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Long Beach, California

ORD-29

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May 5, 2020

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 the Long Beach Municipal Code by amending Sections 2.69.070 and 2.69.110 relating to Civil Defense, 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

This Ordinance amending Long Beach Municipal Code ("LBMC") Sections 2.69.070 and 2.69.110, relating to Civil Defense, has been prepared and is submitted for your consideration.

The COVID-19 pandemic and local government response thereto is rapidly evolving. LBMC Chapter 2.69, "Civil Defense," provides for the City's preparation and carrying out of plans to protect persons and property during a disaster or emergency. Due to the COVID-19 pandemic, the City has recognized the need for the proposed amendments in order to better protect the public during these unprecedented times.

In an effort to mitigate the effects of COVID-19 within the City, the Long Beach Health Officer issued the Safer at Home Order for Control of COVID-19 ("Health Order") and revises said order from time to time as necessary for the public health. As such, it is vital to the public health and safety that the City is able to effectively enforce this Health Order and future orders during a local, state, or federal emergency. To bolster the City's ability to enforce the Health Order through the criminal process, and to thereby protect the health, safety, and welfare of those residing in, doing business in, or visiting the City of Long Beach during the rapid spread of COVID-19, the City Manager must promulgate the Health Order.

The proposed Ordinance would allow the City Manager to promulgate this Health Order and future orders relating to emergencies without requiring confirmation from the City Council, as such confirmation may not be practicable due to the many amendments these orders often require based on the rapid development of emergencies like COVID-19. The proposed Ordinance would also clearly deem violations of any such promulgated orders of the City Manager misdemeanors punishable by up to One Thousand Dollars (\$1,000), by imprisonment not to exceed six months, or by both such fine and imprisonment, in accordance with Section 8665 of the California Government Code. However, as is generally the case in the LBMC, it will be in the sole discretion of the City Prosecutor to prosecute any such violation as a misdemeanor or an infraction.

SUGGESTED ACTION:

Approve recommendation.

Very truly yours,

CHARLES PARKIN, City Attorney

By


MONICA J. KILAITA
Deputy City Attorney

REDLINED VERSION

2.69.070 Director - Emergency powers.

In the event of the proclamation of a local emergency as provided in this Chapter, the proclamation of a state of emergency by the Governor or the State Director of the Office of Emergency Services, or by the President of the United States, the Director is empowered, within limitations provided by the City Charter, ordinances and laws applicable to the City:

A. To make, issue, and enforce rules and regulations on matters reasonably related to the protection of life and property as affected by such emergency; provided, however, such rules and regulations must be ~~confirmed at the earliest practicable time~~ received and filed by the City Council no later than at the conclusion of the emergency, or shortly thereafter;

B. To obtain vital services, supplies, equipment and such other properties found lacking and needed for the protection of the life and property of the people, and bind the City for the fair value thereof;

C. To require emergency services of any City officer or employee, and, in the event of the proclamation of a state of emergency in the County in which this City is located or the existence of a state of war emergency, to command the aid of as many citizens of this community as he deems necessary in the execution of his duties; such persons shall be entitled to all privileges, benefits, and immunities as are provided in State law for registered emergency service workers;

D. To requisition necessary personnel or material of any City department or agency;

E. To exercise all of his ordinary powers as City Manager, all of the special powers conferred upon him by this Chapter or by the

Emergency Plan adopted pursuant thereto, all powers conferred upon him by any statute, agreement approved by the City Council, or by any other lawful authority;

F. To designate the order of succession to his office, to take effect in the event that he is unavailable to attend meetings and otherwise perform his duties during an emergency. Such order of succession shall be approved by the City Council;

G. To provide general supervision to the assistant Director, who, with the assistance of the Chiefs of the Emergency Services, shall develop an Emergency Plan and manage the emergency programs of this City, and who shall have such other powers and duties as may be assigned by the Director.

2.69.110 Violations.

A. ~~No person shall~~ It shall be a misdemeanor, punishable by a fine of not more than One Thousand Dollars (\$1,000), or by imprisonment in the City or county jail for a period not exceeding six (6) months, or by both such fine and imprisonment, for any person who:

1. After notice, willfully violates or refuses or neglects to conform to any lawful rule, regulation, order, or directive issued pursuant to this Chapter, including City Health Orders issued or promulgated by the Director;

A. ~~2. Wilfully~~ Intentionally obstructs, hinders, or delays any member of the civil defense and emergency organization in the enforcement of any lawful rule, ~~or~~ regulation, order, or directive issued pursuant to this Chapter, or in the performance of any duty

imposed upon him a person by ~~virtue of~~ this Chapter;

~~B. Do any act in violation of any emergency declaration or curfew established by any lawful rule, regulation, order or directive issued pursuant to this Chapter; or~~

3. Without express authorization from the Director, wears, exhibits, uses, carries, or displays, without authority, any means of identification, such as the authorized uniform, insignia, emblem, card, or writing, of a member of specified by the civil defense and emergency agency organization with the intent of impersonating or fraudulently of the State or of the City inducing the belief that they are a member of the civil defense and emergency organization.

~~G. B.~~ In the sole discretion of the City Prosecutor, any violation specified in this Section may be prosecuted as either a misdemeanor or an infraction.

ORDINANCE NO.

AN ORDINANCE OF THE CITY COUNCIL OF THE
CITY OF LONG BEACH AMENDING THE LONG BEACH
MUNICIPAL CODE BY AMENDING SECTIONS 2.69.070
AND 2.69.110 RELATING TO CIVIL DEFENSE;
DECLARING THE URGENCY THEREOF; AND
DECLARING THAT THIS ORDINANCE SHALL TAKE
EFFECT IMMEDIATELY

WHEREAS, the Novel Coronavirus (COVID-19), a new communicable
disease, was first detected in Wuhan City, Hubei Province, China in December 2019,
and has since spread globally; and

WHEREAS, symptoms of COVID-19 include fever, cough, and shortness
of breath, and infected individuals have experienced a range of outcomes, from mild
sickness to severe illness and death; and

WHEREAS, on March 11, 2020, the World Health Organization declared
the COVID-19 a pandemic; and

WHEREAS, on March 13, 2020, the President of the United States of
America declared a National Emergency as a result of COVID-19; and

WHEREAS, previously, after deep concern by the World Health
Organization and the Federal government, and as a result of the need to proactively
slow the spread of, and combat, COVID-19 in the City of Long Beach, the City Public
Health Officer issued a Declaration of Local Health Emergency and the Acting City
Manager issued a Proclamation of Local Emergency; and

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

1 Officer's Declaration of Local Health Emergency; and

2 WHEREAS, in order to mitigate the effects of COVID-19 within the City,
3 the Long Beach Health Officer issued the Safer at Home Order for Control of COVID-19
4 ("Health Order"), and revises said order from time to time as necessary in furtherance of
5 the public health and safety; and

6 WHEREAS, it is vital to the public health and safety that the City is able to
7 effectively enforce this Health Order and future orders during a local, state, or federal
8 emergency; and

9 WHEREAS, to bolster the City's ability to enforce the Health Order
10 through the criminal process, and to thereby protect the health, safety, and welfare of
11 those residing in, doing business in, or visiting the City of Long Beach during the rapid
12 spread of COVID-19, the City Manager must promulgate the Health Order; and

13 WHEREAS, the proposed amendment would allow the City Manager to
14 promulgate the Health Order and future orders relating to emergencies without requiring
15 confirmation from the City Council, as such confirmation may not be practicable due to
16 the many amendments these orders often require based on the rapid development of
17 emergencies like COVID-19; and

18 WHEREAS, the proposed amendment would also confirm that violations
19 of any such orders of the City Manager are misdemeanors punishable by a fine of up to
20 One Thousand Dollars (\$1,000), by imprisonment not exceeding six (6) months, or by
21 both such fine and imprisonment, in accordance with California Government Code
22 section 8665; and

23 WHEREAS, as with most other violations specified in the Long Beach
24 Municipal Code, the proposed amendment confirms it is in the sole discretion of the City
25 Prosecutor to prosecute said violations as misdemeanors or infractions;

26 NOW, THEREFORE, the City Council of the City of Long Beach ordains as
27 follows:

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1 Section 1. Section 2.69.071 of the Long Beach Municipal Code is
2 amended to read as follows:

3 2.69.070 Director - Emergency powers.

4 In the event of the proclamation of a local emergency as provided in this
5 Chapter, the proclamation of a state of emergency by the Governor or the State Director
6 of the Office of Emergency Services, or by the President of the United States, the
7 Director is empowered, within limitations provided by the City Charter, ordinances and
8 laws applicable to the City:

9 A. To make, issue, and enforce rules and regulations on matters
10 reasonably related to the protection of life and property as affected by such
11 emergency; provided, however, such rules and regulations must be received and
12 filed by the City Council no later than at the conclusion of the emergency, or
13 shortly thereafter;

14 B. To obtain vital services, supplies, equipment and such other
15 properties found lacking and needed for the protection of the life and property of
16 the people, and bind the City for the fair value thereof;

17 C. To require emergency services of any City officer or employee, and,
18 in the event of the proclamation of a state of emergency in the County in which this
19 City is located or the existence of a state of war emergency, to command the aid
20 of as many citizens of this community as he deems necessary in the execution of
21 his duties; such persons shall be entitled to all privileges, benefits, and immunities
22 as are provided in State law for registered emergency service workers;

23 D. To requisition necessary personnel or material of any City
24 department or agency;

25 E. To exercise all of his ordinary powers as City Manager, all of the
26 special powers conferred upon him by this Chapter or by the Emergency Plan
27 adopted pursuant thereto, all powers conferred upon him by any statute,
28 agreement approved by the City Council, or by any other lawful authority;

1 F. To designate the order of succession to his office, to take effect in
2 the event that he is unavailable to attend meetings and otherwise perform his
3 duties during an emergency. Such order of succession shall be approved by the
4 City Council;

5 G. To provide general supervision to the assistant Director, who, with
6 the assistance of the Chiefs of the Emergency Services, shall develop an
7 Emergency Plan and manage the emergency programs of this City, and who shall
8 have such other powers and duties as may be assigned by the Director.
9

10 Section 2. Section 2.69.110 of the Long Beach Municipal Code is
11 amended to read as follows:

12 2.69.110 Violations.

13 A. It shall be a misdemeanor, punishable by a fine of not more than
14 One Thousand Dollars (\$1,000), or by imprisonment in the City or county jail for a
15 period not exceeding six (6) months, or by both such fine and imprisonment, for
16 any person who:

17 1. After notice, willfully violates or refuses or neglects to conform
18 to any lawful rule, regulation, order, or directive issued pursuant to this Chapter,
19 including City Health Orders issued or promulgated by the Director;

20 2. Intentionally obstructs, hinders, or delays any member of the
21 civil defense and emergency organization in the enforcement of any lawful rule,
22 regulation, order, or directive issued pursuant to this Chapter, or in the
23 performance of any duty imposed upon a person by this Chapter; or

24 3. Without express authorization from the Director, wears,
25 exhibits, uses, carries, or displays any means of identification, such as the
26 authorized uniform, insignia, emblem, card, or writing, of a member of the civil
27 defense and emergency organization with the intent of impersonating or
28 fraudulently inducing the belief that they are a member of the civil defense and

1 emergency organization.

2 B. In the sole discretion of the City Prosecutor, any violation specified in
3 this Section may be prosecuted as either a misdemeanor or an infraction.

4
5 Section 3. This ordinance is urgently required to control the spread and
6 mitigate the effects of the Novel Coronavirus (COVID-19) within the City of Long Beach
7 through authorized actions, such as the enforcement of the Safer at Home Order For
8 Control of COVID-19 to be promulgated in accordance with this ordinance.

9
10 Section 4. This ordinance is an emergency ordinance duly adopted by
11 the City Council by a vote of five of its members and shall take effect immediately. The
12 City Clerk shall certify to a separate roll call and vote on the question of the emergency of
13 this ordinance and to its passage by the vote of five members of the City Council of the
14 City of Long Beach, and cause the same to be posted in three conspicuous places in the
15 City of Long Beach, and it shall thereupon take effect and shall be operative immediately.

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17 Section 5. This ordinance shall also be adopted by the City Council as a
18 regular ordinance, to the end that in the event of any defect or invalidity in connection
19 with the adoption of this ordinance as an emergency ordinance, the same shall,
20 nevertheless, be and become effective on the thirty-first (31st) day after it is approved by
21 the Mayor. The City Clerk shall certify to the passage of this ordinance by the City
22 Council of the City of Long Beach and shall cause the same to be posted in three (3)
23 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 _____, 2020, 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: _____

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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 _____, 2020, by the following vote:

Ayes: Councilmembers: _____

Noes: Councilmembers: _____

Absent: Councilmembers: _____

Recusal(s): Councilmembers: _____

Clerk

Approved: _____
(Date)

Mayor