



City Council Memorandum

City of Arts & Innovation

TO: HONORABLE MAYOR AND CITY COUNCIL **DATE: NOVEMBER 17, 2020**
FROM: CITY MANAGERS OFFICE **WARDS: ALL**
SUBJECT: RESOLUTION TO IMPLEMENT LOCAL ADMINISTRATIVE ENFORCEMENT PROVISIONS FOR EMERGENCY MEASURES DESIGNED TO PREVENT THE SPREAD OF COVID-19

ISSUE:

Adopt a Resolution to implement local administrative enforcement provisions for emergency measures designed to prevent the spread of COVID-19.

RECOMMENDATION:

That the City Council adopt a Resolution to implement local administrative enforcement provisions for emergency measures designed to prevent the spread of COVID-19.

BACKGROUND:

On March 4, 2020, Governor Newsom declared a state of emergency for the State of California as a result of the threat of COVID-19.

On March 8, 2020, the Riverside County’s Public Health Officer declared a local health emergency based on an imminent and proximate threat to public health from the introduction of a Novel Coronavirus (COVID-19) in Riverside County. On March 10, 2020, the County of Riverside ratified the local emergency.

On March 11, 2020, the World Health Organization characterized COVID-19 as a pandemic.

On March 12, 2020, the Governor issued Executive Order N-25-20 which orders in part “all residents are to heed any order and guidance of state and local public health officials, including but not limited to , the imposition of social distancing measures, to control the spread of COVID-19.”

On March 13, 2020, President Trump declared the COVID-19 pandemic a national emergency.

On March 13, 2020, the City of Riverside declared a local emergency to increase its efforts to protect the public from COVID-19. The City of Riverside’s proclamation of local emergency notes that “there exists conditions of a disaster or of extreme peril to the safety of persons or property within the territorial limits of the City of Riverside that are beyond the control of the services, personnel,

equipment and facilities of the City for the reason of COVID-19.” The declaration of local emergency was ratified by the City Council on March 17, 2020.

On March 19, 2020, Governor Newsom issued a Stay-at-Home order for the State of California which has been modified as guided by health risk and a commitment to equity. On May 8, 2020, the order was modified to allow retail along with the infrastructure to support it. On May 12, offices, limited services, and outdoor museums were also permitted to open.

On May 20, 2020, the County of Riverside submitted an attestation application to Governor Newsom requesting approval for the County of Riverside to move into the later stages of Stage 2 of the Governor’s Resilience Roadmap.

On May 22, 2020, Governor Newsom approved the attestation application and allowed the County of Riverside to allow specific business sectors, including dine-in restaurants and shopping centers to move into the later stages of Stage 2 of the Governor’s Resilience Roadmap.

On May 26, 2020, The Director of Emergency Services issued an Order regarding Temporary Outdoor Flex Space for Restaurants due to the need for flexible, creative, and innovative approaches to assist local dine-in restaurants to achieve normal occupancy levels given physical distancing requirements and other modifications deemed necessary for public health. The order was ratified by the City Council on June 2, 2020.

On June 18, 2020, Governor Newsom required face coverings given an increase in positive cases, hospitalizations, ICU bed use and other concerns relative to COVID-19.

On July 1, 2020, Governor Newsom ordered all bars, wineries, and breweries to be closed as well as all indoor dining due to the increase in positive cases, hospitalizations, ICU bed use and other concerns relative to COVID-19. To continue to provide more outdoor dining for restaurants, the City revised its Temporary Outdoor Flex Space of Restaurants to allow for easier outdoor dining on July 2, 2020.

On July 13, 2020, Governor Newsom ordered the closure of indoor operations including gyms and fitness centers, places of worship, indoor protests, offices for non-critical infrastructure sectors, personal care services, hair salons, and barbershops, and malls.

On August 28, 2020, the Governor released the “Blueprint for a Safer Economy.” This includes a four-tiered, color-coded system that tracks counties by the number of COVID-19 cases recorded each day and the percentage of positive cases out of the total number of tests administered, both averaged over seven days. This went into effect on August 31, 2020 and replaced the previous “county monitoring list. “

On September 30, 2020, the California Department of Public Health released a new health equity metric that went into effect on October 6, 2020 that impacts a county’s ability to move between tiers. As of November 2, 2020, Riverside County remains in Purple or Widespread Risk Level tier of the State Blueprint for a Safer Economy. The City continues to closely monitor all developments related to COVID-19.

DISCUSSION:

Resolution

The airborne transmission pathways of COVID-19 are highly virulent and dominant for the spread of COVID-19. The City recognizes the impacts of the pandemic and the responses thereto experienced by Riverside residents, businesses, and organizations, including emotional stress and economic hardship, and places priority upon education first to achieve compliance with order and guidance issued by state and local public health officials in the name of public health.

While Government Code Section 8665 authorizes misdemeanor criminal enforcement against a person who “refuses or willfully neglects to obey any lawful order or regulation issued pursuant to the California Emergency Services Act”, the Chief of Police supports the alternative and non-misdemeanor criminal enforcement option by way of Administrative Code Enforcement Remedies for violations of all state and local emergency orders and guidance of state and local public health officials to control the spread of COVID-19 currently in place as well as may be adopted from time to time in the future in light of a constantly unfolding pandemic.

Failing to abide by public health directives is unsafe and dangerous in this unprecedented time of a worldwide health pandemic. Since many of the applicable requirements are found in the state orders, and not City orders, it is in the best interest of the public that City enforcement officers can cite for violating the order under the administrative citations process. This process typically involves outreach and notice before issuance of a citation and includes an appeal process for the person or entity receiving the citation.

This resolution is designed to address the small but relevant number of businesses and activities that are conducted partly or entirely in a manner that disregards public health orders adopted in response to the COVID-19 pandemic. These violations present a serious and immediate risk to public health and safety, contributing greatly to the likelihood of a crisis that will cause many preventable illnesses and deaths. These violations also jeopardize local social and economic well-being, increasing the potential for further or sustained curtailment of business operations, school closures, and activity restrictions.

This Resolution provides for an administrative enforcement strategy to complement other existing means of ensuring public health orders are followed and is being proposed in the interest of public health and safety, as affected by the emergency caused by the spread of COVID-19. Upon adoption, the Resolution allows the City to:

1. Enforce, by way of Administrative Code Enforcement Remedies in Riverside Municipal Code Chapter 1.17, all Emergency Executive Orders issued by the City Manager/Director of Emergency Services and Resolutions adopted by the City Council in response to the local state of emergency.
2. Adopt as orders of the City and enforce, by way of Administrative Code Enforcement Remedies in Riverside Municipal Code Chapter 1.17, all state and county executive orders and guidance of state and local public health officials to control the spread of COVID-19.

City enforcement officers with authority to initiate Administrative Code Enforcement remedies include, but are not limited to, employees or agents in code enforcement, fire prevention, parking services, and the police department.

Administrative fine amounts are \$100 for the first offense, \$200 for the second offense and \$500 for

the third offense as currently outlined in the Riverside Municipal Code.

The Resolution for Council consideration and adoption implements the local administrative enforcement provisions for Emergency Measures designed to prevent the spread of COVID-19.

Upon adoption of the Resolution, provisions will be effective immediately with no further readings.

Alternative/Additional Options

1. Increase the existing administrative citation amounts to a higher level. Examples are outlined in the chart below:

City	1 st Offense	2 nd Offense	3 rd Offense	4 th Offense
Riverside	\$100	\$200	\$500	N/A
Glendale	\$400	\$1,000	\$2,000	N/A
West Hollywood	\$250	\$1,000	\$2,000	\$5,000

2. Adopt a resolution authorizing the City Manager’s Office to direct Riverside Public Utilities to shut off water and/or electric utility services to noncompliant businesses operating in violation of Stay At Home orders subject to the following requirements:
 - a. The business is deemed a non-essential business operating within the City of Riverside; and
 - b. The business is deemed to be not complying with orders to cease operations relating to COVID-19 issued by the Governor and the County Public Health Officer; and
 - c. The City Manager, or his or her designee, may, after engagement with and a written warning issued to a noncompliant business, direct in writing Riverside Public Utilities to shut off water and/or electric utility services pursuant to this Resolution.
 - d. Upon receiving such a written referral, Riverside Public Utilities is directed to shut off water and/or electric utility services to the noncompliant business operating in violation of this Resolution and to not restore such utility service unless directed to do so in writing by the City Manager’s Office.
3. Research the ability to revise the municipal code to authorize issuance of daily administrative civil penalties for violations of the State Orders put in place to combat the current public health pandemic.

FISCAL IMPACT:

The total fiscal impact of the recommended actions of this report are significant but unknown at this time.

Prepared by: Rafael Guzman, Assistant City Manager
Certified as to
availability of funds: Edward Enriquez, Chief Financial Officer / City Treasurer
Approved by: Al Zelinka, City Manager
Approved as to form: Kristi J. Smith, Chief Assistant City Attorney

Attachments:

1. Resolution
2. Presentation