



## City of Montclair

### Emergency Order No. 06-01-20-1

Issue Date: June 1, 2020

**EMERGENCY PROCLAMATION OF THE CITY MANAGER/DIRECTOR OF EMERGENCY SERVICES OF THE CITY OF MONTCLAIR, CALIFORNIA, PROCLAIMING THE EXISTENCE OF A LOCAL EMERGENCY AND DECLARING A CITYWIDE CURFEW AS FOLLOWS:**

1. Monday, June 1, 2020, from 6:00 p.m. to Tuesday, June 2, 2020, at 5:00 a.m. and
2. Tuesday, June 2, 2020, from 7:00 p.m. to Wednesday, June 3, 2020 at 5:00 a.m.

**PLEASE READ THIS ORDER CAREFULLY. VIOLATION OF, OR FAILURE TO COMPLY WITH, THIS ORDER IS PUNISHABLE BY FINE, IMPRISONMENT, OR BOTH. (§148 and §409 of the California Penal Code; and Chapter 1.04, *et seq.*, Chapter 1.12, *et seq.* and § 6.08.100.B of Chapter 6.08 of the Montclair Municipal Code)**

#### SECTION 1. RECITALS.

**WHEREAS**, California Government Code Section 8630 provides that a local emergency may be proclaimed by the governing body, or designee, of a city; and

**WHEREAS**, on May 31, 2020, at approximately 3:00 p.m., a group protesting the death of Minneapolis, Minnesota resident George Floyd, convened in Montclair and traveled thru the cities of Claremont and Pomona. While the Montclair protest was peaceful, others throughout the region, state, and nation transformed into violent events resulting in fires, assaults, injuries, looting, destruction, and vandalism according to numerous news accounts; and

**WHEREAS**, on May 30, 2020, Governor Gavin Newsom authorized assistance after a request from the city and county of Los Angeles, and proclaimed a state of emergency in Los Angeles County, citing to the civil unrest therein, and numerous cities in Los Angeles County and throughout the state have imposed curfews, some nightly for up to a week; and

**WHEREAS**, more protests are anticipated throughout the region, the state, and the nation, and have the potential to arise in or near the City of Montclair (“City”); and

**WHEREAS**, the City joins concerned community members and residents in their outrage regarding the death of George Floyd at the hands of police officers of the City of Minneapolis. The City of Montclair seeks to be an ally in the fight against racial injustice and the dismantling of systemic racism; and

**WHEREAS**, the City respects the rights of peaceful assembly and protest; and

**WHEREAS**, with liberty comes responsibility; violence directed against persons and other acts that threaten public safety, including setting of fires and throwing of objects, endangers innocent persons and first responders charged with keeping the peace; and

#### CITY OF MONTCLAIR

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Mayor Javier John Dutrey • Mayor Pro Tem Carolyn Raft • Council Members: Bill Ruh, Tenice Johnson, Corysa Martinez • City Manager Edward C. Starr

**WHEREAS**, by the account of some news reports, the violence is the product of, or is being instigated by, outside agitators.

**WHEREAS**, in order to safeguard the rights of peaceful assembly and protest, to protect the safety of City residents, property and businesses as well as emergency and law enforcement providers, it is necessary to establish a curfew to quell violence and destruction of property; and

**WHEREAS**, it is the City's intent to impose only a nighttime curfew so as to leave opportunities during daytime for the voices of the protesters to make themselves heard; and

**WHEREAS**, upon proclamation of a local emergency, the Director of Emergency Services is authorized to make and issue regulations on matters reasonably related to the protection of life and property as affected by such emergency and to impose a curfew under Government Code Section 8634 and Chapter 6.08 of the Montclair Municipal Code; and

**WHEREAS**, this Proclamation and Order is adopted pursuant to the City's police powers and powers afforded to the City and the Director of Emergency Services in time of local emergency, such powers being afforded by the State Constitution, State law, and the Montclair Municipal Code to protect the peace, health, and safety of the public, and to protect life and property as affected by the emergency, in that this Order declares an emergency and imposes a curfew in order to restore the peace and prevent additional disturbances, looting, violence as has been seen locally in recent days.

**NOW, THEREFORE**, I, Edward C. Starr, Director of Emergency Services for the City of Montclair, do hereby issue the following order to become effective immediately, subject to ratification within seven days by the Montclair City Council:

**IT IS HEREBY PROCLAIMED AND ORDERED THAT:**

1. Conditions of extreme peril to the safety of persons and property have arisen, or may have cause to arise, within and around the City of Montclair, caused by potential civil unrest and disturbances and violence.
2. The aforesaid conditions of extreme peril warrant and necessitate the proclamation of the existence of a local emergency and imposition of a curfew.
3. Said local emergency shall be deemed to continue and shall be brought before the City Council within seven days for ratification.

**IT IS FURTHER PROCLAIMED** that a local emergency now exists throughout the City of Montclair; and

**IT IS FURTHER PROCLAIMED** that during the existence of said local emergency the powers, functions, and duties of the Director of Emergency Services and the emergency organization of Montclair shall be those prescribed by law, by ordinances, and resolutions of the City of Montclair, and approved by the City Council, to wit, the following:

**ORDER 1. Curfew.** A curfew is hereby in effect starting June 1, 2020, at 6:00 p.m. through June 2, 2020, at 5:00 a.m., and then from Tuesday, June 2, 2020, from 7:00 p.m. to Wednesday, June 3, 2020 at 5:00 a.m., during which no person shall be upon the public street,

avenue, road, alley, park, or other public place or unimproved public realty. This curfew shall not apply to personnel of the City of Montclair including, but not limited to, public safety members of the Montclair Police Department, Montclair Fire Department, or other emergency personnel or civilians engaged in police or emergency work, nor shall it apply to authorized representatives of any news service, newspaper, or radio or television station or network, or persons travelling to or from work or religious meetings, or those individuals considered essential workers.

**ORDER 2. Authority to enforce.** The law enforcement forces of the City of Montclair, along with the law enforcement authorities cooperating with, and providing mutual aid to the City, are hereby authorized and charged, to the extent provided by law, with the responsibility of enforcing this curfew and are further authorized to arrest such persons as do not obey this curfew after due notice, oral or written, has been given to said citizen. Any person not abiding by this declaration is guilty of a misdemeanor and subject to punishment in accordance with State law and the Montclair Municipal Code enforcement provisions.

**ORDER 3. Effective period of curfew.** This curfew shall remain in effect starting June 1, 2020, at 6:00 p.m. through June 2, 2020, at 5:00 a.m., and then from Tuesday, June 2, 2020, from 7:00 p.m. to Wednesday, June 3, 2020 at 5:00 a.m. The Director of Emergency Services is directed to announce the curfew and penalties for violating the curfew on the city's website and other available messaging options.

**ORDER 4. Closure of businesses.** Businesses in the City of Montclair are directed to close in compliance with this Order and provide management and employees sufficient time to comply with **ORDER 1**, above.

## **SECTION 2. Severability.**

If any provision of this Proclamation or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications, and to this end the provisions of this Proclamation are declared to be severable.

**This Order and each of its provisions shall be effective immediately, and shall remain in effect as stated herein, or until rescinded by the City of Montclair Director of Emergency Services.**

**EMERGENCY ORDER 06-01-20-1**

**Dated: June 1, 2020**

As Director of Emergency Services for the City of Montclair, I am authorized to promulgate directives, orders, guidance and regulations for the protection of life and property pursuant to Government Code Section 8634 and Montclair Municipal Code Section 6.080.060.

This Order is promulgated as a regulation for the protection of life and property.

Any person who violates or who refuses or willfully neglects to obey this Order is subject to fine, imprisonment, or both pursuant to Montclair Municipal Code section 1.12.010, which provides, in pertinent part:

- A. *Violations....Any person, firm, corporation, or other responsible entity who violates...any rule or regulation promulgated pursuant [to this Code] shall be guilty of a misdemeanor....*

**B. Penalties.**

*1. Misdemeanor. Any person, firm, corporation, or responsible entity convicted of a misdemeanor under the provisions of this Code...shall be punishable by a fine not to exceed One Thousand (1,000) Dollars, or by imprisonment in the City or County Jail for a period not to exceed six months, or by both such fine and imprisonment.*

*C. Continuing Violations. It shall constitute a new and separate offense for each and every day...any rule or regulation promulgated pursuant thereto ...is committed, continued, maintained, or permitted by such person and shall be punishable accordingly.*

This Order is enforceable by Law Enforcement personnel of the City of Montclair, as well as any other person designated in writing by the Director of Emergency Services to enforce this Order.

**BY ORDER OF**

A handwritten signature in black ink, appearing to read "Edward C. Starr", written over a horizontal line.

Edward C. Starr  
Director/City Manager  
Office of Emergency Services