



OFFICE OF THE CITY ATTORNEY
Long Beach, California

ORD-26

CHARLES PARKIN
City Attorney

MICHAEL J. MAIS
Assistant City Attorney

August 17, 2021

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 (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

In an effort to mitigate the effects of COVID-19 within the City, the Long Beach Health Officer issued Health Orders 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 was set to expire was extended twice by the City Council. The Ordinance expired by its own terms on July 18, 2021. 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 due to the increased case rate, hospitalizations, and deaths resulting from COVID-19 and variants of COVID-19. If passed as an urgency ordinance, the proposed Ordinance will extend the expiration of LBMC Ch. 8.120 until February 13, 2022, 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, or at the next duly noticed public meeting of the City Council, 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

A handwritten signature in black ink, appearing to read 'T.M.A.', with a long horizontal stroke 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, 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 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 a
18 person is provided ample opportunity to comply after being notified of an alleged
19 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 and
25 on January 19, 2021; and

26 WHEREAS, this Ordinance expired by its own terms on July 18, 2021; and

27 WHEREAS, this Ordinance is necessary to further protect the public
28 health and safety by providing enforcement remedies for violations of the lawfully issued

1 Health Orders of the City due to the increased case rate, hospitalizations, and deaths
2 resulting from COVID-19 and variants of COVID-19;

3 NOW, THEREFORE, the City Council of the City of Long Beach ordains as
4 follows:

5 Section 1. Section 8.120.010 of the Long Beach Municipal Code is
6 amended to read as follows:

7 A. In order to protect the public health, safety, and general
8 welfare, and to mitigate the impacts of the novel coronavirus (COVID-19),
9 and any variants of COVID-19, this Chapter shall temporarily allow for civil,
10 administrative, and/or criminal enforcement of Health Orders issued by the
11 Long Beach Health Officer and promulgated by the City Manager as more
12 particularly described herein.

13 B. The primary intent of the City, in its efforts to mitigate the
14 impacts of COVID-19, and any variants thereof, shall remain focusing on
15 public outreach and education, and enforcement actions will only be
16 undertaken where such outreach and education, alone, are unsuccessful in
17 compelling compliance with City Health Orders related to COVID-19.

18 C. Nothing in this Chapter is intended or shall be interpreted to
19 invalidate Chapter 2.69, "Civil Defense", of this Code, which shall still apply
20 to the COVID-19 local emergency except to the extent it conflicts with the
21 provisions of this Chapter.

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

26
27 Section 2. Subsection 8.120.040 of the Long Beach Municipal Code is
28 amended to read as follows:

1 8.120.040 Expiration.

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

5
6 Section 3. This ordinance is urgently required to control the spread and
7 mitigate the effects of the Novel Coronavirus (COVID-19), including any variants of
8 COVID-19, within the City of Long Beach through authorized actions, such as the
9 enforcement of the Health Order For Control of COVID-19 and any additional COVID-19
10 Health Orders that may be issued by the City Health Officer and promulgated by the City
11 Manager.

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

19
20 Section 5. This ordinance shall also be adopted by the City Council as a
21 regular ordinance, to the end that in the event of any defect or invalidity in connection
22 with the adoption of this ordinance as an emergency ordinance, the same shall,
23 nevertheless, be and become effective on the thirty-first (31st) day after it is approved by
24 the Mayor. The City Clerk shall certify to the passage of this ordinance by the City
25 Council of the City of Long Beach and shall cause the same to be posted in three (3)
26 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 _____, 2021, 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 _____, 2021, by the following vote:

Ayes: Councilmembers: _____

Noes: Councilmembers: _____

Absent: Councilmembers: _____

Recusal(s): Councilmembers: _____

Clerk

Approved: _____
(Date)

Mayor