

Temporary Urgency Ordinance  
to enforce orders issued  
by the Public Health Officer regarding the  
Novel Coronavirus (COVID-19)

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# Purpose of State Orders

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- Compliance with the COVID-19 Orders from the State or County Health Officer, and local Environmental Health Director is necessary to:
  - Protect the public, slow the spread
  - Sustain efforts to keep off State's monitoring list
  - Protect competition with the businesses that comply
  - #StaySafetoStayOpen
- The virus is not going away
- State orders keep evolving with the data

# Why this ordinance?

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- Adds a non-criminal tool to the toolbox for enforcement
- Administrative fines/penalties to incentivize compliance
- Supports and protects compliant businesses from unfair competition practices
- Preferable over closing a business or seeking criminal sanctions
- Alignment with other jurisdictions
- Ordinance sunsets when COVID-19 orders are lifted

# Who would it apply to?

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- Focus on the egregious outlier and repeat violators
- Businesses, property owners, event organizers, etc.
- Ordinance would not apply to citizens who choose not to wear a mask in public
- Only where the County has jurisdiction
  - Unincorporated areas
  - Environmental Health authority in the incorporated jurisdictions
- Outdoor event ordinance response
- Environmental Health

# Process

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- Complaint driven
- Verify and educate
- Notice of Violation – reasonable time or no more than 48 hours to correct the violation
  - Immediate issuance of fine possible if necessary to prevent further or continued violations
- Administrative Penalties
  - \$1,000 for 1st violation
  - \$2,500 for 2<sup>nd</sup> violation (revised from 7/28)
  - \$10,000 for each additional violation

# Process – Other Remedies

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- Revoke any County-issued permit
- Continue to cross report violations with Cities and State
- Coordination with local law enforcement
  - Will require to disperse
- Request injunction from the Court
  - Last resort to stop egregious violators
  - For the unincorporated areas
  - Event - enforceable court order to disperse
  - Business - enforceable court order to cease operations

# Minor revisions from 7/28

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- Input from the Public
- Added language for unfair business disadvantage for those that comply
- Simplified fine structure to remove distinction between “business” and “non-business”
- Revised 2<sup>nd</sup> violation amount from \$5,000 to \$2,500
- Allow reasonable time but no more than 48 hours to correct and voluntary compliance
  - Can accelerate with egregious violations
- Clarified fines are civil penalties
- Allows the County to scale resources to enforce as needed

# How will it work?

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- Education and outreach comes before any enforcement and citations
  - County promotes voluntary compliance over fines with any type of enforcement action
- Other enforcement efforts remain with permitting operational violations and/or permit revocation
- Will issue fines/penalties if necessary, to keep our community safe



# Sample Violation

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- County receives complaint from the public via phone, email, AskNevadaCounty
- County contacts the business or event organizer with educational material to on state orders and requests compliance
  - County will attempt to make multiple contacts, in person, email, mail
- Staff will inspect during business' operations or event for documentation and confirmation, may cite based on observations
- Issue fines and recheck daily for ongoing violation(s)
- For an egregious violation(s) – revoke permits and/or seek an injunction

# Sample Fine Structure

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- After education and outreach, first Inspection – reasonable but no more than 48 hours to correct and voluntary compliance (preferred)
  - Second Inspection
    - First COVID violation—\$1,000
  - Third Inspection (same issues)
    - Second COVID violation—\$2,500
  - Fourth Inspection (same issues)
    - Third COVID violation—\$10,000
- Four inspections with no voluntary compliance adds up to \$16,000
- Other remedies applied

# Appeal Process for Citation

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- Compliance required during appeal process
- Contest - notifying the Clerk of the Board of Supervisors within 21 days of the citation
- Appeal hearing date within 60 days with an impartial Hearing Officer
- County and citation recipient present evidence and information to Hearing Officer
- Final Administrative Order made by the Hearing Officer within 10 days of closing hearing
- Consistent with other County enforcement practices

# Other Counties

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- Yolo County
  - Businesses \$250 to \$10,000
  - Individuals \$25 to \$500
- Contra Costa
  - Businesses, \$250, \$500, \$1,000
  - Individuals 100, \$200, \$500
- Mendocino
  - Businesses up to \$10,000
  - Non-business up to \$500
- Napa Businesses up to \$5,000
- Marin Businesses up to \$10,000
- Sacramento County – “Starting to Discuss”
- Yuba/Sutter – Enforcement “Not off the table”

# Recommendation

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Adopt the Urgency Ordinance authorizing County Enforcement Officers to enforce orders issued by the Public Health Officer regarding the Novel Coronavirus (COVID-19)

- This is an additional tool to address egregious violators administratively, not criminally with ongoing and multiple violations
  - Enforcement not focused on de minimis infractions
  - Option of last resort when looking at enforcement and/or permit revocation
- Ordinance sunsets with COVID-19 resolution
- 4/5th affirmative vote required