

**REPORT/RECOMMENDATION TO THE BOARD OF SUPERVISORS
OF THE COUNTY OF SAN BERNARDINO
AND RECORD OF ACTION**

July 28, 2020

FROM

GARY McBRIDE, Chief Executive Officer, County Administrative Office

SUBJECT

Urgency Ordinance Related to Enforcement of COVID-19 Public Health Orders

RECOMMENDATION(S)

1. Approve introduction of urgency ordinance relating to enforcement of COVID-19 public health orders, declaring violations of orders of the State or County Health Officer related to COVID-19 to be unlawful and a public nuisance and authorizing the issuance of administrative citations. (Four votes required).
2. Make alterations, if necessary, to urgency ordinance. (Four votes required).
3. Adopt urgency ordinance. (Four votes required).
4. Read title only of urgency ordinance and waive reading of the entire text. (Four votes required).

(Presenter: Gary McBride, Chief Executive Officer, 387-5417)

COUNTY AND CHIEF EXECUTIVE OFFICER GOALS & OBJECTIVES

Provide for the Safety, Health and Social Service Needs of County Residents.

FINANCIAL IMPACT

Approval of this item may result in the use of additional Discretionary General Funding (Net County Cost). However, enforcement of COVID-19 public health orders is a COVID-19 expense and therefore eligible for the County to use Federal Coronavirus Aid, Relief and Economic Security (CARES) Act Coronavirus Relief Funds if no other COVID-19 related federal or state funding is available.

BACKGROUND INFORMATION

COVID-19 originated in Wuhan, China in late 2019 and began spreading, initially, within China and then to other countries. On January 30, 2020, the World Health Organization declared the outbreak to be a “public health emergency of international concern”. This was followed on January 31, 2020 by the United States Human Services Secretary declaring a public health emergency. Cases internationally, within the US and within California (as evidenced by the Governor’s Proclamation) continue to rise.

On March 4, 2020, the State of California declared a state of emergency as a result of the COVID-19 outbreak due to the rising number of confirmed cases and anticipated complications for those infected, including potential deaths. On March 10, 2020, the County Public Health Officer declared a local health emergency to help ensure county government and the public were prepared for the possibility that COVID-19 would appear within the county. On March 10, 2020 (Item No. 75), the Board of Supervisors (Board) proclaimed the existence of a local

Urgency Ordinance Related to Enforcement of COVID-19 Public Health Orders
July 28, 2020

emergency within San Bernardino County resulting from COVID-19, which causes infectious disease resulting in symptoms of fever, coughing and shortness of breath with outcomes ranging from mild to severe illness and in some cases, death.

On March 19, 2020, the Governor issued a statewide “Stay-at-Home” Order (Order) to help prevent the spread of COVID-19. This Order remained in place and on April 28, 2020, the Governor unveiled a four-phased plan to reopen the State. As part of this phased reopening plan, Phase 2 would involve reopening and modifications for “low-risk” sectors where “low-risk” sectors are defined as businesses where the potential virus transmission rates tend to be low, may include businesses such as florists, sporting goods stores, apparel retailers, manufacturers and logistics. While more sectors began to reopen, the State continued to make orders and issue guidance on the pandemic based on current vital statistics.

On June 21, 2020, the California Department of Public Health placed the County on the statewide monitoring list, as the number of COVID-19 infected persons exceeded the threshold of 100 per 100,000 population over a period of 14 days. On June 28, 2020, the State Public Health Director announced new restrictions applicable to seven counties due to the rapid pace of spread of COVID-19. The County has remained on the State monitoring list since June 21, 2020 and is therefore subject to the requirements listed in the Governor’s July 1, 2020 order mandating the full or partial re-closure of some businesses, such as dine-in restaurants, movie theaters, zoos and museums, and family entertainment centers. The Governor ordered the indoor operations for these businesses to close, but these businesses could operate if modified to operate outside or by pick-up. On July 13, 2020, the Governor closed indoor operations for fitness centers, places of worship, offices for non-critical sectors, personal care services, hair salons and barbershops and malls.

Also on July 1, 2020, Governor Newsom issued a letter to “California Elected Officials” calling for “political subdivisions of the State [to] ensure compliance with public health orders within their communities” and stating that the refusal to “ensure compliance with, or take enforcement action against noncompliance with these statewide public health directives . . . could jeopardize their eligibility for state funding.”

In response to the COVID-19 pandemic, the County has instituted the COVID-Compliant Business Partnership Program, a program focusing on obtaining voluntary compliance with public health orders aimed at stopping the spread of COVID-19, and where businesses, once approved, may collect up to \$2,500 in funding from the County to offset costs and impacts directly related to complying with COVID-19 health and safety protocols. This program has been largely successful. Under the education component of the COVID-Compliant Business Partnership Program, County staff will also educate and provide information to high-risk businesses on best safety practices for their specific industry, State guidance, and also provide the opportunity for the high-risk businesses to apply for the COVID-Compliant Business Partnership Program. The recommended urgency ordinance would provide an additional enforcement mechanism and is drafted to address the recent increase in the number of new infections and to prevent individuals and businesses from doing additional harm by spreading the COVID-19 infection throughout the community, and endangering public health and safety. The ordinance adopts State and County Health Orders as County law, and establishes a civil administrative citation and appeal process for the unincorporated portion of the County. This enforcement tool would designate specified County staff to act as “Enforcement Officers” who can issue administrative citations to individuals and businesses within the unincorporated area

**Urgency Ordinance Related to Enforcement of COVID-19 Public Health
Orders
July 28, 2020**

that are not complying with the State and County Health Orders. Such administrative citations may be issued for each violation of a State and/or County Health Order, with fines ranging between \$25 and \$500 for individuals and \$200 to \$5,000 for businesses or commercial entities. The ordinance is also drafted so that incorporated cities and towns within the County can take their own actions to adopt this enforcement tool within their jurisdictional boundaries to assist in stopping the spread of COVID-19. The administrative citations are subject to appeal through an administrative process in the existing procedures set forth in County Code 11.0208(f)(5).

This urgency ordinance is effective immediately upon passage by a four-fifths vote of the Board as authorized by Government Code sections 25123(d) and 25131.

PROCUREMENT

Not Applicable.

REVIEW BY OTHERS

This item has been reviewed by County Counsel (Michelle Blakemore, County Counsel, 387-5455) on July 23, 2020; Finance (Stephenie Shea, Administrative Analyst, 387-4919) on July 23, 2020; and County Finance and Administration (Matthew Erickson, County Chief Financial Officer, 387-5423) on July 23, 2020.

**Urgency Ordinance Related to Enforcement of COVID-19 Public Health
Orders
July 28, 2020**

Record of Action of the Board of Supervisors
County of San Bernardino

Public Comment: None

OFF CALENDAR

Moved: Josie Gonzales Seconded: Dawn Rowe

Ayes: Robert A. Lovingood, Janice Rutherford, Dawn Rowe, Curt Hagman, Josie Gonzales

Lynna Monell, CLERK OF THE BOARD

BY 
DATED: July 28, 2020



cc: File - Admin Office w/ attach

jm 07/30/2020