

July 6, 2021

**C-11**

HONORABLE MAYOR AND CITY COUNCIL  
City of Long Beach  
California

**RECOMMENDATION:**

Confirm the City Manager's promulgation of the revised Safer at Home Health Order, issued on June 15, 2021, by the City of Long Beach Health Officer as a regulation. (Citywide)

**DISCUSSION**

On March 19, 2020, the City's Health Officer issued the "Safer at Home Order for Control of COVID-19" (Health Order) to mitigate the effects of COVID-19 within Long Beach. The City's Health Officer has revised the Health Order from time to time, as necessary, to protect public health and safety during this ongoing emergency. On June 15, 2021, the City's Health Officer issued revisions to the Health Order, pursuant to the Beyond the State's Blueprint for a Safer Economy, and a mandate by Governor Gavin Newsom and the State Health Officer. The revised Health Order (attached) was issued to implement State Orders and guidance locally to allow for a reopening of the City based on local and statewide conditions.

On May 12, 2020, the City Council adopted Long Beach Municipal Code (LBMC) Chapter 8.120, "Temporary Enforcement of Long Beach Health Orders Related to COVID-19," which became effective immediately as an urgency Ordinance. Chapter 8.120 requires, where practicable, the City Council to confirm COVID-19 Health Orders for the sole purpose of authorizing the City Manager's promulgation of such Health Orders. In the event it is not feasible to do this, Chapter 8.120, as amended on January 19, 2021, requires the City Manager to, within 14 days of promulgation of said Health Orders or at the next duly noticed public meeting of the City Council, request the City Council to confirm the City Manager's promulgation of the Health Order. The City Manager's promulgation of the Health Order, and City Council's confirmation of such orders, authorizes enforcement authority of the Health Orders under the Proclamation of Local Emergency and provisions of Chapter 8.120.

This process recognizes the potential need for the City's Health Officer to quickly amend or update, and the City Manager to promulgate as a regulation under the LBMC, City Health Orders that protect life and property as affected by the COVID-19 emergency. The process allows for the City to respond to the rapid development of COVID-19, while ensuring the City Council maintains oversight of the COVID-19 local emergency and the City Manager's promulgation of related orders.

This matter was reviewed by Deputy City Attorney Taylor M. Anderson and Budget Manager Grace H. Yoon on June 16, 2021.

HONORABLE MAYOR AND CITY COUNCIL

July 6, 2021

Page 2

### TIMING CONSIDERATIONS

City Council action is requested on July 6, 2021. Confirmation by the City Council of the revised Health and Quarantine Orders is a requirement of LBMC Chapter 8.120.

### STATEMENT OF URGENCY

LBMC Chapter 8.120 requires the City Manager to, within 14 days of promulgation of said Health Orders or at the next duly noticed public meeting of the City Council, request the City Council to confirm the City Manager's promulgation of the Health Order. The Health Order was revised and promulgated on June 15, 2021.

### EQUITY LENS

The City has incorporated the Equity Toolkit into the City's Emergency Operations Center, as requested by the City Council on April 21, 2020. The revised Health Order takes the City's equity approach into consideration when the Health Order is drafted and implemented. The City's enforcement model for compliance with the Health Order prioritizes education with the community first.

### FISCAL IMPACT

The full fiscal impact of the implementation and enforcement of the revised Health Order is unknown at this time, due to the unprecedented and quickly changing nature of the response to the pandemic. The Health Order and its amendments have an inherent impact on the health of the community and economic activity of Long Beach. There is substantial evidence provided through various public City reporting that the Health Order and its amendments are positively impacting the health and safety of Long Beach residents; and, there is substantial evidence, also provided through other public documents issued by the City, that the Health Order and its amendments are negatively impacting the economy and the City's financial status. As the Health Order is modified from time to time, the modifications are intended to ensure compliance with State directives and to strike a balance, appropriate at the time of modification, between the safety and well-being of residents and other important considerations such as economic impacts. This recommendation has no staffing impact beyond the normal budgeted scope of duties and is consistent with existing City Council priorities.

### SUGGESTED ACTION:

Approve recommendation.

Respectfully submitted,



THOMAS B. MODICA  
CITY MANAGER

## HEALTH ORDER FOR CONTROL OF COVID-19

Beyond the State's Blueprint for a Safer Economy

ORDER ISSUED: June 15, 2021

**Please read this Order carefully. Violation of or failure to comply with this Order is a crime punishable by fine, imprisonment, or both. (Ca. Health & Safety Code § 120275 et seq; Long Beach Municipal Code § 8.120.030.A and 8.120.030.E.3)**

**Summary:** This Long Beach Health Officer Order (Order) supersedes all Prior Safer-at-Home Orders (Prior Orders) issued by the Long Beach Health Officer to control the spread of the Novel Coronavirus (COVID-19) within the City of Long Beach (City). This Order is issued to implement State Orders and guidance locally to allow for a reopening of the City based on local and statewide conditions.

Though significant progress has been made in vaccinating individuals and reducing community transmission, unvaccinated persons remain more likely to get infected and spread COVID-19 via the air and concentrates indoors. The City must remain vigilant against variants of COVID-19, especially considering transmission in other parts of the world and due to the continued possibility of vaccine escape. For these reasons, COVID-19 remains a concern to public health and to prevent the spread of COVID-19, limited and temporary public health requirements remain necessary at this time.

The Health Officer will continue to monitor the rate of COVID-19 disease spread, the severity of the resulting illnesses and deaths caused, California Department of Public Health (CDPH) and Centers for Disease Control and Prevention (CDC) recommendations, and the effect of this Order. If needed, this Order may be extended, expanded, or otherwise modified to protect the public's health.

Since this Order may change due to new information and guidance, all persons subject to this Order, including the owner, manager, or operator of any facility that is subject to this Order, is required to consult the Long Beach Department of Health and Human Services' website ([www.longbeach.gov/covid19](http://www.longbeach.gov/covid19)) regularly to identify any modifications to this Order and is required to comply with any updates until this Order is terminated.

### **UNDER THE AUTHORITY OF CALIFORNIA HEALTH AND SAFETY CODE SECTIONS 101040, 101475, 101085, AND 120175, THE HEALTH OFFICER OF THE CITY OF LONG BEACH ORDERS AS FOLLOWS:**

1. Continue Practicing COVID-19 Infection Control Measures. All persons living within the City of Long Beach (City) should continue to practice required and recommended COVID-19 infection control measures at all times and when among other persons when in community, work, social, or school settings, especially when multiple unvaccinated persons from different households may be present and in close contact with each other. All persons living within the City must continue to comply with the [City Isolation Order](#) or [City Quarantine Order](#), where applicable.
2. Face Masks. All individuals must follow the requirements in the Guidance for the Use of Face Coverings issued by the California Department of Public Health", which may be found at <https://www.cdph.ca.gov/Programs/CID/DCDC/Pages/COVID-19/guidance-for-face-coverings.aspx>, as amended from time to time.

- a. Mask are required for everyone, regardless of COVID-19 vaccination status in the following settings:
  - i. On public transit (examples: airplanes, ships, ferries, trains, subways, buses, taxis, and ride-shares);
  - ii. In transportation hubs (examples: airport, bus terminal, marina, train station, seaport or other port, subway station, or any other area that provides transportation);
  - iii. Indoors in K-12 schools, childcare and other youth settings;
  - iv. Healthcare settings (including long term care facilities);
  - v. State and local correctional facilities and detention centers; and
  - vi. Homeless shelters, emergency shelters, and cooling centers.
- b. Masks are required for unvaccinated and partially vaccinated individuals in indoor public settings and businesses (examples: retail, restaurants, theaters, family entertainment centers, meetings, and State and local government offices servicing the public).
- c. In settings where masks are required only for unvaccinated individuals, businesses, venue operators or hosts may choose to:
  - i. Provide information to all patrons, guests and attendees regarding vaccination requirements and allow vaccinated individuals to self-attest that they are in compliance prior to entry.
  - ii. Implement vaccine verification to determine whether individuals are required to wear a mask.
  - iii. Require all patrons to wear masks.
- d. The following individuals are exempt from wearing masks at all times:
  - i. Persons younger than two years old. Very young children must not wear a mask because of the risk of suffocation.
  - ii. Persons with a medical condition, mental health condition, or disability that prevents wearing a mask. This includes persons with a medical condition for whom wearing a mask could obstruct breathing or who are unconscious, incapacitated, or otherwise unable to remove a mask without assistance.
  - iii. Persons who are hearing impaired, or communicating with a person who is hearing impaired, where the ability to see the mouth is essential for communication.
  - iv. Persons for whom wearing a mask would create a risk to the person related to their work, as determined by local, state, or federal regulators or workplace safety guidelines.
- e. All businesses, venue operators, or hosts must implement measures to clearly communicate to non-employees the masking requirements on their premises.
- f. No person can be prevented from wearing a mask as a condition of participation in an activity

or entry into a business.

- g. In workplaces, most employers and businesses are subject to the Cal/OSHA COVID-19 Emergency Temporary Standards (ETS) and some to the Cal/OSHA Aerosol Transmissible Diseases Standards and should consult those regulations for applicable requirements. All employers and businesses subject to Cal/OSHA must review and comply with the active Cal/OSHA ETS. As approved and effective, the full text of the COVID-19 Emergency Temporary Standards will be listed under Title 8, Subchapter 7, section 3205-3205.4 of the California Code of Regulations. All businesses or employers with independent contractors should also review the State Labor Commissioner's Officer webpage titled "Independent Contractor versus employee", which discusses the employment status of persons hired as independent contractor to ensure the correct application of the ETS.
3. People at Risk of Severe Illness or Death from COVID-19. At this time, people at risk for severe illness or death from COVID-19 – such as, unvaccinated older adults and unvaccinated individuals with health risks – and members of their household, should defer participating in activities with other people outside their household where taking protective measures (e.g. wearing a face mask and physical distancing) may not occur or will be difficult, especially indoors or in crowded spaces. For those who are not yet fully vaccinated, staying home or choosing outdoor activities as much as possible with physical distancing from other households whose vaccination status is unknown is the best way to prevent the risk of COVID-19 transmission.
4. Encourage Activities that Can Occur Outdoors. All businesses and governmental entities are urged to consider moving operations or activities outdoors, where feasible, and to the extent allowed by local law and permitting requirements as there is generally less risk of COVID-19 transmission outdoors as opposed to indoors.
5. Ventilation Guidelines. All businesses and governmental entities with indoor operations are urged to review and implement the Ventilation Guidelines as feasible. See California Department of Public Health Interim Guidance for Ventilation, Filtration and Air Quality in Indoor Environments, which may be found at <https://www.cdph.ca.gov/Programs/CID/DCDC/Pages/COVID-19/Interim-Guidance-for-Ventilation-Filtration-and-Air-Quality-in-Indoor-Environments.aspx>.
6. Sectors that Continue to Require Additional Risk Reduction Measures. The following sectors serve persons and populations that have lower rates of vaccination or persons who are not yet eligible to be vaccinated. As such, these sectors continue to require additional risk reduction measures and must operate subject to the following conditions:
  - a. Day Camps. Day camp owners and operators must implement and post any "CDPH checklist and comply with any CDPH Guidance regarding day camps, which may be found at <https://covid19.ca.gov/safely-reopening/>.
  - b. K-12 Schools. All public and private K-12 schools in the City shall provide instruction in accordance with guidance issued by the State Health Officer for K-12 Schools in California for the 2020-2021 School Year" which may be found at <https://www.cdph.ca.gov/Programs/CID/DCDC/Pages/COVID-19/COVID19-K12-Schools-InPerson-Instruction.aspx>.
  - c. Day Care. Day Care must adhere to guidance issued by the State Health Officer titled "COVID-19 UPDATE GUIDANCE: Child Care Programs and Providers", which may be found at <https://files.covid19.ca.gov/pdf/guidance-childcare--en.pdf>.

- d. Mega Events. Mega Events are characterized by large crowds greater than 5,000 attendees indoors and 10,000 attendees outdoors. Mega Events may have either assigned or unassigned seating, and may be either general admission or gated, ticketed, and permitted events. These events are considered higher risk for COVID-19 transmission.
  - i. Indoor Mega Events. Indoor Mega Events (example: conventions, conferences, expos, sporting events and concerts) where more than 5,000 people are in attendance, may operate in accordance with State Health Officer titled “Beyond the Blueprint for Industry and Business Sectors - Effective June 15”, which may be found at <https://www.cdph.ca.gov/Programs/CID/DCDC/Pages/COVID-19/Beyond-Blueprint-Framework.aspx>.
  - ii. Outdoor Mega Events. Outdoor Mega Events (example: music or food festivals, car shows, large endurance events, marathons, parades, sporting events, and concerts) that attract crowds of over 10,000 people, may operate in accordance with State Health Officer titled “Beyond the Blueprint for Industry and Business Sectors - Effective June 15”, which may be found at <https://www.cdph.ca.gov/Programs/CID/DCDC/Pages/COVID-19/Beyond-Blueprint-Framework.aspx>
7. For purposes of this Order, people are considered “fully vaccinated” against COVID-19 two weeks or more after they have received the second dose in a 2-dose series (e.g. Pfizer-BioNtech or Moderna) or 2 weeks or more after they have received a single-dose vaccine (e.g. Johnson and Johnson [J&J]/Janssen).

## **PURPOSE AND FINDINGS**

8. Purpose. This Long Beach Health Officer Order (Order) supersedes all Prior Safer-at-Home Orders (Prior Orders) issued by the Long Beach Health Officer. This Order aligns the City with both the Governor’s directive to move beyond the Blueprint for Business and Industry and the State Public Health Officer’s Memoranda of May 21 and June 9, 2021, and the State Public Health Officer’s Order of June 11, 2021.
9. Intent. This Order’s intent is to continue to protect the community from COVID-19, in particular those individuals who are not, or cannot be, fully vaccinated against COVID-19 in the City as other protective measures are removed and to increase vaccination rates to reduce the spread of COVID-19 long-term, so that the whole community is safer and so the COVID-19 pandemic can come to an end.
10. Least Restrictive Means. The orders contained in this Order are necessary and least restrictive preventive measures to control and reduce the spread of COVID-19 in the City, help preserve critical and limited healthcare capacity in the City, and save the lives of City Beach residents.
11. State Law Requires Health Officer to Take Measures Necessary to Prevent the Spread of a Communicable Disease. The California Health and Safety Code section 120175 requires the Health Officer knowing or having reason to believe that any case of a communicable disease exists or has recently existed within the City to take measures as may be necessary to prevent the spread of the disease or occurrence of additional cases. Furthermore, California Health and Safety Code sections 101040 and 101475 grant the Health Officer the authority to take any preventive measure that may be necessary to protect and preserve the public health from any public health hazard during a State or local emergency within their jurisdiction.

12. Continuing Severe Health and Safety Risk Posed by COVID-19. This Order is based upon scientific evidence and best practices, as currently known and available, to protect members of the public from avoidable risk of serious illness and death resulting from the spread of COVID-19, as well as to protect the healthcare system from a surge of cases into its emergency rooms and hospitals. This Order is issued based on the following determinations: evidence of continued significant community transmission of COVID-19 within the City; documents asymptomatic transmission; scientific evidence and best practices regarding the most effective approaches to slow the transmission of communicable diseases generally and COVID-19 specifically; evidence that people in the City continue to be at risk for infection with serious health complications, including hospitalizations and death from COVID-19, due to age, pre-existing health conditions, being unvaccinated or not eligible for vaccination, and more infectious variants of the virus that causes COVID-19 and which have been shown to cause more severe disease being present in the City; and further evidence that City residents, including younger and otherwise healthy people, are also at risk for serious negative health outcomes and for transmitting the virus to others. The age, condition, and health of a significant portion of the population of the City places it at risk for serious health complications, including hospitalizations and death, from COVID-19; and further evidence that others, including younger and otherwise healthy people, are also at risk for serious outcomes.
13. Local Health Conditions Relating to COVID-19. Existing community transmission of COVID-19 in the City is at a very low level but continues to present a substantial risk of harm to the health of those who are not or cannot be vaccinated against COVID-19. Currently, there is a vaccine available to protect against COVID-19. However, new variants of the virus that may spread more easily or cause more severe illness remain present in the City and remain a risk for those who are not vaccinated against COVID-19. Due to the fact that unvaccinated persons are remain more likely to get infected and spread COVID-19 via the air and concentrates indoors, other measures are necessary until the majority of the population is vaccinated to prevent the spread of COVID-19. As of June 15, 2021, there have been at least 53,476 cases of COVID-19 and 942 deaths reported in the City of Long Beach. In line with the State Public Health Officer, the Health Officer will continue to monitor scientific evidence and epidemiological data within the City.
14. Continued Monitoring of Epidemiological Data. The Health Officer will continue monitoring epidemiological data to assess the impact of lifting restrictions and fully re-opening sectors. Those indicators include, but are not limited to:
  - a. The number of new cases, hospitalizations, and deaths among residents in areas in the lowest Healthy Places Index (HPI) quartile and by race/ethnicity.
  - b. The percentage of COVID-19 tests reported that are positive.
  - c. The availability of COVID-19 vaccines and the percentage of eligible City residents vaccinated against COVID-19.
  - d. The number of fully vaccinated people who get sick, hospitalized, or die from COVID-19.
15. Incorporation of State and Local Emergency Proclamations. This Order is issued in accordance with, and incorporates by this reference, the March 4, 2020 Proclamation of a State of Emergency issued by Governor Gavin Newsom and the and the March 4, 2020 Proclamation of Local Emergency by the City Manager, and the Declaration of Local Health Emergency by the Health Officer, ratified by the City Council on March 10, 2020, respectively, the March 6, 2020 Declaration of Local Health Emergency Regarding Novel Coronavirus 2019 (COVID-19) issued by the Health Officer, and



guidance issued by the California Department of Public Health, as each of them have been and may be supplemented.

16. Incorporation of State Health Orders. This Order is also issued in accordance with, and incorporates by this reference, the June 11, 2021 Order of the State Public Health Officer - Beyond the Blueprint (the "State Health Order"), which enters the State into a new phase of the pandemic due to significant progress in vaccinating individuals and reduction in community transmission of COVID-19.
17. Obligation to Follow Stricter Requirements of Orders. This Order is consistent with the provisions in the Governor's Executive Order N-60-20 and the State Public Health Officer's August 28, 2020 Order that local health jurisdictions may implement or continue more restrictive public health measures if the jurisdiction's Local Health Officer determines that health conditions in that jurisdiction warrant such measures. Where a conflict exists between this Order and any state public health order related to the COVID- 19 pandemic, the most restrictive provision (i.e., the more protective of public health) controls. Consistent with California Health and Safety Code section 131080 and the Health Officer Practice Guide for Communicable Disease Control in California, except where the State Health Officer may issue an order expressly directed at this Order and based on a finding that a provision of this Order constitutes a menace to public health, any more restrictive measures in this Order continue to apply and control in the City. Also, to the extent any federal guidelines allow activities that are not allowed by this Order, this Order controls.
18. Requirement to Operate Pursuant to Local Licenses and Permits. All businesses permitted to operate pursuant to this Order shall operate in accordance with all current local licenses or permits, including business licenses, health permits, and the like.
19. Authority of the City Manager to Facilitate Business Activities Outdoors. The City Manager or appropriate designee to develop written protocols to facilitate various business activities outdoors in accordance with City and State health guidelines and Health Orders and in compliance with all other applicable State and Federal laws such as the Americans with Disabilities Act, with emphasis on developing protocols that protect the health, safety and welfare of the community. Any issuance of a permit to operate in an outdoor space is temporary due to the COVID-19 pandemic and does not create a vested property right in any parklet, public right-of-way, or any other property used to facilitate outdoor business operations due to the COVID-19 pandemic.
20. Copies of the Order. The City shall promptly provide copies of this Order by: (a) posting it on the Long Beach's Department of Health and Human Services website (<http://www.longbeach.gov/health/>), (b) posting it at the Civic Center located at 411 W. Ocean Blvd., Long Beach, CA 90802, (c) providing it to any member of the public requesting a copy, (d) issuing a press release to publicize the Order throughout the City, and (e) by serving via email on large facilities known to the Health Officer that are likely to be subject to this Order (but service via email is not required for compliance). The owner, manager, or operator of any facility that is likely to be impacted by this Order is strongly encouraged to post a copy of this Order onsite and to provide a copy to any member of the public requesting a copy.
  - a. The owner, manager, or operator of any facility that is likely to be impacted by this Order is strongly encouraged to post a copy of this Order onsite and to provide a copy to any member of the public requesting a copy.
  - b. Because guidance may change, the owner, manager, or operator of any facility that is subject to this Order is ordered to consult the Long Beach Department of Health and Human Services' website (<http://www.longbeach.gov/health/>) daily to identify any modifications to the Order and



is required to comply with any updates until the Order is terminated.

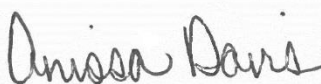
21. Severability. If any section, subsection, sentence, clause, phrase, or word of this Order or any application of it to any person, structure, gathering, or circumstance is held to be invalid or unconstitutional by a decision of a court of competent jurisdiction, then such decision will not affect the validity of the remaining portions or applications of this Order.

22. Enforcement.

- a. In consultation with the City Attorney and in accordance with Chapter 8.120 of the Long Beach Municipal Code, the City is permitted to discontinue municipal utility service to any business operating in violation of this Order, as appropriate.
- b. The entities subject to this Order that are not required to close may otherwise remain open for business and perform operations during the duration of this Order under the condition that entities adhere to this Order any state public health order related to the COVID-19 pandemic. Entities permitted to remain open for businesses that do not adhere to this Order may be subject to mandatory closure for the duration of this Order, including any amendment or extension hereto. This Section shall not apply to the Long Beach Airport, or any business identified as federal critical infrastructure therein.
- c. Failure to comply with any of the provisions of this Order constitutes an imminent threat and menace to public health, constitutes a public nuisance, and is punishable by fine, imprisonment, or both. To protect the public's health, the Health Officer of the City of Long Beach may take additional action(s) for failure to comply with this Order. Violation of this Order is a misdemeanor punishable by imprisonment, fine or both under California Health and Safety Code Section 120275 et seq and Chapters 1.32 and 8.120 of the Long Beach Municipal Code.
- d. Pursuant to Long Beach City Charter Section 109, Sections 8634 and 41601 of the California Government Code; Sections 101040, 101475, and 120175 of the California Health and Safety Code; and Chapters 8.08, 8.26, and 8.120 of the Long Beach Municipal Code, these Orders and Directives as issued by the Health Officer shall be enforceable by the Chief of Police of the City of Long Beach to ensure compliance with and enforcement of this Order and the Directives set forth herein.
- e. Further, and in addition to the criminal penalties set forth herein, these Orders and Directives as issued by the Health Officer shall be enforceable by the City Manager of the City of Long Beach. For the duration of the declared health emergency, the City Manager is permitted to designate and authorize appropriate employees of the City to issue Administrative Citations and levy civil fines and penalties to those individuals, businesses, and others who are in violation of the Orders and Directives contained herein in accordance with the provisions of Chapter 9.65 of the Long Beach Municipal Code.

23. Effective Date. This Order shall become effective at 11:59 p.m. on June 15, 2021 and will continue to be until it is extended, rescinded, superseded, or amended in writing by the Health Officer.

IT IS SO ORDERED:

A handwritten signature in cursive script that reads "Anissa Davis". The signature is written in black ink on a light-colored background.

Anissa Davis, MD, DrPH,  
Health Officer, City of Long Beach  
Date: June 15, 2021

## PROMULGATION OF EMERGENCY REGULATIONS

As Director of Civil Defense for the City of Long Beach pursuant to Long Beach Municipal Code ("LBMC") section 2.69.060.A, and in accordance with the provisions of LBMC Chapter 8.120, I am authorized to promulgate regulations for the protection of life and property as affected by the COVID-19 emergency pursuant to Government Code section 8634, and LBMC sections 2.69.070.A and 8.120.020. The following shall be in effect for the duration of the Long Beach Health Order, SAFER AT HOME ORDER FOR CONTROL OF COVID-19, issued above, which is incorporated in its entirety by reference:

The Long Beach Health Officer Order, SAFER AT HOME ORDER FOR CONTROL OF COVID-19, shall be promulgated as a regulation for the protection of life and property.

Any person who, after notice, knowingly and willfully violates or refuses or neglects to conform to the above referenced lawfully issued Health Order shall be guilty of a misdemeanor punishable by a fine not to exceed one thousand dollars (\$1,000), by imprisonment for a period not exceeding six (6) months, or by both such fine and imprisonment. (Long Beach Municipal Code sections 8.120.030.A and 8.120.030.E.3.)

IT IS SO ORDERED:

A handwritten signature in black ink, appearing to read 'T. B. Modica', written in a cursive style.

Thomas B. Modica  
City Manager, City of Long Beach  
Date: June 15, 2021