



SPECIAL NOTICE REGARDING CORONAVIRUS (COVID-19) **AND ATTENDANCE AT PUBLIC MEETINGS**

On March 4, 2020, Governor Newsom proclaimed a State of Emergency in California as a result of the threat of COVID-19. On March 17, 2020, Governor Newsom issued Executive Order N-29-20 (superseding the Brown Act-related provisions of Executive Order N-25-20 issued on March 12, 2020), which allows a local legislative body to hold public meetings via teleconferencing and to make public meetings accessible telephonically or otherwise electronically to all members of the public seeking to observe and to address the local legislative body. Pursuant to Executive Order N-29-20, please be advised that some or all of the City of Selma Council will participate in meetings via teleconference.

PUBLIC PARTICIPATION: Pursuant to Executive Order N-29-20 and given the current health concerns, members of the public can **access meetings streamed live online on our Youtube page**. Members of the public may not attend the meeting in person.

In lieu of attendance at the meeting, the public can provide public comments verbally for the City Council consideration by calling in on the number posted on our agenda. Staff will unmute the public during the public comment portion of the meeting.

Alternatively, the public can send correspondence to the City Council regarding agenda items by emailing publiccomment@cityofselma.com by 8:00 a.m. the day of the meeting, with the subject line "SELMA CITY COUNCIL MEETING CORRESPONDENCE – AGENDA ITEM ..." (insert the item description relevant to your comment) or "CITY OF SELMA NON-AGENDA ITEM". All correspondence that does not relate to a specific item on the agenda will be made a part of the official record of this meeting and will be referred to the City Manager or other staff for any appropriate action or attention. Correspondence that does relate to a specific item on the agenda will be addressed as appropriate during consideration of the agenda item to which it relates. Contact the City Clerk with any questions by phone at City Hall 559-891-2200 extension 3104 or by email using the email address referenced above.

ACCESSIBILITY: If requested, the agenda and backup materials will be made available in appropriate alternative formats to persons with a disability, as required by Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132) and the federal rules and regulations adopted in implementation thereof. Any person who requires a disability-related modification or accommodation in order to observe and/or offer public comment may request such reasonable modification, accommodation, aid or service by contacting the City Clerk by email at ReynaR@cityofselma.com or by telephone at 559-891-2200 extension 3104 no later than 24 hours before the meeting.

**AGENDA
SELMA CITY COUNCIL
SPECIAL MEETING**

November 9, 2020

Selma City Council Chambers
1710 Tucker Street
Selma, CA 93662

Teleconference Phone Number: +1 301 715 8592
ID: 889 7079 0269 Password: 1109

Call to order: **9:00 a.m.**

Roll Call: Council members Avalos, Trujillo, Robertson, Mayor Pro Tem Guerra and Mayor Franco

Potential Conflicts of Interest: Any Council member who has a potential conflict of interest may now identify the item and recuse themselves from discussing and voting on the matter.

ORAL COMMUNICATIONS

NOTICE(S) TO THE PUBLIC: During public comments, if you wish to address the City Council, under Government Code Section 54954.3(a), you may only address the City Council concerning any item that has been described in the notice for the Special Meeting. Members of the public shall limit their remarks to three (3) minutes.

REGULAR BUSINESS

Consideration and Necessary Action on Urgency Ordinance Amending Subparagraph 24 of Subdivision (A) of Section 2, Chapter 8 of Title XI and Subdivision (A) of Section 3 of Chapter 8 of Title XI of the Municipal Code Pending Completion of Study and Evaluation of Appropriate Regulation of Thrift Stores and Other Establishments Dealing in Used Goods.

ADJOURNMENT

- Any writings or documents provided to a majority of the Selma City Council regarding any item on this agenda will be made available for public inspection in the City Clerk's office located at 1710 Tucker Street during normal business hours.
- A speech amplification device is available for use by the general public at all City Council meetings. Please call 891-2200 to reserve its use.



**CITY MANAGER'S/STAFF'S REPORT
CITY COUNCIL MEETING:**

November 9, 2020

SUBJECT: Consideration and Necessary Action on Urgency Ordinance Amending Subparagraph 24 of Subdivision (A) of Section 2, Chapter 8 of Title XI and Subdivision (A) of Section 3 of Chapter 8 of Title XI of the Municipal Code Pending Completion of Study and Evaluation of Appropriate Regulation of Thrift Stores and Other Establishments Dealing in Used Goods.

RECOMMENDATION: Consider adopting with a four-fifths vote the Urgency Ordinance Amending 11-8-2 and 11-8-3 of the Selma Municipal Code insofar as it relates to the operation of a thrift store or other business engaged in the wholesale or retail sale of used goods, articles or merchandise.

DISCUSSION:

On November 2, 2020, the City Council received comments from a representative of a thrift shop, that is, a retail store dealing in sale of used goods and articles or merchandise that has stocked and prepared the store for opening and conducting business which is technically not permitted by the City's current ordinances at the specific sections cited in the subject line of this Staff Report. Those sections, read together, prohibit the establishment of any thrift store in the City of Selma unless the thrift store is operated by a non-profit corporation that has obtained a Conditional Use Permit. Those sections of what is part of the City's zoning ordinances were adopted in 1976 and are outdated and have not been enforced. Subsequent to 1976, at least two thrift stores have been established in the City of Selma and are operating.

Government Code §65858 provides that with respect to any zoning ordinance, for purposes of promoting the public peace, welfare, and convenience or health and safety so long as the City Council undertakes a study or evaluation on how to properly regulate any use of real property by a zoning ordinance the Council may enact an interim ordinance which is effective for 45 days and subject to being extended for a period of 10 months and 15 days.

Given that there are already thrift stores established and operating in the City of Selma it is inconsistent with the convenience, welfare and overall peace of the City of Selma to prohibit operation of an additional thrift store located in the commercial zone unless that thrift store is operated by a non-profit organization that obtains a Conditional Use Permit. The common welfare and convenience of the citizenry and inhabitants of the City require the equal treatment of similarly situated business establishments and there is no discernable difference between the thrift store proposed to operate and those already operating within the City.

The City desires to conduct a study to determine the best way of regulating thrift shops and other enterprises or businesses dealing in the wholesale or retail sale of used goods, articles or merchandise and the provisions of the aforementioned Government Code specifically allow the City to adopt an interim, urgency ordinance as a temporary means of regulating the operation of any such business or enterprise within the City for the time period necessary for the City to complete its study and enact appropriate regulations that will allow for such uses.

This is an urgency ordinance which can only be adopted by a four-fifths vote of the City Council. The ordinance will only be in effect for 45 days, at which point the City Council, following a public hearing, may extend the ordinance for a period of 10 months and 15 days to complete its study and evaluation of the appropriate regulations, if any, with respect to these types of establishments. The City Clerk is concurrently with this meeting publishing a notice of a public hearing for December 7, 2020, for consideration and action on the 10 month and 15-day extension of this urgency ordinance. Staff is preparing and intends to process a permanent ordinance for first reading and adoption on November 16, 2020 and public hearing and adoption on December 7, 2020. It is anticipated that the permanent ordinance will allow for the operation of thrift stores and the extension of this urgency ordinance is only made necessary by virtue of the fact that the permanent ordinance would not become effective for 30 days after enactment and the City Council will likely not be conducting any meeting between December 7 and January 1, 2021.

RECOMMENDATION:

Consider adopting with a four-fifths vote the Urgency Ordinance Amending 11-8-2 and 11-8-3 of the Selma Municipal Code insofar as it relates to the operation of a thrift store or other business engaged in the wholesale or retail sale of used goods, articles or merchandise.

<u>/s/</u>	<u>11/06/2020</u>
Neal E. Costanzo, Special Counsel	Date
 <u>/s/</u>	 <u>11/06/2020</u>
Teresa Gallavan, City Manager	Date

Attachment: Letter from Mary Gallegos



City of Selma

Board of Directors

RE: Lala's Treasures Thrift Store

Dear members of the board:

It was an honor to attend the Monday night meeting and wish to provide additional input as I will not be able to attend the next meeting. With the vast amount of negative publicity surrounding politics and politicians, it is common to hear never-ending excuses, pointing fingers, or blaming others. Consequently, it was not only shocking but astonishing that the City of Selma board members held themselves above these standards, and acknowledged their accountability. For this we thank you, appreciate your efforts, and look forward to working with you.

Upon reflection of the Monday night meeting, I believe it is imperative that we are all on the same page as to what is best for the City of Selma and Lala's Treasures Thrift Store.

I believe that by removing the non-profit status, the City of Selma will be negatively impacted. Removing the non-profit requirement will open the city to all the vendors (i.e. Flea market in Selma), resulting in a mass in-flux of thrift stores within the city limits. While I strongly believe in competition, flooding the area with thrift stores, de-values Selma City businesses, promotes crime, loitering, or other unsavory practices. Most importantly, it will damage the City of Selma's image and reputation, thus becoming known as the *thrift store dumping ground*.

Formal Request:

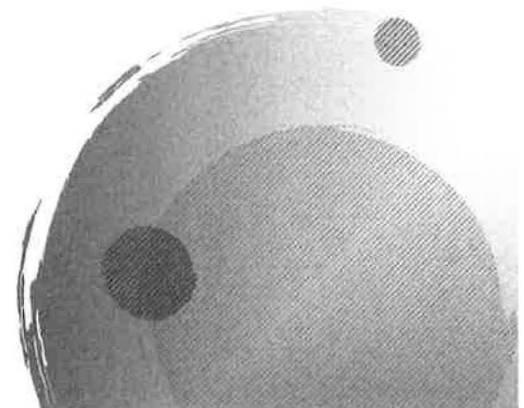
1. We are not asking the city to change or remove the non-profit status requirement. On the contrary, it may be best for the City of Selma to maintain said requirement. Instead, we would like a "temporary" business permit (i.e. 6 -9 months) to allow us to obtain a state 501c3 non-profit status. The temporary permit may be contingent upon becoming a non-profit. I do not know how or what your process would be to meet our request. Perhaps, there is a method to temporarily freeze or **suspend** the non-profit ordinance (without actually changing the ordinance).
2. Due to financial constraints and limitations, we are unable to meet the \$5,000 fee. We respectfully request a waiver, financial assistance, grant, or other assistance to meet this requirement. In addition, implementing a monthly installment plan will place a financial burden and hardship on the business which will impact its success.

By collaborating together, we can realize a win-win solution for all parties. We appreciate your time and consideration in this matter and our request.

Sincerely,

Mary Stela Gallegos

Ed.D. CRT(R) (M) (F), RHIT



ORDINANCE NO. 2020 – __

**AN INTERIM URGENCY ORDINANCE OF THE CITY COUNCIL
OF THE CITY OF SELMA AMENDING SUBPARAGRAPH 24 OF
THE SUBDIVISION (A) OF 11-8-2 AND SUBDIVISION (A) OF
11-8-3 OF THE SELMA MUNICIPAL CODE**

WHEREAS, Section 11-8-2 of the City of Selma Municipal Code (SMC) is a part of the City's zoning and land use ordinances and Chapter XI of the City Code entitled "zoning" serves as a guide for the orderly growth and development of the City of Selma and exists to promote the public health, safety, comfort, peace and general welfare of the City of Selma; and

WHEREAS, Section 2 of Chapter 8 of Title XI of the zoning ordinance enacted in 1976 states the permissible uses of land located within the C-1 zone of the City, which uses are allowed in all commercial zones of the City and the ordinance adopted in 1976 provides with respect to a "thrift" store that the only such enterprises allowed in any commercial zone of the city which is a business dealing in wholesale or retail sale of used goods or commodities, is a non-profit store and, even then, only those non-profit businesses that have been granted a Conditional Use Permit are allowed to operate; and

WHEREAS, subdivision (A) of Section 3, Chapter 8, Title XI of the SMC prohibits any business from dealing in "wholesale of used goods or commodities", except in the case of articles taken in trade or sale of new merchandise on the same premises with the exception of non-profit thrift stores that have been granted a Conditional Use Permit; and

WHEREAS, with respect to zoning ordinances the legislative body of a city, to protect the public health, safety, convenience, peace and welfare may adopt as a urgency measure an interim ordinance or any zoning proposal of the legislative body that does not conform to current provisions of the Municipal Code, so long as the City Council is considering or studying or intends to study within a reasonable time amendments to its zoning ordinances; and

WHEREAS, at least two thrift stores have been allowed to operate within the City, notwithstanding the provisions of Chapter 8, Sections 2 and 3 of Title XI of the SMC and a third has newly been established, is stocked and wishes to operate subject to the provisions of this interim ordinance and to promote the peace and welfare of the City by according equal treatment to persons and entities seeking to establish wholesale or retail thrift shops or stores, or that are engaged in the wholesale or retail sale of used goods, all in accordance with Government Code §65858, the City Council of the City of Selma finds and declares that it is necessary to adopt this interim ordinance allowing for use of business premises located within the commercial zones of the City to operate as thrift stores, and, by four-fifths vote the City Council hereby enacts the following interim ordinance consisting of provisions that amend, change or alter the aforementioned

sections of Chapter 8, Title XI of the SMC while the City Council studies zoning proposals for establishment of thrift stores and other similar stores and shops, such as antique stores and consignment stores.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SELMA
DOES ORDAIN AS FOLLOWS:**

SECTION I Section 2, subdivision (A), subparagraph 24 of Chapter 8, Title XI of the Selma Municipal Code is hereby amended to read as follows:

11-8-2: Uses:

In a C-1 zone the following uses only are permitted.

(A) Any use permitted in the R-3 zone; provided, that any building used for any of the R-3 uses mentioned in subsections (A)(1) through (A)(5) inclusive, and (A)(9) of this section shall comply with all of the minimum requirements, conditions and regulations which apply to R-3 zones

* * *

24. Thrift stores, antique stores, and any other business dealing in wholesale or retail sales of used goods or commodities so long as any articles donated, or taken in trade, sale or on consignment shall only be received or taken on the business premises. A non-profit corporation may establish a thrift or similar store so long as such non-profit corporations do not permit donation of articles unless, the donation occurs within the primary structure where the business is conducted on the premises.

SECTION II Subparagraph A of Section 3, Title 8 of Chapter 11 of the Selma Municipal Code is hereby amended to read as follows:

"1-8-3: Limitations on Uses:

(A) No businesses dealing in retail or wholesale sale of used goods or commodities shall be permitted to take or accept goods or articles except in the case of articles taken in trade or sale occurring on the same premises, and any donation of any goods or articles shall not be taken or accepted outside of the primary structure on the premises where the business is conducted on the premises of the business engaged in the wholesale or retail sale of used goods or commodities.

Section III California Environmental Quality Act: The City Council having considered the Staff Report and all public comments, has determined that this ordinance is not a project under the California Environmental Quality Act because the ordinance has no potential for resulting in a physical change in the environment. Since the ordinance is not a project, no environmental documentation is required.

Section IV Severability: If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional, the decision shall not affect the validity of the remaining portions of the Ordinance. The City Council hereby declares that it would have passed this Ordinance, and each section, subsection, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases have been declared invalid or unconstitutional.

Section V Effective Date and Posting of Ordinance: The Clerk of the City of Selma shall cause a summary of this Ordinance to be published at least once within fifteen (15) days after its passage in a newspaper of general circulation in Fresno County with the names of those City Council Members voting for or against the Ordinance.

This is an Urgency, Interim Ordinance pursuant to Government Code §65858. This Ordinance shall take effect immediately and shall be in effect for a period of 45 days from and after the date of its passage and on the expiration of 45 days, unless adopted by the City Council at a regular or special meeting following a duly noticed public hearing, the Interim Urgency Ordinance shall cease to be in effect. If passed and adopted by a four-fifths vote following a public hearing prior to expiration of the 45 days during which this Ordinance will be in effect the Ordinance will be extended for 10 months and 15 days.

PASSED, APPROVED AND ADOPTED this 9th day of November 2020, by the following vote:

AYES:	COUNCILMEMBER:
NOES:	COUNCILMEMBER:
ABSENT:	COUNCILMEMBER:
ABSTAIN:	COUNCILMEMBER:

Louis Franco, Mayor

ATTEST:

Reyna Rivera, City Clerk