

SPECIAL CITY COUNCIL MEETING AGENDA

Monday, July 6, 2020

immediately following the Regular Meeting

Remotely via Zoom



CITY HALL
P.O. BOX 20000
LAS CRUCES, NM 88004

700 N. Main St.
PHONE (575) 541-2067

Mayor
Ken Miyagishima

Mayor Pro-Tem
Kassandra Gandara

Councilors
Tessa Abeyta-Stuve
Gabriel Vasquez
Johana Bencomo
Gill Sorg
Yvonne Flores

Individuals may view meetings live at
lascruces.civicweb.net

The health, safety and well-being of our residents and businesses are a top priority for City Council and the leadership in Las Cruces. As such, and consistent with and in support of the direction from Gov. Michelle Lujan Grisham and the New Department of Health public health order the Special Council Meeting will be held via video conference. In an effort to seek public input we ask that if you have comments/concerns/questions please e-mail your Councilor as follows:

District 1 – kgandara@las-cruces.org
District 2 – tstuve@las-cruces.org
District 3 – gvasquez@las-cruces.org
District 4 – jbencomo@las-cruces.org
District 5 – gsorg@las-cruces.org
District 6 – yflores@las-cruces.org
Mayor – mayor@las-cruces.org

If you need an accommodation for a disability to enable you to fully participate in this event please contact us 72 hours before this event at [541-2115/V](tel:541-2115).

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1. **CONFLICT OF INTEREST INQUIRY BY MAYOR AS REQUIRED BY LCMC
SECTION 2-27 (E)(2)**

2. **RESOLUTION(S) AND/OR ORDINANCE(S) FOR DISCUSSION**

- 2.1. RESOLUTION NO. 21-008: A RESOLUTION EXTENDING THE TERM
FOR THE MAYOR'S EMERGENCY PROCLAMATION 2020-05
RELATED TO THE REQUIRING OF WEARING FACE COVERINGS
WITHIN PLACES OF BUSINESS BY BOTH PATRONS TO AND
EMPLOYEES OF THE BUSINESS INSIDE THE CITY LIMITS OF LAS
CRUCES.

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[Resolution No. 21-008 - Pdf](#)

3. **ADJOURNMENT**

**21-008****Type of Action:**☒ **Resolution**☐ **Ordinance**☐ **TIDD Resolution****Council Action and Executive Summary**

District:	☒ 1	☒ 2	☒ 3	☒ 4	☒ 5	☒ 6
1st Reading:				Adopted:	July 6, 2020	
Drafter:	David Dollahon			Department:	City Manager's Office	
Program:	Community & Council Support			Line of Business:	Community & Council Support	

Title:	A RESOLUTION EXTENDING THE TERM FOR THE MAYOR'S EMERGENCY PROCLAMATION 2020-05 RELATED TO THE REQUIRING OF WEARING FACE COVERINGS WITHIN PLACES OF BUSINESS BY BOTH PATRONS TO AND EMPLOYEES OF THE BUSINESS INSIDE THE CITY LIMITS OF LAS CRUCES.
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TYPE OF ACTION: ☒ **Administrative** ☐ **Legislative** ☐ **Quasi-Judicial****PURPOSE(S) OF ACTION:**

To approve extension of the term of the Mayor's Emergency Proclamation 2020-05.

BACKGROUND / KEY ISSUES / CONTRIBUTING FACTORS:

On March 11, 2020, Governor Michelle Lujan Grisham issued an Executive Order declaring a state of public health emergency and invoked her executive powers as authorized by the All Hazard Emergency Management Act and the Emergency Licensing Act. This action was taken in response to a declared pandemic of the COVID-19 virus. Since that time, the New Mexico Department of Health has issued numerous separate Public Health Emergency Orders in an effort to slow or halt transmission of the virus.

On March 27, 2020, the City Council passed the Emergency Declaration Ordinance, LCMC 1997, Chapter 9, Art. III Sections 9-35 through 9-41. It provides the Mayor, or in the Mayor's absence the Mayor Pro Tem, the authority to take immediate action for the protection of life and property, and for the preservation of public peace, safety, health, welfare, and for the continuity of efficient government operations. It also allows the City Council to authorize limited action in response to an emergency situation. The Emergency Declaration Ordinance authorizes the Mayor and Council to exercise their emergency powers through a proclamation. The term of the proclamation is three (3) days, but can be extended for up fourteen (14) days at a time.

Four Emergency Proclamations have been issued by the Mayor in 2020 related to the COVID-19 pandemic, and City Council has, by Resolution, extended three of those Emergency Proclamations, all to continue to coincide the Governor's continued emergency public health orders and New Mexico's effort to halt the spread of the virus.

On July 3, 2020, the Mayor's Emergency Proclamation 2020-05, coinciding with the Governor's Executive Order 2020-053, was issued requiring the wearing of face coverings, with limited exceptions, within all businesses registered and currently operating within the city limits of Las Cruces for all patrons and employees of said places of business. Further, it orders that each business owner who violates this Emergency Proclamation will face a \$100 fine for every individual within the place of business found not to be wearing an appropriate face covering, but fines shall not exceed \$500 per occurrence.

Agenda Item #2.1.

This proposed Resolution, if approved, would grant an extension to the term of the Mayor's Emergency Proclamation 2020-05 to run concurrent with the New Mexico Governor's Executive Orders so long as the Governor's Executive Order is in effect or by separate action of the City Council rescinding the Mayor's Emergency Proclamation, whichever occurs first. No further action would be required of the City Council to continue the extension of the term of the Emergency Proclamation if this Resolution is approved, provided the Governor doesn't end her Executive Order or the City Council approves a separate resolution rescinding the Emergency Proclamation. In light of the current COVID-19 pandemic and recent resurgence of the pandemic in New Mexico and neighboring states, namely Arizona and Texas, this Resolution is seen as a more efficient action rather than requiring a new resolution every 14 days.

SUPPORT INFORMATION:

[Exhibit A - Emergency Proclamation](#)

PLAN(S):

None

COMMITTEE/BOARD REVIEW:

None

ANNUAL BUDGET APPROVAL:

- ☐ Yes
- ☐ No
- ☒ N/A

Does this action amend the Capital Improvement Plan (CIP)?

- ☐ Yes
- ☐ No
- ☒ N/A

OPTIONS / ALTERNATIVES:

1. Vote yes, this would approve the Resolution and allow the term of the Mayor's Emergency Proclamation 2020-05 to be extended as long as the Governor's Executive Order is in place or unless rescinded by separate, future resolution of the City Council.
2. Vote no, this would not approve the Resolution nor would the term of the Mayor's Emergency Proclamation 2020-05 be extended.
3. Vote to amend - is not an option, as the Council may only extend or not extend the Mayor's Emergency Proclamation 2020-05 as presented in accordance with the Municipal Code.
4. Vote to table - is not an option, as the Council must act on whether to extend or not extend the Mayor's Emergency Proclamation 2020-05 as presented in accordance with the Municipal Code.

RESOLUTION 21-008

A RESOLUTION EXTENDING THE TERM FOR THE MAYOR'S EMERGENCY PROCLAMATION 2020-05 RELATED TO THE REQUIRING OF WEARING FACE COVERINGS WITHIN PLACES OF BUSINESS BY BOTH PATRONS TO AND EMPLOYEES OF THE BUSINESS INSIDE THE CITY LIMITS OF LAS CRUCES.

The City Council is informed that:

WHEREAS, COVID-19, a respiratory disease that can result in serious illness or death, is caused by the SARS-CoV-2 virus, which is a new strain of coronavirus that had not been previously identified in humans and can spread via droplets from person to person; and

WHEREAS, on March 11, 2020 the International Health Regulations Emergency Committee of the World Health Organization declared the outbreak of COVID-19 a "Pandemic"; and

WHEREAS, on March 11, 2020, Governor Michelle Lujan Grisham proclaimed a public health emergency and invoked all powers under the All Hazards Emergency Act (§§12-10-1 through 12-10-10, NMSA 1978), for a minimum period of thirty (30) days and the Governor has extended and/or continued amended public health emergencies through to today; and

WHEREAS, on March 27, 2020 the City Council passed the Emergency Declaration Ordinance, LCMC 1997, Art. III Sections 9-35 through 9-41, which provides the Mayor or the Mayor Pro Tem the authority to take immediate action for the protection of life and property, and for the preservation of public peace, safety, health, welfare, and for the continuity of efficient government operations and allows the City Council to authorize limited action in response to an emergency situation; and

WHEREAS, the Emergency Declaration Ordinance authorizes the Mayor and Council to exercise their emergency powers through a proclamation for term of three (3) days, but can be extended for up fourteen (14) days at a time by action of the City Council; and

WHEREAS, on April 7, 2020, an Emergency Proclamation was issued by Mayor Kenneth Miyagishima, and was extended and approved by the City Council on April 10, 2020 and again on April 24, 2020 and said Emergency Proclamation was extended by action of the City Council to run concurrently with the Governor's Executive Orders related to the COVID-19 pandemic or until such times as the City Council revokes said Resolution, which ever time is sooner; and

WHEREAS, on June 30, 2020, Governor Michelle Lujan Grisham issued Executive Order 2020-053 Renewing the State of Public Health Emergency Initially Declared in Executive Order 2020-004, Other Powers Invoked In That Order, and All Other Orders and Directives Contained in Executive Orders Tied to the Ongoing Public Health Emergency; and

WHEREAS, on July 3, 2020, the Mayor's Emergency Proclamation 2020-05 was issued requiring the wearing of face coverings, with limited exceptions, within all businesses registered and currently operating within the city limits of Las Cruces for all patrons and employees of said places of business and each business owner who violated this proclamation will face a \$100 fine for every individual within the place of business found not to be wearing an appropriate face covering, but fines shall not exceed \$500 per occurrence.

WHEREAS, pursuant to LCMC 1997, Section 9-38(B), the original Emergency Proclamation was schedule to expire at 1:00 p.m. on Monday, July 6, 2020; and

WHEREAS, the City Council wishes that the Mayor's Emergency Proclamation 2020-05 be extended, for a term pursuant to LCMC, 1997, Section 9-38(C), to run concurrently with the State of New Mexico declared state of emergency for fourteen (14) days and to renew every fourteen (14) days and run concurrently

Agenda Item #2.1.

with the State of New Mexico declared state of emergency in response to the novel COVID 19 pandemic, or until such time that the governing body cancels the Proclamation, which ever time is sooner.

NOW, THEREFORE, BE IT RESOLVED, by the Governing Body of the City of Las Cruces:

(I)

THAT the Mayor's Emergency Proclamation 2020-05 (Exhibit "A") issued by Mayor Miyagishima on July 3, 2020 is hereby extended pursuant to LCMC 1997, Section 9-36, to run concurrent with the State of New Mexico declared state of emergency for fourteen (14) days and to renew every fourteen (14) days and run concurrently with the State of New Mexico declared state of emergency in response to the novel COVID 19 pandemic, or until such time that the governing body cancels the Proclamation, which ever time is sooner.

(II)

THAT City staff is hereby authorized to do all deeds necessary in the accomplishment of the herein above.

DONE AND APPROVED this day of

APPROVED

Mayor

ATTEST:

City Clerk

Moved by:

Seconded by:

AYES

NAYS



Office of the Mayor

KENNETH D. MIYAGISHIMA
MAYOR

CITY OF LAS CRUCES

CITY OF LAS CRUCES PROCLAMATION OF EMERGENCY 2020-05

WHEREAS, pursuant to LCMC Art. III, Sec. 9-35, Emergency Declaration Ordinance, the Mayor has the authority to proclaim that a state of emergency exists in the municipality, after consultation with the emergency manager, chief of police, or fire chief; and

WHEREAS, such proclamation allows the Mayor to prohibit and/or require certain actions to maintain the public peace, health, welfare, or safety, and if desired, to request that the Governor of New Mexico proclaim a state of emergency pursuant to the Riot Control Act; and

WHEREAS, on June 30, 2020, Governor Michelle Lujan Grisham issued Executive Order 2020-053 Renewing the State of Public Health Emergency Initially Declared in Executive Order 2020-004, Other Powers Invoked In That Order, and All Other Orders and Directives Contained in Executive Orders Tied to the Ongoing Public Health Emergency; and

WHEREAS, on April 7, 2020, an Emergency Proclamation was issued by Mayor Kenneth Miyagishima, and was extended and approved by the City Council on April 10, 2020 and again on April 24, 2020; and

WHEREAS, the Emergency Proclamations support and reiterate Governor Michelle Lujan Grisham's Executive Orders tied to the public health emergency created by the novel coronavirus disease which has been referred to as "COVID-19"; and

WHEREAS, the Governor's Executive Orders and the City of Las Cruces Emergency Proclamations have been implemented as emergency measures intended to slow the spread of COVID-19 and to reduce the potentially devastating effects of the disease.

NOW THEREFORE, I, Kenneth Miyagishima, Mayor of the City of Las Cruces, New Mexico, hereby invoke LCMC Sections 9-35 through 9-41, to preserve the peace, health, welfare, and safety in the City of Las Cruces, consistent with the above guidance and information. In particular, I am invoking the following actions:

I.I order the following:

- a. That businesses within the Las Cruces city limits and registered and operating in accordance with Las Cruces Municipal Code (LCMC) Chapter 16, and further defined in LCMC Sec. 16-96, shall require patrons and employees to wear face coverings when appropriate social distancing of six-feet cannot be maintained between individuals within the business.
- b. The face covering requirement applies to all applicable businesses currently open to the public.
- c. "Face Covering" as used in this Order, means a covering made of cloth, fabric, or other soft or permeable material, without holes, that covers the nose and mouth and surrounding areas of the lower face. A Face Covering may be factory-made, or may be handmade and improvised from ordinary household materials. The Face Covering should fit snugly but comfortably against the side of the face, include multiple layers of fabric, allow for breathing without restriction, and be able to be laundered and machine-dried without damage or change to shape. Face Coverings must cover the nose and mouth at all times and should remain in place until it can be removed safely. Face



Office of the Mayor

KENNETH D. MIYAGISHIMA
MAYOR

CITY OF LAS CRUCES

Coverings should be replaced when they become dirty, wet, and/or difficult to breathe through.

d. Any child under the age of three should not wear a Face Covering and parents should seek the advice of a physician.

e. Face coverings are not required when wearing one would inhibit the individual's health. Individuals with health issues that preclude them from wearing a Face Covering should document those concerns with their employer. Individuals are not required to wear face coverings when eating, drinking or exercising.

f. Business owners who violate this proclamation will face a \$100 fine for every individual within the place of business found not to be wearing an appropriate Face Covering, but fines shall not exceed \$500 per occurrence.

II. Effective Date

I hereby declare that this Proclamation will become effective on 12:01 am, July 4, 2020, and direct the City Manager to disseminate the contents hereof to the public by appropriate news media, government media and website, and other means available.

III. Term.

This Proclamation of Emergency may be extended for such additional periods of time as determined necessary by Resolution of the Governing Body of the City of Las Cruces, New Mexico.

DONE at Las Cruces, New Mexico this 3rd day of JULY, 2020, at the hour of 1 pm (MST).

KENNETH MIYAGISHIMA, MAYOR
City of Las Cruces, New Mexico

ATTEST:

CHRISTINE RIVERA, CITY CLERK

