duplicate or contradict, applicable state and federal law and this Ordinance shall be construed in light of that intent. To the extent the provisions of the El Monte Municipal Code as amended by this Ordinance are substantially the same as the provisions of that Code as it read prior to the adoption of this Ordinance, those amended provisions shall be construed as continuations of the earlier provisions and not as new enactments.

SECTION 8. Publication and Effective Date. The Mayor shall sign and the City Clerk shall attest to the passage of this Ordinance. The City Clerk shall cause the same to be published once in the official newspaper within fifteen (15) days after its adoption. This Ordinance shall become effective thirty (30) days after adoption. This Ordinance is enacted pursuant to the authority conferred upon the City Council by Government Code Sections 36934 and 36937 and shall be in full force and effect upon its adoption by a four-fifths (4/5) vote of the City Council. The City Clerk shall cause this Urgency Ordinance to be published once in a newspaper of general circulation within fifteen (15) days after its adoption. The City Clerk shall post a copy of this Ordinance on the City’s internet homepage and the City shall endeavor to notify landlord and tenant groups, the County of Los Angeles and other interested parties of this Ordinance.

PASSED, APPROVED AND ADOPTED by the City Council of the City of El Monte at the regular meeting of this ____ day of _____, 2020.

Andre Quintero
Mayor

ATTEST:

Catherine A. Eredia
City Clerk

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) SS:
CITY OF EL MONTE)

I, Catherine A. Eredia, City Clerk of the City of El Monte, hereby certify that the foregoing Urgency Ordinance No. was passed and adopted by the City Council of the City of El Monte, signed by the Mayor and attested by the City Clerk at a regular meeting of said Council held on the _____ day of June 2020 and that said Urgency Ordinance was adopted by the following votes, to-wit:

AYES:

NOES:

ABSTAIN:

ABSENT:

Catherine A. Eredia, City Clerk,
City of El Monte