

D. St 1

Julie Patterson-Hunter

From: Ed Scofield
Sent: Wednesday, July 29, 2020 5:21 PM
To: Julie Patterson-Hunter
Subject: FW: ordinance re: masking in confined public spaces--an alternative
Attachments: Legality of GovExecOrder.pdf

From: Mikos Fabersunne [REDACTED]
Sent: Wednesday, July 29, 2020 9:24 AM
To: Ed Scofield <Ed.Scofield@co.nevada.ca.us>; Richard Anderson <Richard.Anderson@co.nevada.ca.us>; Dan Miller <Dan.Miller@co.nevada.ca.us>; Heidi Hall <Heidi.Hall@co.nevada.ca.us>; Sue Hoek <Sue.Hoek@co.nevada.ca.us>
Subject: ordinance re: masking in confined public spaces--an alternative

CAUTION: This email originated from outside of County of Nevada email system. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Dear Supervisors,

I am writing in regard to the proposed ordinance that would fine business owners for violation of the COVID masking requirements mandated by the county health department. I support the ordinance, but believe that it could be strengthened by requiring violators, in lieu of receiving a steep fine for a second violation, to instead attend an educational session about 1) the mechanics of transmission of the virus, including evidence from studies of confined spaces (such as restaurants) where transmission rates have been high due to the relatively long duration of exposure to an infected individual, as well as 2) a lesson about how the governor, and the agencies under his control, including the Department of Public Health, are authorized by the State Constitution to issue public health and safety mandates that members of the public and business owners are legally obliged to follow. If, after their participation in the educational session, they continue to violate the mandate, then the harsher fine(s) could be imposed.

There are still people who believe that the Governor does not have the authority to issue such mandates. The citizens and business owners in our county might benefit if the County developed and posted a document for public distribution that outlines the path of the Governor's authority and that of the County. As an example, I prepared the attached summary and circulated it among the other households of my cohousing community, Broad Street Commons (aka Nevada City Cohousing).

Mikos Fabersunne
[REDACTED]

Legality of Gov. Newsom's Executive Orders re: COVID-19
Prepared by Mikos Fabersunne (who is not an attorney)

Under the State Constitution and statutes enacted by the California Legislature, the Governor has been given the power to issue executive orders or mandates under certain circumstances, particularly when there is a state of emergency. The authority of the Governor to issue executive orders or mandates (and by implication, related "guidance") is established in several sections of the Government Code, specifically sections §8567, 8571 and 8627.

GOVERNMENT CODE - GOV

TITLE 2. GOVERNMENT OF THE STATE OF CALIFORNIA [8000 - 22980]

DIVISION 1. GENERAL [8000 - 8899.72]

CHAPTER 7. California Emergency Services Act [8550 - 8669.7]

ARTICLE 3. Powers of the Governor [8565 - 8574]

§8567

(a) The Governor may make, amend, and rescind orders and regulations necessary to carry out the provisions of this chapter. The orders and regulations shall have the force and effect of law. Due consideration shall be given to the plans of the federal government in preparing the orders and regulations. The Governor shall cause widespread publicity and notice to be given to all such orders and regulations, or amendments or rescissions thereof.

(b) Orders and regulations, or amendments or rescissions thereof, issued during a state of war emergency or state of emergency shall be in writing and shall take effect immediately upon their issuance. Whenever the state of war emergency or state of emergency has been terminated, the orders and regulations shall be of no further force or effect.

(c) All orders and regulations relating to the use of funds pursuant to Article 16 (commencing with Section 8645) shall be prepared in advance of any commitment or expenditure of the funds. Other orders and regulations needed to carry out the provisions of this chapter shall, whenever practicable, be prepared in advance of a state of war emergency or state of emergency.

(d) All orders and regulations made in advance of a state of war emergency or state of emergency shall be in writing, shall be exempt from Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2. As soon thereafter as possible they shall be filed in the office of the Secretary of State and with the county clerk of each county.

(Amended by Stats. 2011, Ch. 36, Sec. 4. (SB 92) Effective June 30, 2011. Operative January 1, 2012, by Sec. 83 of Ch. 36.)

§8571

During a state of war emergency or a state of emergency the Governor may suspend any regulatory statute, or statute prescribing the procedure for conduct of state business, or the orders, rules, or regulations of any state agency, including subdivision (d) of Section 1253 of the Unemployment Insurance Code, where the Governor determines and declares that strict compliance with any statute, order, rule, or regulation would in any way prevent, hinder, or delay the mitigation of the effects of the emergency.

(Amended by Stats. 1990, Ch. 1474, Sec. 1.)

§8627

During a state of emergency the Governor shall, to the extent he deems necessary, have complete authority over all agencies of the state government and the right to exercise within the area designated all police power vested in the state by the Constitution and laws of the State of California in order to effectuate the purposes of this chapter. In exercise thereof, he shall promulgate, issue, and enforce such orders and regulations as he deems necessary, in accordance with the provisions of Section 8567.

(Added by Stats. 1970, Ch. 1454.)

Timeline/chronology of the Governor's declaration of a State of Emergency and issuance of Executive Orders

- On March 4, 2020 Gov. Newsom proclaimed a "State of Emergency" to exist as a result of the threat of COVID-19.
- On March 5, the Public Health Officer for Nevada County issued a "Declaration of a Local Health Emergency" due to the personal introduction of COVID-19 into the county and the associated risk to public health; the Declaration was ratified by the County Board of Supervisors on March 10.
- On March 19 Gov. Newsom issued "Executive Order N-33-20", which directed all residents of the state to heed the State public health directives re: COVID-19 that he had ordered the Department of Public Health (DPH) to develop. Those directives included the initial stay at home order. Each county is empowered via DPH to develop health orders that meet the particular circumstances of that county.
- On April 15, Nevada County issued a seven-page version of the stay at home order. The Order remains in effect, as the Health Officer has not rescinded the order. The following is an excerpt from page 7 of the FAQs that were prepared by the County, which using simplified language, restates the authority of DPH to issue the order for Nevada County:

"IS THIS MANDATORY OR IS IT JUST GUIDANCE?"

It is mandatory. This Order is a legal Order issued under the authority of California law. You are required to comply, and it is a misdemeanor crime not to follow the order (although the intent is not for anyone to get into trouble).

It is critical for everyone to follow the Order to prevent the spread of COVID-19 and protect themselves, their loved ones, friends, neighbors and the whole community.

All persons, businesses, and other entities are required to comply if they do not fall within the exemptions that are specified in the Order. . ."

Dist 1

Julie Patterson-Hunter

From: Ed Scofield
Sent: Thursday, July 30, 2020 7:53 AM
To: Julie Patterson-Hunter
Subject: FW: Emergency Ordinance

-----Original Message-----

From: [REDACTED]
Sent: Thursday, July 30, 2020 7:18 AM
To: Ed Scofield <Ed.Scofield@co.nevada.ca.us>
Subject: Emergency Ordinance

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Dear Supervisor Scofield,

I am a 66 year old retired citizen of Nevada County. I wrote you earlier this week encouraging you to enact the emergency ordinance and any other measure to help keep the citizens of Nevada County safe for Covid 19.

In a discussion with the Forest Service, I have become aware that if a firefighter on a firefighting crew test positive for Covid19, the whole crew will be pulled and quarantined. It is essential that our community come together, mask up, socially distance to reduce the spread of this virus especially to our firefighters.

Please keep our sights on the big picture. Thank you.

Jane Primrose
[REDACTED]

Sent from my iPad

Dist 2

Julie Patterson-Hunter

From: Ed Scofield
Sent: Thursday, July 30, 2020 7:53 AM
To: Julie Patterson-Hunter
Subject: FW: Support for strong health and safety measures during Covid-19 pandemic

From: Josie Crawford [REDACTED]
Sent: Tuesday, July 28, 2020 2:17 PM
To: Ed Scofield <Ed.Scofield@co.nevada.ca.us>; Richard Anderson <Richard.Anderson@co.nevada.ca.us>; Dan Miller <Dan.Miller@co.nevada.ca.us>; Heidi Hall <Heidi.Hall@co.nevada.ca.us>; Sue Hoek <Sue.Hoek@co.nevada.ca.us>
Subject: Support for strong health and safety measures during Covid-19 pandemic

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Dear Nevada County Supervisors,
Thank you for your service to the County during this extremely difficult period. I do not envy your position of needing to balance the need to keep our community safe from escalating viral infection rates and while preventing heartbreaking economic losses.

I am in favor of keeping your current health and safety measures (masks required and no indoor dining) in place. In the long run, flattening the curve will prevent further shutdowns and higher infection rates, which will ultimately result in more catastrophic losses of both life and business.

Sincerely,

Josie Crawford
[REDACTED]

Dist 4

Julie Patterson-Hunter

From: Reed Hamilton [REDACTED]
Sent: Thursday, July 30, 2020 7:13 AM
To: bdofsupervisors
Subject: COVID-19 business compliance

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I fully support stiff penalties for businesses that don't comply with state and county protocols for control of infection spread. Of course, education and support should come first. While I am very sympathetic to their dire business situations, they are selfishly prolonging the pandemic while other struggling businesses comply to help the community.

Dist 4

Julie Patterson-Hunter

From: Rick Scardina [REDACTED]
Sent: Wednesday, July 29, 2020 5:12 PM
To: bdofsupervisors
Subject: Fines for Restaurants who continue to use indoor facilities.

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Dear Supervisors,

You have one tough task here. In reading peoples positions on my Next Door App, many people don't want to see out local businesses hurt by this pandemic. They want to look the other way and let Sergio's, Old Town Café and Friar Tucks continue to operate in spite of mandates from the governor and Nevada County.

I could not disagree with them more! If you don't fine them, what's to keep other restaurants in the county from doing the same thing? If you let three get away with this let them all and then you'll see this area look like San Joaquin County.

A good business will find ways to survive during this pandemic. They will take advantage of street closures and serve customers outside and or provide take dinners to follow the mandates of those who see more clearly.

The county and the cities may want to make parts of local parks available to a restaurant and publicize Sergio's Restaurant Day in the park and the next day belongs to the Old Town Café and the day after that Tofanelli's. Social distancing is expected as well as masks when not eating. If a simpler menu was developed and they would experience nice crowds.

Just my thoughts but I say no indoor dining and fine them if they persist.

Rick Scardina
[REDACTED]