



City of Culver City

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Staff Report

File #: 23-691, **Version:** 1

Item #: A-1.

CC - ACTION ITEM: City Council Discussion and Direction Regarding (1) Termination of the COVID-19 Local Emergency; (2) a Potential Urgency Ordinance Related to Commercial Tenant Eviction Moratorium Protections During the Repayment Plan Period; (3) a Potential Urgency Ordinance Related to Limitation on Third Party Food Delivery Fees; and (4) Other Direction Related to the COVID-19 Local Emergency as Desired.

Meeting Date: February 27, 2023

Contact Person/Dept.: Jesse Mays, City Manager's Office

Phone Number: (310) 253-6000

Fiscal Impact: Yes ☐ No ☒ **General Fund:** Yes ☐ No ☒

Attachments: Yes ☒ No ☐

Commission Action Required: Yes ☐ No ☒

Public Notification: (E-Mail) Meetings and Agendas - City Council (02/22/2023)

Department Approval: John Nachbar, City Manager (02/22/2023)

RECOMMENDATION

Staff recommends the City Council discuss and provide direction to the City Manager regarding (1) whether to terminate the COVID-19 local emergency (Local Emergency) and, if so, on what date; (2) a potential urgency ordinance related to commercial tenant eviction moratorium protections during the repayment plan period; (3) a potential urgency ordinance related to limitations on third-party food service fees; and (4) other direction related to the Local Emergency as desired.

BACKGROUND

Proclamation of Local Emergency

The Local Emergency due to the outbreak and spread of the coronavirus respiratory disease (COVID -19) pandemic has been in effect for nearly three years since March 14, 2020. The Local Emergency was proclaimed pursuant to the authority granted to the City Manager, as the Director of Emergency Services, by Culver City Municipal Code (CCMC) Section 3.09.020.B.1.a.

The Local Emergency was ratified by City Council on March 18, 2020, as required by California Government Code Section 8630(b) ["Whenever a local emergency is proclaimed by an official designated by ordinance, the Local Emergency shall not remain in effect for a period in excess of seven days unless it has been ratified by the governing body."]. Under Government Code Section 8630(d), "[t]he governing body shall proclaim the termination of the local emergency at the earliest possible date that conditions warrant."

Beginning on March 16, 2020, the City Manager issued a number of public orders in regard to restrictions and limitations on business operations, recreational activities, social gatherings, and other public health safety measures. The latest such order was the Forty-Fourth Supplement to Public Order issued September 22, 2022.

Current State of the Pandemic

On February 10, 2023, the Los Angeles County Department of Public Health released the following information:

"A newer COVID-19 Omicron strain, XBB.1.5, has emerged as dominant in Los Angeles County, according to the most recent analysis of local COVID samples from the Los Angeles County Department of Public Health (Public Health). XBB.1.5 accounts for 32.8% of sequenced COVID-19 specimens in Los Angeles County for the week ending Jan. 21, outcompeting BQ.1.1, the previously dominant strain.

While new emergent strains have the potential to drive surges in transmission, Los Angeles County is currently reporting a steady number of COVID-19 cases and hospitalizations compared to the week prior, with deaths slightly lower from what was seen for most of January. Other parts of the country with significant transmission of XBB.1.5 also have not seen significant increases in COVID-19 hospitalizations or deaths.

Los Angeles County remains in the U.S. Centers for Disease Control and Protection's (CDC) Low COVID-19 Community Level for the fourth consecutive week.

Currently, Los Angeles County's Low Community Level included a 7-day case rate of 69 new cases per 100,000 people, stable from the week prior. The 7-day total for new COVID-19 hospital admissions per 100,000 people is currently 7, with no change from last week. And the 7-day average of the proportion of staffed inpatient beds occupied by COVID-19 patients is now 4%, the same as it was the week prior.

Because the new dominant strain has more potential to cause infection, Public Health officials are asking residents, especially those who are most vulnerable to severe outcomes, to consider using common-sense protections, such as getting the bivalent booster, testing before large gatherings, and seeking immediate treatment, if sick.

People over 50 and those with common health conditions, including diabetes, hypertension, asthma, kidney or liver disease, or being overweight, are at greater risk of having severe illness or death from a COVID-19 infection. They and the people around

them should take extra precautions to stay safe and healthy.

Bivalent boosters offer significant protection even against the newer COVID strains circulating now, including XBB.1.5. In Los Angeles County, unvaccinated people are more than six times more likely to be hospitalized and eight times more likely to die when compared to people who have received the updated bivalent booster.

The bivalent booster is free and available to adults and children ages 6 months or older two months after their last COVID-19 vaccine or booster.

Free vaccines, boosters, testing and treatment remain widely available throughout Los Angeles County. Visit a community-based test to treat site or access telehealth services by calling 1-833-540-0473. Health services for homebound residents also are available.”

States of Emergency in Other Jurisdictions

Nationally, the Biden administration has announced that it will allow the coronavirus public health emergency and national emergency to expire on May 11, 2023. The administration announced over 90 days in advance to allow time for healthcare institutions to prepare for an end to the emergency.

At the State level, on October 17, Governor Gavin Newsom announced that the State’s COVID-19 State of Emergency will end on February 28, 2023.

Los Angeles County has not indicated when it will terminate its COVID-19 emergencies. However, Barbara Ferrer was quoted in the Los Angeles Times on February 2, 2023 stating: “We’re not lobbying to extend the emergencies. What we are doing is taking a hard look at what protections are offered by the emergency declarations and, if things go away, what would be put in place to mitigate any unanticipated or unintended consequences.”

The City of Los Angeles voted on January 10, 2023 to end the city of Los Angeles’ state of emergency due to COVID-19 on February 1, 2023.

The City of Santa Monica announced on January 10, 2023 that it would terminate its health emergency for the COVID-19 pandemic on February 28, 2023, consistent with the State.

Continuing Public Orders and Implementation Measures

The following public orders or implementation measures are still in effect with regard to food delivery fees and the commercial tenant eviction moratorium:

Food Delivery Fees

On October 30, 2020, based on City Council’s direction at its October 26, 2020 meeting, the City Manager issued the Twenty-Ninth Supplement to Public Order, which temporarily limited third party food service fees, effective November 6, 2020. The limitation is that no third party food delivery service may charge a retail food establishment a delivery fee that totals more than 15% of the

purchase price of an online order, or any combination of fees, commissions or costs, that is greater than 5% of the purchase price of each online order, as detailed in Exhibit A to the Order (Attachment 1). The Thirty-Fifth Supplement to Public Order issued on March 25, 2021 continued the fee limitations on third party food delivery services to the end of the local emergency.

Commercial Tenant Eviction Moratorium Repayment Plans

On March 20, 2020, the City Manager issued a First Supplement to the Public Order, which included, among other things, a commercial tenant eviction moratorium (CTEM) protecting commercial tenants against evictions based on an inability to pay rent due to COVID-19 related circumstances. The CTEM was extended nine times before terminating on July 31, 2022 per City Council's direction at its March 14, 2022 meeting and pursuant to the Forty-Second Supplement to Public Order issued by the City Manager on April 29, 2022.

Also on April 29, 2022, consistent with the City Council's direction to terminate the CTEM on July 31, 2022 and to establish repayment plans to address deferred rent that had accrued during the moratorium period (Back Rent), the City Manager issued the *Tenth Amended Rules and Implementation Measures Regarding Commercial Tenant Eviction Moratorium* (Implementation Measures). The Implementation Measures (Section 8) established the following grace periods for the repayment of Back Rent:

- 12-month grace period within which to pay Back Rent in full;
- 24-month grace period, requiring graduated payments of Back Rent over a 24-month period;
- 30-month grace period, requiring graduated payments of Back Rent over a 30-month period;
- or
- Other written agreement for repayment of Back Rent as agreed upon by a landlord and tenant.

Under the Forty-Second Supplement and Implementation Measures, commercial tenants are protected from eviction during the repayment of Back Rent, provided they make payments timely as required under the Implementation Measures.

DISCUSSION

Staff is seeking the City Council's direction on whether to terminate the COVID-19 Local Emergency and if so, on what date.

If the City terminates the COVID-19 Local Emergency, any public order that was issued pursuant thereto will no longer be enforceable, which would impact the following:

1. The City's ability to enforce the CTEM Implementation Measures, including the protection of the commercial tenants from eviction as long as they are in compliance with their elected repayment plans.
2. The limitation on third party food service fees.

If the City Council has interest in continuing to enforce one or both of these policies and regulations beyond the termination of the Local Emergency, City Council should give staff direction to return with one or more urgency ordinances for consideration concurrently with termination of the Local Emergency.

FISCAL ANALYSIS

There is no fiscal impact from giving direction to staff on these issues.

ATTACHMENTS

1. 2023-02-27_ATT_Exhibit A to 29th Supplement to Public Order Regarding Food Delivery Fees
2. 2023-02-27_ATT_CTEM Implementation Measures

MOTIONS

That the City Council:

1. Provide direction to the City Manager on whether to terminate the COVID-19 local emergency and if so, on what date; and,
2. Provide direction to the City Manager on a potential urgency ordinance related to commercial tenant eviction moratorium protections during the repayment plan period; and
3. Provide direction to the City Manager on a potential urgency ordinance related to limitations on third-party food service fees; and,
4. Provide other direction to the City Manager related to the COVID-19 local emergency as desired.