



OFFICE OF THE CITY ATTORNEY
Long Beach, California

ORD-27

CHARLES PARKIN
City Attorney

MICHAEL J. MAIS
Assistant City Attorney

February 8, 2022

HONORABLE MAYOR AND CITY COUNCIL
City of Long Beach
California

RECOMMENDATION:

Declare an Ordinance of the City Council of the City of Long Beach amending Long Beach Municipal Code (LBMC) Chapter 8.120, related to temporary enforcement of Long Beach Health Orders regarding COVID-19, and declaring the urgency thereof, read the first time and laid over to the next regular meeting of the City Council for final reading. (Citywide)

DISCUSSION

A proposed Ordinance extending the effective date of LBMC Ch. 8.120 for an additional 180 days is being provided at the request of the City Manager. The Ordinance was originally adopted on May 12, 2020. The Ordinance has been extended three times by the City Council: on November 2, 2020, January 19, 2021, and August 17, 2021.

Without an amendment extending this Ordinance, it will expire by its own terms on February 13, 2022. If passed as an urgency ordinance, the proposed Ordinance will extend the expiration of LBMC Ch. 8.120 until August 7, 2022, unless further extended by the City Council in its discretion.

In an effort to mitigate the effects of COVID-19 within the City, the Long Beach Health Officer issues Health Orders for Control of COVID-19 ("Health Orders") and revises Health Orders from time to time as necessary for the public health and safety during this ongoing emergency. The proposed Ordinance is necessary to further protect the public health and safety by providing enforcement remedies for violations of the lawfully issued Health Orders of the City.

The City is experiencing a sharp increase in COVID-19 cases. This increase in COVID-19 cases can be expected to lead to an increase in hospitalizations, which has the potential to overwhelm the healthcare system. Individuals, especially those who are older or who have underlying health conditions may suffer severe health outcomes from COVID 19 infection, including death.

This Ordinance requires, where practicable, the City Manager to bring City Health Orders related to COVID-19 before the City Council for confirmation prior to promulgating such Health Orders. In the event it is not feasible to do this, the City Manager is required to, within 14 days of promulgation of said Health Orders, request the City Council to confirm the Health Orders. This process recognizes a potential need for the City's Health Officer to quickly amend or update, and the City Manager to promulgate, City Health Orders due to the rapid development of COVID-19, including variants of COVID-19, while still ensuring that the City Council maintains oversight of the COVID-19 local emergency and the City Manager's related orders.

Although it is vital that the City is able to effectively enforce City Health Orders during the COVID-19 emergency, the City's primary goal is to ensure the public health and safety is achieved through outreach efforts and education of the Long Beach community. However, where such education and outreach efforts are unsuccessful in compelling compliance, the proposed Ordinance allows for civil, administrative, and/or criminal enforcement of City Health Orders related to COVID-19, as may be necessary. In the case of a criminal prosecution, the City Prosecutor would have the discretion to charge the offense as either an infraction or a misdemeanor.

SUGGESTED ACTION:

Approve recommendation.

Very truly yours,

CHARLES PARKIN, City Attorney



By

TAYLOR M. ANDERSON
Deputy City Attorney

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ORDINANCE NO.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LONG BEACH AMENDING THE LONG BEACH MUNICIPAL CODE BY ADDING CHAPTER 8.120, TEMPORARY ENFORCEMENT OF LONG BEACH HEALTH ORDERS RELATED TO COVID-19; DECLARING THE URGENCY THEREOF; AND DECLARING THAT THIS ORDINANCE SHALL TAKE EFFECT IMMEDIATELY

WHEREAS, on March 10, 2020, the City Council of the City of Long Beach recognized that an emergency did exist and unanimously passed a Resolution ratifying the City Manager’s Proclamation of a Local Emergency and the Public Health Officer’s Declaration of Local Health Emergency; and

WHEREAS, in order to mitigate the effects of COVID-19, and any variants of COVID-19 within the City, the Long Beach Health Officer issued Health Orders for Control of COVID-19 (“Health Order”), and thereafter revised said Health Order from time to time as necessary in furtherance of the public health and safety; and

WHEREAS, in order to further protect the public health and safety, it is necessary to adopt ordinance provisions that will provide administrative, civil, and criminal enforcement remedies for violations of the lawfully issued Health Orders of the City; and

WHEREAS, the proposed Ordinance would continue require, where practicable, the City Manager to bring City Health Orders related to COVID-19 before the City Council for confirmation prior to promulgating such Orders; and

WHEREAS, in the event it is not feasible to do this, the City Manager shall, within a 14-day period from promulgation of said Health Orders, request the City Council to confirm the Health Orders; and

1 WHEREAS, this alternative process recognizes the potential need for the
2 City’s Health Officer to quickly amend or update City Health Orders due to the rapid
3 development of COVID-19, while still ensuring the City Council maintains oversight of
4 the COVID-19 local emergency and the City Manager’s related orders; and

5 WHEREAS, the City’s primary goal is to ensure the public health and
6 safety during the COVID-19 local, state, and federal emergencies through outreach
7 efforts and education of the Long Beach community regarding the City Health Orders
8 and COVID-19; and

9 WHEREAS, where such outreach and education efforts do not on their
10 own gain compliance, the proposed Ordinance allows for civil, administrative, and/or
11 criminal enforcement of City Health Orders related to COVID-19, issued by the Health
12 Officer and promulgated by the City Manager; and

13 WHEREAS, with respect to criminal enforcement of violations of the
14 lawfully issued Health Orders, such violations may be prosecuted as misdemeanors or
15 infractions in the sole discretion of the City Prosecutor; and

16 WHEREAS, it is the City’s intent that the authorized enforcement of the
17 City Health Orders as described in the proposed Ordinance shall only occur after an
18 individual and/or business is provided ample opportunity to comply after being notified
19 of an alleged violation; and

20 WHEREAS, the City efforts shall be in furtherance of the health, safety,
21 and welfare of those residing in, doing business in, or visiting the City of Long Beach
22 during the declared COVID-19 emergency; and

23 WHEREAS, the City Council previously adopted this Ordinance on May
24 12, 2020, and extended the effective date of this Ordinance on November 2, 2020,
25 January 19, 2021, and August 17, 2022; and

26 WHEREAS, without an amendment extending this Ordinance, it will expire
27 by its own terms on February 13, 2022; and

28 WHEREAS, if adopted as an urgency ordinance, this Ordinance will

1 extend the effective date of this Ordinance until August 7, 2022; and

2 WHEREAS, this Ordinance is necessary to further protect the public
3 health and safety by providing enforcement remedies for violations of the lawfully issued
4 Health Orders of the City due to the sharp increase in the COVID-19 case rate which
5 can be expected to lead to an increase in hospitalizations, which may overwhelm the
6 healthcare system, and deaths, especially for those who are older and who have
7 underlying health conditions;

8 NOW, THEREFORE, the City Council of the City of Long Beach ordains as
9 follows:

10 Section 1. Section 8.120.010.D of the Long Beach Municipal Code is
11 amended to read as follows:

12 D. This Chapter is intended to be temporary and shall expire
13 one-hundred eighty (180) days from the effective date of the last
14 amendment to this Chapter, unless further extended by the City Council in
15 its discretion by an amendment to this Chapter.

16
17 Section 2. Subsection 8.120.040 of the Long Beach Municipal Code is
18 amended to read as follows:

19 8.120.040 Expiration.

20 This Chapter shall expire one hundred eighty (180) days from the effective
21 date of the last amendment to this Chapter, unless further extended by the City Council in
22 its discretion by an amendment to this Chapter.

23
24 Section 3. This ordinance is urgently required to control the spread and
25 mitigate the effects of the Novel Coronavirus (COVID-19), including any variants of
26 COVID-19, within the City of Long Beach through authorized actions, such as the
27 enforcement of the Health Order For Control of COVID-19 and any additional COVID-19
28 Health Orders that may be issued by the City Health Officer and promulgated by the City

1 Manager.

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Section 4. This ordinance is an emergency ordinance duly adopted by the City Council by a vote of five of its members and shall take effect immediately. The City Clerk shall certify to a separate roll call and vote on the question of the emergency of this ordinance and to its passage by the vote of five members of the City Council of the City of Long Beach, and cause the same to be posted in three conspicuous places in the City of Long Beach, and it shall thereupon take effect and shall be operative immediately.

Section 5. This ordinance shall also be adopted by the City Council as a regular ordinance, to the end that in the event of any defect or invalidity in connection with the adoption of this ordinance as an emergency ordinance, the same shall, nevertheless, be and become effective on the thirty-first (31st) day after it is approved by the Mayor. The City Clerk shall certify to the passage of this ordinance by the City Council of the City of Long Beach and shall cause the same to be posted in three (3) conspicuous places in the City of Long Beach.

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I hereby certify that on a separate roll call and vote which was taken by the City Council of the City of Long Beach upon the question of emergency of this ordinance at its meeting of _____, 2022, the ordinance was declared to be an emergency by the following vote:

Ayes: Councilmembers: _____

Noes: Councilmembers: _____

Absent: Councilmembers: _____

Recusal(s): Councilmembers: _____

I further certify that thereafter, at the same meeting, upon a roll call and vote on adoption of the ordinance, it was adopted by the City Council of the City of Long Beach by the following vote:

Ayes: Councilmembers: _____

Noes: Councilmembers: _____

Absent: Councilmembers: _____

Recusal(s): Councilmembers: _____

OFFICE OF THE CITY ATTORNEY
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I further certify that the foregoing ordinance was thereafter adopted on final reading by the City Council of the City of Long Beach at its meeting of _____, 2022, by the following vote:

Ayes: Councilmembers: _____

Noes: Councilmembers: _____

Absent: Councilmembers: _____

Recusal(s): Councilmembers: _____

Clerk

Approved: _____
(Date)

Mayor