

OFFICE OF THE CITY ATTORNEY
CHARLES PARKIN, City Attorney
411 West Ocean Boulevard, 9th Floor
Long Beach, CA 90802-4664

ORDINANCE NO. ORD-20-0013

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2
3 AN ORDINANCE OF THE CITY COUNCIL OF THE
4 CITY OF LONG BEACH AMENDING THE LONG BEACH
5 MUNICIPAL CODE BY ADDING CHAPTER 8.120,
6 TEMPORARY ENFORCEMENT OF LONG BEACH
7 HEALTH ORDERS RELATED TO COVID-19; DECLARING
8 THE URGENCY THEREOF; AND DECLARING THAT THIS
9 ORDINANCE SHALL TAKE EFFECT IMMEDIATELY
10

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

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

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

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

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

26 WHEREAS, on March 10, 2020, the City Council of the City of Long
27 Beach recognized that an emergency did exist and unanimously passed a Resolution
28 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 is added to the Long Beach Municipal Code to
16 read as follows:

17 CHAPTER 8.120

18 TEMPORARY ENFORCEMENT OF LONG BEACH

19 HEALTH ORDERS RELATED TO COVID-19

20
21 8.120.010 Purpose.

22 A. In order to protect the public health, safety, and general
23 welfare, and to mitigate the impacts of the novel coronavirus (COVID-19),
24 this Chapter shall temporarily allow for civil, administrative, and/or criminal
25 enforcement of Health Orders issued by the Long Beach Health Officer and
26 promulgated by the City Manager as more particularly described herein.

27 B. The primary intent of the City, in its efforts to mitigate the
28 impacts of COVID-19, shall remain focusing on public outreach and

1 education, and enforcement actions will only be undertaken where such
2 outreach and education, alone, are unsuccessful in compelling compliance
3 with City Health Orders related to COVID-19.

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

8 D. This Chapter is intended to be temporary and shall expire One
9 Hundred Eighty (180) days after its effective date, unless further extended
10 by the City Council in its discretion by an amendment to this Chapter.

11
12 8.120.020 Health Orders related to COVID-19.

13 A. Health Orders issued by the Long Beach Health Officer shall
14 be confirmed by the City Council prior to being promulgated by the City
15 Manager, except where impracticable due to the rapid development of the
16 COVID-19 local emergency.

17 B. In the event of impracticability as described in Subsection A,
18 the City Manager may promulgate a City Health Order on the condition said
19 Order is confirmed by the City Council at a duly noticed public meeting
20 within fourteen (14) days of promulgation.

21
22 8.120.030 Enforcement and Penalties of Health Orders related to
23 COVID-19.

24 A. Violations. It is unlawful for any person to, after notice,
25 willfully violate or refuse or neglect to conform to any lawful City Health
26 Order related to the COVID-19 local emergency issued by the Long Beach
27 Health Officer and promulgated by the City Manager in accordance with this
28 Chapter.

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B. Declaration of public nuisance.

1. Any violation of a lawfully issued City Health Order as provided for in this Chapter is hereby deemed unlawful and a public nuisance.

2. As a nuisance per se, any violation of this Chapter is subject to any of the following remedies, including, without limitation: injunctive relief, revocation of applicable permits or licenses, revocation of the certificate of occupancy for the real property where the violation occurred, disgorgement and payment to the City of all monies unlawfully obtained, costs of abatement, and costs of investigation, attorney fees to the prevailing party, and any other relief or remedy available at law or equity.

C. Liability of employees and agents. In construing and enforcing the provisions of this Chapter, the act, omission, or failure of an agent, officer, representative, or other person acting for or employed by a business or similar entity, within the scope of his or her employment or office, will be in every case be deemed the violation, act, omission, or failure of the business or other entity.

D. Failure to comply with any of the provisions of this Chapter will constitute grounds for suspension or revocation of any permit or license issued pursuant to this Code, including but not limited to health permits and business licenses. The noticing and hearing requirements for suspension or revocation of a permit or license shall be governed by the provisions of this Code.

E. Penalties.

1. Administrative Citations.

a. In addition to all other legal remedies at law, violations of this Chapter are enforceable using the administrative citation

1 procedures set forth in Chapter 9.65 of this Code.

2 b. Administrative penalties imposed pursuant to
3 this Chapter also constitute a personal obligation on each person who
4 causes, permits, maintains, conducts, or otherwise suffers or allows the
5 nuisance or violation to exist. In the event administrative penalties are
6 imposed pursuant to this Chapter on two (2) or more persons for the same
7 violation, all such persons are jointly and severally liable for the full amount
8 of the administrative penalties imposed.

9 c. In addition to any other remedy, the City may
10 prosecute a civil action through the City Attorney to collect any
11 administrative penalty imposed pursuant to this Chapter.

12 2. Actions for injunctive relief and civil penalties.

13 a. As an alternative, or in addition to any other
14 remedy, the City Attorney may enforce the provisions of this Chapter
15 against any person, business, and/or property owner in any court of
16 competent jurisdiction. The City Attorney may apply to such court for an
17 order seeking injunctive relief to abate or remove any nuisance caused,
18 maintained, or permitted by any person, business, and/or property owner, to
19 restrain any person, business, and/or property owner from taking any action
20 contrary to the provisions of a lawfully issued Health Order or this Chapter,
21 or other applicable law; and/or to require any person, business, and/or
22 property owner to take any action to comply with this Chapter or other
23 applicable law.

24 b. In any civil court action brought by the City
25 Attorney pursuant to this Chapter in which the City succeeds in obtaining an
26 order from the court, the City shall be entitled to recover from any person,
27 business, and/or property owner all of the City's costs of investigation,
28 enforcement, abatement, destruction, and litigation, including but not limited

1 to attorneys' fees.

2 3. Criminal penalties.

3 a. Any person who knowingly violates this Chapter
4 is guilty of a misdemeanor, punishable by a fine of not more than One
5 Thousand Dollars (\$1,000), or by imprisonment in the City or county jail for
6 a period not exceeding six (6) months, or by both such fine and
7 imprisonment.

8 b. Notwithstanding the above subsection, a
9 violation specified in this Chapter may be prosecuted as either a
10 misdemeanor or an infraction in the sole discretion of the City Prosecutor.

11 F. Remedies cumulative. The remedies provided for in this
12 Chapter are not mutually exclusive. Pursuit of any one remedy does not
13 preclude the City from availing itself of any or all available administrative,
14 civil, or criminal remedies, at law or equity. The remedies provided by this
15 Chapter are cumulative and in addition to any other remedies available at
16 law or in equity.

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18 8.120.040 Expiration.

19 This Chapter shall expire One Hundred Eighty (180) days after its effective
20 date, unless further extended by the City Council in its discretion by an
21 amendment to this Chapter.

22
23 Section 2. This ordinance is urgently required to control the spread and
24 mitigate the effects of the Novel Coronavirus (COVID-19) within the City of Long Beach
25 through authorized actions, such as the enforcement of the Safer at Home Order For
26 Control of COVID-19 and any additional COVID-19 Health Orders that may be issued by
27 the City Health Officer and promulgated by the City Manager.

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Section 3. 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 4. 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 May 12, 2020, the ordinance was declared to be an emergency by the following vote:

Ayes:	Councilmembers:	<u>Zendejas, Pearce, Price, Supernaw,</u>
		<u>Andrews, Uranga, Austin,</u>
		<u>Richardson.</u>
Noes:	Councilmembers:	<u>Mungo.</u>

Absent:	Councilmembers:	<u>None.</u>

Recusal(s):	Councilmembers:	<u>None.</u>

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:	<u>Zendejas, Pearce, Price, Supernaw,</u>
		<u>Mungo, Andrews, Uranga, Austin,</u>
		<u>Richardson.</u>
Noes:	Councilmembers:	<u>None.</u>

Absent:	Councilmembers:	<u>None.</u>

Recusal(s):	Councilmembers:	<u>None.</u>

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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 May 19, 2020, by the following vote:

Ayes: Councilmembers: Pearce, Price, Supernaw, Mungo,
Andrews, Uranga, Austin,
Richardson.

Noes: Councilmembers: None.

Absent: Councilmembers: Zendejas.

Recusal(s): Councilmembers: None.


Clerk

Approved: 5/15/2020
(Date)


Mayor

AFFIDAVIT OF POSTING

STATE OF CALIFORNIA) ss
COUNTY OF LOS ANGELES)
CITY OF LONG BEACH)

Tamela Austin being duly sworn says: That I am employed in the Office of the City Clerk of the City of Long Beach; that on the 13th day of May, 2020, I posted three true and correct copies of Emergency Ordinance No. ORD-20-0013 in three conspicuous places in the City of Long Beach, to wit: One of said copies in the lobby of Civic Chambers; one of said copies in the Main Library; and one of said copies on the front counter of the Office of the City Clerk.

Tamela Austin

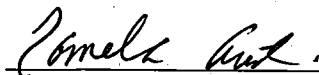
Subscribed and sworn to before me
This 13th day of May 2020.

M. De J. B.
CITY CLERK

AFFIDAVIT OF POSTING

STATE OF CALIFORNIA) ss
COUNTY OF LOS ANGELES)
CITY OF LONG BEACH)

Tamela Austin being duly sworn says: That I am employed in the Office of the City Clerk of the City of Long Beach; that on the 21st day of May, 2020, I posted three true and correct copies of Final Ordinance No. ORD-20-0013 in three conspicuous places in the City of Long Beach, to wit: One of said copies in the lobby of Civic Chambers; one of said copies in the Main Library; and one of said copies on the front counter of the Office of the City Clerk.



Subscribed and sworn to before me
This 21st day of May 2020.



CITY CLERK