



COUNTY OF NEVADA COMMUNITY DEVELOPMENT AGENCY

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NEVADA COUNTY BOARD OF SUPERVISORS Board Agenda Memo

MEETING DATE: July 28, 2020

TO: Board of Supervisors

FROM: Sean Powers, Director of Community Development Agency

SUBJECT: AN UNCODIFIED TEMPORARY URGENCY ORDINANCE
AUTHORIZING COUNTY ENFORCEMENT OFFICERS TO ENFORCE
ORDERS ISSUED BY THE PUBLIC HEALTH OFFICER REGARDING
THE NOVEL CORONAVIRUS (COVID-19)(4/5ths AFFIRMATIVE VOTE
REQUIRED)

RECOMMENDATION: Adopt the Ordinance.

FUNDING: These services will be paid for from the Community Development Agency Code Compliance Program budget.

BACKGROUND:

COVID-19. On January 31, 2020, the United States Secretary of Health and Human Services declared a public health emergency in response to a novel coronavirus known as SARS-CoV-2 that is causing outbreaks of the coronavirus disease ("COVID-19") that has now spread globally. On March 4, 2020, Governor Gavin Newsom declared a state of emergency to exist in California as a result of COVID-19. On March 5, 2020, the Public Health Officer for the County of Nevada issued a Declaration of Local Health Emergency due to the potential introduction of COVID-19 in Nevada County and associated threat to the public health, and on March 10, 2020, the Board of Supervisors of the County of Nevada ratified the existence of a local emergency as proclaimed by the Health Officer.

Shelter in Place Orders. On March 19, 2020, Governor Newsom issued Executive Order N-33-20, requiring all persons residing in the State to remain in their homes or places of residence, except as needed to maintain the continuity of operations for critical infrastructure (the "Shelter in Place Order").

On May 4, 2020, the Governor issued Executive Order N-60-20, directing all residents to continue complying with all statewide public health orders. On July 13, 2020, the statewide public health officer issue an order requiring all bars, breweries, brewpubs, and pubs to close indoor and outdoor operations. That same order restricted indoor operations of dine-in restaurants and other indoor business such as wineries and family entertainment centers.

Need for Enforcement. A violation of the Governor's Executive Orders (N-25-20, N-33-20, and N-60-20) is a misdemeanor pursuant to Government Code section 8665, and Health and Safety Code sections 120275 and 120295 make it a misdemeanor to violate certain sections of the Health and Safety Code, including those requiring individuals to comply with health orders. A violation of the Statewide Health Officer's orders made to control the spread of COVID-19, is a violation of the Governor's Executive Orders N-25-20, N-33-20 and N-60-20. Furthermore, Government Code section 25132 makes it a misdemeanor to violate any County ordinance unless by ordinance it is made an infraction.

The Statewide Health Officer has determined that violations of health officer orders or the Governor's Executive Orders (collectively, the "Orders") present an immediate threat to the public peace, health, and safety as described in Government Code section 25123(d) in that they increase the likelihood that the COVID-19 virus will spread throughout the County in a manner that may overwhelm our healthcare systems and may lead to injury and death that might otherwise be substantially reduced through adherence to the Orders. Therefore, the immediate enforcement of the Orders is necessary for the effective implementation of such orders for the purpose of controlling the spread of COVID-19 in Nevada County.

Administrative Civil Penalties as Alternative to Criminal Enforcement. Government Code section 53069.4 authorizes the Nevada County Board of Supervisors to set administrative penalties for violation of any ordinance enacted by the Nevada County Board of Supervisors. Establishing administrative penalties as a mechanism to enforce the Orders on an urgency basis is necessary for such remedy to be effective and useful. Such administrative penalties will provide an alternative enforcement mechanism that will augment the County law enforcement agencies' ability to combat the negative effects of the COVID-19 pandemic.

The Ordinance also requires the County to establish a process for granting a hardship waiver to reduce the amount of a penalty upon a showing by the Responsible Party that the Responsible Party has made a bona fide effort to comply after the first violation and that payment of the full amount of the fine would impose an undue financial burden on the Responsible Party. This is consistent with state law requirements.

Urgency Ordinance. Government Code section 25131 expressly authorizes the Board of Supervisors to adopt an urgency ordinance immediately upon its introduction. A 4/5ths affirmative vote is required.

Item Initiated and Approved by: Sean Powers