ORDINANCE NO. 2020-10

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA, AMENDING CHAPTER I (IN GENERAL) OF TITLE 6 (DISASTER RELIEF AND CIVIL DEFENSE) OF THE COSTA MESA MUNICIPAL CODE RELATING TO EMERGENCY PREPAREDNESS, ORGANIZATION AND COORDINATION

WHEREAS, on November 3, 1980, the City Council adopted Ordinance No. 80-20, codified at Chapter I (In General) of Title 6 (Disaster Relief and Civil Defense) of the Costa Mesa Municipal Code ("Municipal Code"); and

WHEREAS, the purpose of Title 6 is to provide for the preparation and carrying out of plans for the protection of persons and property within the City in the event of an emergency, the direction of emergency organization, and the coordination of emergency functions among the City and other entities; and

WHEREAS, the City Council has not updated Title 6 since its adoption in 1980; and

WHEREAS, a novel coronavirus, COVID-19, causes infectious disease and was first detected in Wuhan City, Hubei Province, China in December 2019. Symptoms of COVID-19 include fever, cough, and shortness of breath; outcomes have ranged from mild to severe illness, and, in some cases, death. The Center for Disease Control and Prevention (CDC) has indicated the virus is a tremendous public health threat; and

WHEREAS, on January 30, 2020, the World Health Organization (WHO) declared the outbreak a "public health emergency of international concern." On January 31, 2020, United States Health and Human Services Secretary Alex M. Azar II declared a public health emergency for the United States to aid the nation's healthcare community in responding to COVID-19. On February 26, 2020, the County of Orange declared a local emergency and a local health emergency. On March 4, 2020, California Governor Gavin Newsom declared a State of Emergency in California. On March 11, 2020, WHO declared the COVID-19 a pandemic; and

WHEREAS, as of March 10, 2020, the WHO reported that, to date, there were 113,702 confirmed cases of COVID-19, 4,012 of which resulted in death, across 110 countries; and

WHEREAS, on March 10, 2020, the California Department of Public Health (CDPH) reported that, to date, California has 157 confirmed cases of COVID-19, two of which have resulted in death. CDPH also reported that approximately 10,300 Californians who returned to the United States through LAX or SFO are self-monitoring. Public health officials expect the number of cases in California, the United States, and worldwide to increase; and

WHEREAS, conditions of extreme peril to the safety of persons and property have arisen due to the potential introduction of COVID-19 to Costa Mesa and Orange County; and

WHEREAS, it is imperative to prepare for and respond to suspected or confirmed COVID-19 cases, to implement measures to mitigate the spread of COVID-19, and to prepare to respond to an increasing number of individuals requiring medical care and hospitalization; and

WHEREAS, in order to ensure the City can appropriately respond to the issues surrounding COVID-19, the City Council desires to update Title 6 for consistency with California law and make other clarifying changes; and

WHEREAS, all legal prerequisites prior to the adoption of this Ordinance have occurred.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF COSTA MESA DOES HEREBY ORDAIN AS FOLLOWS:

Section 1. Recitals. The City Council finds that all the recitals set forth in the preamble of this Ordinance are true and correct.

Section 2. Municipal Code Amendment. Title 6, Chapter 1 of the Costa Mesa Municipal Code is hereby amended to read as follows:

6-1. Purposes.

The purposes of this title are to provide for the preparedness, response, recovery and the protection of persons and property within this city in the event of an emergency; the direction of the emergency management organization; and the coordination of the emergency functions of this city with all other public agencies, corporations, organizations, and affected private persons.

6-2. Definition.

As used in this title, emergency shall mean the actual or threatened existence of conditions of disaster or of extreme peril to the safety of persons and property within this city caused by such conditions as air pollution, fire, flood, storm, epidemic, riot, drought, sudden and severe energy shortage or earthquake or other conditions, including conditions resulting from war or imminent threat of war, but other than conditions resulting from a labor controversy, which conditions are or are likely to be beyond the control of the services, personnel, equipment and facilities of this city, requiring the combined forces of other political subdivisions to combat or with respect to regulated utilities, a sudden and severe energy shortage requiring extraordinary measures beyond the authority vested in the California Public Utilities Commission.

6-3. Disaster council membership.

The Costa Mesa Disaster Council is hereby created and shall consist of the following:

(a) The mayor, or his/her appointee, who shall be an ex officio member.

(b) The director of emergency services, who shall be chair.

(c) The assistant director of emergency services, who shall be vice-chair..

(d) Department directors.

(e) Such representatives of civic, business, labor, veterans, professional or other organizations having an official emergency responsibility as may be appointed by the director or assistant director or city council.

6-4. Disaster council powers and duties.

It shall be the duty of the Costa Mesa Disaster Council, and it is hereby empowered, to develop and recommend for adoption by the city council, emergency and mutual aid plans and agreements and such ordinances and resolutions and rules and regulations as are necessary to implement such plans and agreements. The Disaster Council shall meet upon call of the chair, or in his or her absence from the city or inability to call such meeting, upon call of the vice-chair.

6-5. Director of emergency services; assistant director.

(a) There is hereby created the office of director of emergency services. The city manager shall be the director of emergency services.

(b) There is hereby created the office of assistant director of emergency services. The emergency services manager shall be the assistant director of emergency services.

6-6. Powers and duties of the director of emergency services.

(a) The director and assistant director of emergency services are hereby empowered to:

(1) Request the city council to proclaim the existence of a local emergency if the city council is in session, or to issue such proclamation if the city council is not in session. If the city council is not in session, the proclamation may be issued by the director of emergency services. If the city council is not in session and the director of emergency services is not available, then the assistant director of emergency services may issue the proclamation. Whenever a local emergency is proclaimed by the director or assistant director of emergency services, the city council shall take action to ratify the proclamation within seven (7) days thereafter, or the proclamation shall have no further force or effect. The city council shall review the need for continuing the emergency as required by Government Code section 8630 until such local emergency is terminated and shall proclaim the termination of such local emergency at the earliest possible date that conditions warrant.

(2) Request the governor to proclaim a state of emergency when, in the opinion of the director, the locally available resources are inadequate to cope with the emergency.

(3) Control and direct the effort of the emergency management organization of this city for the accomplishment of the purposes of this title.

(4) Direct cooperation and coordination of services and staff of the emergency management organization of this city, and resolve questions of authority and responsibility that may arise between them.

(5) Represent this city in all dealings with public or private agencies on matters pertaining to emergencies as defined herein.

(6) In the event of the proclamation of a local emergency as herein provided, or by the board of supervisors or operational area coordinator of the County of Orange for an area including this city, the proclamation of a state of emergency by the governor or the director of the state office of emergency services, or the existence of a state of war emergency, the director is hereby empowered:

a. To make and issue rules and regulations on matters reasonably related to the protection of life and property as affected by such emergency; provided, however, such rules and regulations must be confirmed at the earliest practicable time by the city council;

b. To obtain vital supplies, equipment and such other properties found lacking and needed for the

protection of life and property and to bind the city for the fair value thereof and, if required immediately, to commandeer the same for public use. In so acquiring such property, the city waives no immunities and incurs no liabilities other than those at common law or those liabilities created by applicable state or federal law;

c. To require emergency services of any city officer or employee and to command the aid of as many citizens of this community as he or she deems necessary in the execution of his or her duties; such persons shall be entitled to all privileges, benefits and immunities as are provided by state law for registered disaster service workers;

d. To requisition necessary personnel or material of any city department or agency;

e. To execute all of the special powers conferred upon him or her by this title or by resolution or emergency plan pursuant hereto adopted by the city council, all powers conferred upon him or her by any statute, by any agreement approved by the city council, and by any other lawful authority.

(b) The director of emergency services shall designate the order of succession to that office to take effect in the event the director and assistant director are unavailable to attend meetings and otherwise perform his or her duties during an emergency. Such order of succession shall be approved by the city council.

6-7. Emergency management organization.

All officers and employees of this city, together with those volunteer forces enrolled to aid them during an emergency, and all groups, organizations and persons who may by agreement or operation of law, including persons impressed into service under the provisions of this title, be charged with duties incident to the protection of life and property in this city during such emergency, shall constitute the emergency management organization of the City of Costa Mesa.

6-8. Emergency plan.

The Costa Mesa Disaster Council shall be responsible for the development of the City of Costa Mesa Emergency Plan, which plan shall provide for the effective mobilization of all of the resources of this city, both public and private, to meet any condition constituting a local emergency, state of emergency or state of war emergency; and shall provide for the organization, powers and duties, services and staff of the emergency management organization. Such plan shall take effect upon adoption by resolution of the city council.

6-9. Punishment of violations.

It shall be a misdemeanor for any persons during an emergency to:

(a) Willfully obstruct, hinder or delay any member of the emergency management organization in the enforcement of any lawful rule or regulation issued pursuant to this title or in the performance of any duty imposed upon such member by virtue of this title.

(b) Do any act forbidden by any lawful rule or regulation issued pursuant to this title, if such act is of such a nature as to give or be likely to give assistance to the enemy or to imperil the lives or property of inhabitants of this city, or to prevent, hinder or delay the defense or protection thereof.

(c) Wear, carry or display, without authority, any means of identification specified by the emergency agency of the state.

6-10. Expenditures.

Any expenditures made in connection with emergency activities, including mutual aid activities, shall be deemed conclusively to be for the direct protection and benefit of the inhabitants and property of the City of Costa Mesa.

6-11. Repeal of conflicting ordinances.

Any ordinance or portion thereof in conflict herewith is hereby repealed to the extent of such conflict and no further. Provided that it is the intent of the city council in enacting this title that it shall be considered a revision and continuation of the title repealed by this title, and the status of volunteers shall not be affected by such repeal; nor shall plans and agreements, rules and regulations or resolutions adopted pursuant to such repealed title be affected by such repeal until amended, modified, or superseded as provided in this title.

6-12. Severability.

If any provision of this title is found to be invalid or unconstitutional by interpretation or application to any person or circumstances, such invalidity or unconstitutionality shall not affect the other provisions or applications thereof which can be given valid effect.

Section 3. Environmental Compliance. This Ordinance has been reviewed for compliance with the California Environmental Quality Act (CEQA), the CEQA Guidelines, and the City's environmental procedures, and has been found to be exempt pursuant to Section 15061(b)(3) (General Rule) of the CEQA Guidelines because it can be seen with certainty that there is no possibility that the passage of this Ordinance will have a significant effect on the environment.

Section 4. Inconsistencies. Any provision of the Costa Mesa 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 that extent necessary to effect the provisions of this Ordinance.

Section 5. Severability. If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council of the City of Costa Mesa hereby declares that it would have adopted this Ordinance and each section, subsection, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases or portions be declared invalid or unconstitutional.

Section 6. Effective Date. This Ordinance shall take effect thirty (30) days after its final passage.

Section 7. Certification. The City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same to be published or posted in the manner required by law.

PASSED AND ADOPTED this 7th day of April, 2020.

Katrina Foley, Mayor

ATTEST:

Brenda Green, City Clerk

APPROVED AS TO FORM:

Kimberly Hall Barlow, City Attorney

STATE OF CALIFORNIA)
COUNTY OF ORANGE) ss
CITY OF COSTA MESA)

I, **BRENDA GREEN,** City Clerk of the City of Costa Mesa, DO HEREBY CERTIFY that the above and foregoing Ordinance No. 2020-10 was duly introduced for first reading at a regular meeting of the City Council held on the 17th day of March, 2020, and that thereafter, said Ordinance was duly passed and adopted at a regular meeting of the City Council held on the 7th day of April, 2020, by the following roll call vote, to wit:

AYES: COUNCILMEMBERS: CHAVEZ, GENIS, MANSOOR, MARR, REYNOLDS, STEPHENS, FOLEY

NOES: COUNCILMEMBERS: NONE

ABSENT: COUNCILMEMBERS: NONE

IN WITNESS WHEREOF, I have hereby set my hand and affixed the seal of the City of Costa Mesa this 8th day of April, 2020.

Brenda Green

Brenda Green, City Clerk