

Communication from Public

Name: Fix The City
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Council File No: 22-1545
Comments for Public Posting: Please find attached a comment letter concerning Item 2 on the January 23, 2024 agenda.

FIX THE CITY

Los Angeles City Council

January 20, 2024

Dear Councilmembers,

Please accept this letter as [Fix The City's](#) comments concerning Item 2, CF 22-1545 on the January 23, 2024 agenda.

Item 2 asks you, for a second time, to ratify the Mayor's already-expired [July 7, 2023, declaration of an emergency](#). For each of the reasons stated below, such a vote would be meaningless and improper as the declaration expired long ago. It further became inoperative due to non-compliance with a mandatory duty under [Los Angeles Administrative Code 8.33](#) (LAAC 8.33). Finally, the declaration fails as it is based on LAAC 8.33 which is itself unlawful.

The Declaration Expired After Seven Days Under the Clear Terms of Cal. Gov. Code 8630(a).

[Cal Gov. Code 8630\(e\)](#) clearly states that a local emergency **shall not remain in effect** for a period in excess of seven days **unless it has been ratified** by the governing body.

No such ratification occurred. This would result in expiration seven days after the declaration, or on July 14, 2023.

The Declaration Expired Due to Non-Renewal Under the Clear Terms of Cal. Gov. Code 8630(e).

Cal. Gov. Code 8630(e) clearly states: "The governing body shall review the need for continuing the local emergency at least once every 60 days until the governing body terminates the local emergency."

Sixty days after the 7/7/23 declaration would have been September 5, 2023. The Council did not (attempt to) renew the declaration until 11/1/23.

The Declaration Has Already Expired By its Own Terms for Non-Renewal under LAAC 8.33.

Even assuming [LAAC 8.33](#) is valid, which it is not, LAAC Section 8.33(e) clearly states: "Thereafter, the declaration **shall expire** unless the City Council renews it by majority vote every 90 calendar days."

The determination of the deadline for renewal was presented by Sharon Gin of the Office of the City Clerk in a July 31, 2023. She set the 90th day as 10/5/23 with the last day for council to act set to 10/4/23.

The Council's [first \(attempted\) renewal](#) occurred on November 1, 2023, 27 days after the deadline. This current attempt to renew an expired declaration comes 83 days after the first improper renewal.

The Declaration Is Null and Void as The Required Resolution Was Not Presented.

Even assuming LAAC 8.33 is valid, which it is not, the mayor's declaration is null and void because the Mayor failed to provide a resolution to the council as required. LAAC 8.33(e) contains a mandatory requirement for presentation of a resolution as follows:

"Whenever the Mayor declares a local housing and/or homelessness emergency, the **Chief Legislative Analyst's Office shall prepare, with the assistance of the City Attorney, a resolution ratifying the existence of a local housing and/or homelessness emergency.** Such resolution **shall be submitted** by the Mayor to the City Clerk for presentation to the City Council. **Within 30 days** from the date of the original declaration by the Mayor, the City Council may consider the resolution and rescind it by majority vote. **Thereafter, the declaration shall expire unless the City Council renews it by majority vote every 90 calendar days.**" (emphasis added)

No such resolution was provided by the CLA or City Attorney. Due to a failure to abide by the requirements of LAAC 8.33, the declaration therefore became null and void due to non-compliance with LAAC 8.33 no more than 30 days after the declaration, on August 6, 2023.

Note that the conclusion that a resolution was mandatory comes not from Fix The City, but from the City's own Chief Legislative Analyst's (CLA) office.

Los Angeles Administrative Code (LAAC) 8.33 is Fatally Flawed.

The [Mayor's emergency declaration](#) was based on and derives its authority from [LAAC 8.33](#). The validity of LAAC 8.33 is being litigated via [Los Angeles Superior Court Case # 23STCP03519](#). This suit describes in more detail why LAAC 8.33 is unlawful.

LAAC 8.33 is in violation of [Cal. Gov. Code 8630](#) which states: "If proclaimed by an official designated by ordinance, the proclamation **must be ratified by the governing body within seven (7) days.**" LAAC 8.33 does not require ratification as required by Cal. Govt. Code 8630. Instead, it merely requires presentation of a resolution that the council may rescind within 30 days. The failure to require ratification renders LAAC 8.33 fatally flawed.

LAAC 8.33 goes on to require renewal every 90 days. This too runs afoul of Cal. Govt. Code 8630 which requires the governing body to "review the need for continuing the local emergency **at least once every 60 days.**"

Inclusion of Public Records Requests, Linked Files.

We hereby include by reference the Public Records Requests and other documents listed on the [Fix The City web page](#) related to this Project as well as our previously submitted comments. We also include by reference those documents hyperlinked in this document. We also reserve the right to supplement the record as new information from already-issued public records requests is produced.

Conclusion

For each of the above reasons, you cannot vote on Item 2, CF 22-1545 on the January 23, 2024 agenda. You cannot renew a declaration which has expired, was nullified by non-compliance with a mandatory duty and also is based on a fatally flawed section of the administrative code – LAAC 8.33.

We remind you that the validity of LAAC 8.33 is being challenged in court ([Los Angeles Superior Court Case # 23STCP03519](#)). The suit includes any executive directives, procedures, acquisitions, rules or other action taken under the authority of the Declaration.

Should the council pass this motion, Fix The City may be forced to amend its complaint to include this clearly unlawful act.

We must also point out that this item was, yet again, agendized late Friday for a Tuesday vote. This seems to be an intentional effort to reduce the number of stakeholders, including neighborhood councils, that have the ability to weigh in.

Sincerely,



Fix The City.

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