



OFFICE OF THE CITY ATTORNEY
Long Beach, California

ORD-2

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November 2, 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 Chapter 8.120 to extend the effective date of the ordinance to January 20, 2021, unless further extended by the Council, 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

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 has revised the Health Order from time to time as necessary for the public health and safety during this ongoing emergency.

The Ordinance initially adopted by Council is set to expire on November 6, 2020 unless the City Council takes further action. Due to the uncertainty of the pandemic, the proposed Ordinance extends the expiration of the Ordinance until January 20, 2021, unless further extended by the City Council in its discretion by an amendment to the Ordinance.

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, 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

A handwritten signature in black ink, appearing to read 'T.M.A.', with a long horizontal line extending to the right.

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, 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 then 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 thereafter revised said Health Order from time to time as
5 necessary in furtherance of the public health and safety; and

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

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

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

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

20 WHEREAS, the City's primary goal is to ensure the public health and
21 safety during the COVID-19 local, state, and federal emergencies through outreach
22 efforts and education of the Long Beach community regarding the City Health Orders
23 and COVID-19; and

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

28 WHEREAS, with respect to criminal enforcement of violations of the

1 lawfully issued Health Orders, such violations may be prosecuted as misdemeanors or
2 infractions in the sole discretion of the City Prosecutor; and

3 WHEREAS, it is the City's intent that the authorized enforcement of the
4 City Health Orders as described in the proposed Ordinance shall only occur after a
5 person is provided ample opportunity to comply after being notified of an alleged
6 violation; and

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

10 WHEREAS, the proposed Ordinance is temporary and shall expire One
11 Hundred Eighty (180) days from its effective date, unless further extended by the City
12 Council in its discretion by an amendment to this Ordinance;

13 NOW, THEREFORE, the City Council of the City of Long Beach ordains as
14 follows:

15 Section 1. Chapter 8.120.010.D of the Long Beach Municipal Code is
16 amended to read as follows:

17 D. This Chapter is intended to be temporary and shall expire on
18 January 20, 2021, unless further extended by the City Council in its
19 discretion by an amendment to this Chapter.
20

21 Section 2. Subsection 8.120.040 of the Long Beach Municipal Code is
22 amended to read as follows:

23 8.120.040 Expiration.

24 This Chapter shall expire on January 20, 2021, unless further extended by
25 the City Council in its discretion by an amendment to this Chapter.
26

27 Section 3. This ordinance is urgently required to control the spread and
28 mitigate the effects of the Novel Coronavirus (COVID-19) within the City of Long Beach

1 through authorized actions, such as the enforcement of the Safer at Home Order For
2 Control of COVID-19 and any additional COVID-19 Health Orders that may be issued by
3 the City Health Officer and promulgated by the City Manager.

4

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

11

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

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OFFICE OF THE CITY ATTORNEY
CHARLES PARKIN, City Attorney
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Long Beach, CA 90802-4664

1 I hereby certify that on a separate roll call and vote which was taken by the
2 City Council of the City of Long Beach upon the question of emergency of this ordinance
3 at its meeting of _____, 2020, the ordinance was declared to be an
4 emergency by the following vote:

5
6 Ayes: Councilmembers: _____
7 _____
8 _____
9 Noes: Councilmembers: _____
10 _____
11 Absent: Councilmembers: _____
12 _____
13 Recusal(s): Councilmembers: _____
14 _____

15
16 I further certify that thereafter, at the same meeting, upon a roll call and vote on
17 adoption of the ordinance, it was adopted by the City Council of the City of Long Beach
18 by the following vote:

19
20 Ayes: Councilmembers: _____
21 _____
22 _____
23 Noes: Councilmembers: _____
24 _____
25 Absent: Councilmembers: _____
26 _____
27 Recusal(s): Councilmembers: _____
28 _____

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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