



CITY OF
FOLSOM
DISTINCTIVE BY NATURE

Agenda

City Council Special Meeting

City Council Chambers | 50 Natoma Street, Folsom CA 95630

December 07, 2020

5:30 PM

Welcome to Your City Council Meeting

We welcome your interest and involvement in the city’s legislative process. This agenda includes information about topics coming before the City Council and the action recommended by city staff. You can read about each topic in the staff reports, which are available on the city website and in the Office of the City Clerk. The City Clerk is also available to answer any questions you have about City Council meeting procedures.

Participation

If you would like to provide comments to the City Council, please:




- Fill out a blue speaker request form, located at the back table.
- Submit the form to the City Clerk before the item begins.
- When it’s your turn, the City Clerk will call your name and invite you to the podium.
- Speakers have three minutes, unless the presiding officer (usually the mayor) changes that time.

Reasonable Accommodations

In compliance with the Americans with Disabilities Act, if you are a person with a disability and you need a disability-related modification or accommodation to participate in this meeting, please contact the City Clerk’s Office at (916) 461-6035, (916) 355-7328 (fax) or CityClerkDept@folsom.ca.us. Requests must be made as early as possible and at least two full business days before the start of the meeting.

How to Watch

The City of Folsom provides three ways to watch a City Council meeting:

In Person	Online	On TV
		
City Council meetings take place at City Hall, 50 Natoma Street	Watch the livestream and replay past meetings on the city website, www.folsom.ca.us	Watch live and replays of meetings on Sac Metro Cable TV, Channel 14

More information about City Council meetings is available at the end of this agenda



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City Council Special Meeting

Folsom City Council Chambers
50 Natoma Street, Folsom, CA
www.folsom.ca.us

Monday, December 07, 2020 5:30 PM

Sarah Aquino, Mayor
Kerri Howell, Council Member
YK Chalamcherla, Council Member Elect

Mike Kozlowski, Council Member
Andy Morin, Council Member
Rosario Rodriguez, Council Member Elect

SPECIAL CITY COUNCIL AGENDA

Pursuant to Governor Newsom's Executive Order N-29-20, members of the Folsom City Council and staff may participate in this meeting via teleconference.

Due to the coronavirus (COVID-19) public health emergency, the City of Folsom is allowing for remote public input during City Council meetings. Members of the public are encouraged to participate by emailing comments to CityClerkDept@folsom.ca.us. Emailed comments must be received no later than thirty minutes before the meeting and will be read aloud at the meeting during the agenda item. Please make your comments brief. Written comments submitted and read into the public record must adhere to the principles of the three-minute speaking time permitted for in-person public comment at City Council meetings. Members of the public wishing to participate in this meeting via teleconference may email CityClerkDept@folsom.ca.us no later than thirty minutes before the meeting to obtain call-in information. Each meeting may have different call-in information. Verbal comments via teleconference must adhere to the principles of the three-minute speaking time permitted for in-person public comment at City Council meetings.

Members of the public may continue to participate in the meeting in person at Folsom City Hall, 50 Natoma Street, Folsom, CA while maintaining appropriate social distancing and wearing face coverings.

CALL TO ORDER

ROLL CALL:

Council Members: Aquino, Howell, Kozlowski, Morin
Council Members Elect: Chalamcherla, Rodriguez

The City Council has adopted a policy that no new item will begin after 10:30 p.m. Therefore, if you are here for an item that has not been heard by 10:30 p.m., you may leave, as the item will be continued to a future Council Meeting.

PLEDGE OF ALLEGIANCE

AGENDA UPDATE

BUSINESS FROM THE FLOOR:

Members of the public are entitled to address the City Council concerning any item within the Folsom City Council's subject matter jurisdiction. Public comments are limited to no more than three minutes. Except for certain specific exceptions, the City Council is prohibited from discussing or taking action on any item not appearing on the posted agenda.

CONSENT CALENDAR:

Items appearing on the Consent Calendar are considered routine and may be approved by one motion. City Council Members may pull an item for discussion.

1. Resolution No. 10574 - A Resolution Reciting the Fact of the General Municipal Election Held on November 3, 2020, and Declaring the Result

SWEARING IN OF CITY COUNCIL MEMBERS:

2. City Clerk to Administer the Oath of Office to Newly-Elected Council Members

ELECTIONS:

3. Election of Mayor for 2021
4. Election of Vice Mayor for 2021

NEW BUSINESS:

5. Review of Proposed Sacramento County Urgency Ordinance Adopting Penalties for Violations of Public Health Order Addressing the COVID-19 Pandemic and Direction to Staff

CITY MANAGER REPORTS:

COUNCIL COMMENTS:

ADJOURNMENT

The City Council's next regular meeting is scheduled for December 8, 2020.

NOTICE: *Members of the public are entitled to directly address the City Council concerning any item that is described in the notice of this meeting, before or during consideration of that item. If you wish to address Council on an issue, which is on this agenda, please complete a blue speaker request card, and deliver it to a staff member at the table on the left side of the Council Chambers prior to discussion of the item. When your name is called, stand to be recognized by the Mayor and then proceed to the podium. If you wish to address the City Council on any other item of interest to the public, when the Mayor asks if there is any "Business from the Floor," follow the same procedure described above. Please limit your comments to three minutes or less.*

NOTICE REGARDING CHALLENGES TO DECISIONS: *Pursuant to all applicable laws and regulations, including without limitation, California Government Code Section 65009 and or California Public Resources Code Section 21177, if you wish to challenge in court any of the above decisions (regarding*

planning, zoning and/or environmental decisions), you may be limited to raising only those issues you or someone else raised at the public hearing(s) described in this notice/agenda, or in written correspondence delivered to the City at, or prior to, the public hearing.

As presiding officer, the Mayor has the authority to preserve order at all City Council meetings, to remove or cause the removal of any person from any such meeting for disorderly conduct, or for making personal, impertinent, or slanderous remarks, using profanity, or becoming boisterous, threatening or personally abusive while addressing said Council, and to enforce the rules of the Council.

PERSONS INTERESTED IN PROPOSING AN ITEM FOR THE CITY COUNCIL AGENDA SHOULD CONTACT A MEMBER OF THE CITY COUNCIL.

The meeting of the Folsom City Council is being telecast on Metro Cable TV, Channel 14, the Government Affairs Channel, and will be shown in its entirety on the Friday and Saturday following the meeting, both at 9 a.m. The City does not control scheduling of this telecast and persons interested in watching the televised meeting should confirm this schedule with Metro Cable TV, Channel 14. The City of Folsom provides live and archived webcasts of regular City Council meetings. The webcasts can be found on the online services page of the City's website www.folsom.ca.us.

In compliance with the Americans with Disabilities Act, if you are a person with a disability and you need a disability-related modification or accommodation to participate in this meeting, please contact the City Clerk's Office at (916) 461-6035, (916) 355-7328 (fax) or CityClerkDept@folsom.ca.us. Requests must be made as early as possible and at least two full business days before the start of the meeting.

Any documents produced by the City and distributed to the City Council regarding any item on this agenda will be made available at the City Clerk's Counter at City Hall located at 50 Natoma Street, Folsom, California and at the Folsom Public Library located at 411 Stafford Street, Folsom, California during normal business hours.



CITY OF
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Folsom City Council Staff Report

MEETING DATE:	12/7/2020
AGENDA SECTION:	Consent Calendar
SUBJECT:	Resolution No. 10574- A Resolution Reciting the Fact of the General Municipal Election Held on November 3, 2020 and Declaring the Result
FROM:	City Clerk's Department

RECOMMENDATION / CITY COUNCIL ACTION

It is recommended that the City Council approve Resolution No. 10574- A Resolution Reciting the Fact of the General Municipal Election Held on November 3, 2020 and Declaring the Result

BACKGROUND / ISSUE

The General Municipal Election for the City of Folsom was held on November 3, 2020, for the purpose of submitting to the electors of the City the selection of two City Council Members. Sacramento County Registrar of Voters and Elections has completed the canvass of the vote and certified the results of the election as follows:

Candidate	Votes
YK Chalamcherla – elected	15,962
Rosario Rodriguez – elected	15,169
Mark Moore	11,154
Jaya Badiga	8,038
Justin Raithel	8,008
Justin Sanders	6,779
Janine Bedley	1,095

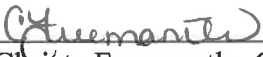
POLICY / RULE

Elections Code Section 15400 states, in part, that the governing body shall declare the results of each election under its jurisdiction.

ATTACHMENT

Resolution No. 10574- A Resolution Reciting the Fact of the General Municipal Election Held on November 3, 2020 and Declaring the Result

Respectfully submitted,



Christa Freemantle, CMC
City Clerk

**RESOLUTION NO. 10574
A RESOLUTION RECITING THE FACT OF THE
GENERAL MUNICIPAL ELECTION HELD ON NOVEMBER 3, 2020
AND DECLARING THE RESULT**

WHEREAS, a General Municipal Election was held and conducted in the City of Folsom, California, on Tuesday, November 3, 2020, as required by law; and

WHEREAS, said election was conducted by the Sacramento County Registrar of Voters and Elections Department on November 3, 2020; and

WHEREAS, the Sacramento County Registrar of Voters and Elections canvassed the returns of the election and has certified the results to this City Council, the results are received, attached and made a part hereof as "Exhibit A."

WHEREAS, total votes cast are as follows:

Candidate	Votes
YK Chalamcherla – elected	15,962
Rosario Rodriguez – elected	15,169
Mark Moore	11,154
Jaya Badiga	8,038
Justin Raithel	8,008
Justin Sanders	6,779
Janine Bedley	1,095

NOW, THEREFORE, BE IT RESOLVED that the following candidates are declared elected as Members of the City Council for the full term of four years:

- 1. YK Chalamcherla**
- 2. Rosario Rodriguez**

BE IT FURTHER RESOLVED the foregoing results are declared to be true and correct and the canvass of the ballots was in every respect in accordance with the election laws of the State of California.

PASSED AND ADOPTED this 8th day of December 2020 by the following roll call vote:

AYES: Council Members:
NOES: Council Members:
ABSENT: Council Members:
ABSTAIN: Council Members:

Sarah Aquino, Mayor

ATTEST:

Christa Freemantle, City Clerk

EXHIBIT A



**CERTIFICATION OF
REGISTRAR OF VOTERS OF THE
RESULTS OF THE CANVASS
OF THE NOVEMBER 3, 2020,
GENERAL ELECTION**

STATE OF CALIFORNIA } ss.
County of Sacramento }

I, Courtney Bailey-Kanelos, Registrar of Voters of County of Sacramento, do hereby certify that in pursuance of Section 15300, et seq., I did canvass the results of the votes cast in the General Election held in said County on November 3, 2020, for measures and contests that were submitted to the vote of the voters, and that the Statement of Votes Cast, to which this certificate is attached is full, true, and correct.

I hereby set my hand and official seal this 1st day of December, 2020, at the County of Sacramento.





Courtney Bailey-Kanelos
Registrar of Voters
County of Sacramento
State of California

Canvass Certification of Elections Official
(11/2020)

STATE OF CALIFORNIA }
County of Sacramento } ss.

CERTIFICATE OF FACTS

I, COURTNEY BAILEY-KANELOS, Registrar of Voters of the County of Sacramento, State of California, do hereby certify that the names of the candidates shown below were submitted to the known qualified electors in Sacramento County in the **City of Folsom** for the purpose of electing **Two (2) Councilmembers** at the November 3, 2020 Presidential General Election.

The results of the Official Canvass conducted by this office are as follows:

Name	Votes Cast
YK Chalamcherla*	15,962
Rosario Rodriguez*	15,169
Mark Moore	11,154
Justin Raithel	8,038
Jaya Badiga	8,008
Justin Sanders	6,779
Janine Bedley	1,095

And that the conduct of the election and canvass of the ballots were in every respect in accordance with the election laws of the State of California.

Witness My Hand and Seal this 1st day of December, 2020.




COURTNEY BAILEY-KANELOS
REGISTRAR OF VOTERS
County of Sacramento
State of California

*Elected



CITY OF
FOLSOM

OATH OF ALLEGIANCE

I, YK Chalamcherla, do solemnly swear that I will support and defend the Constitution of the United States and the Constitution of the State of California against all enemies, foreign and domestic; that I will bear true faith and allegiance to the Constitution of the United States and the Constitution of the State of California; that I take this obligation freely, without mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties upon which I am about to enter.

YK Chalamcherla, City Council Member

The above Oath was subscribed and sworn to before me on this 7th day of December, 2020.

Christa Freemantle, City Clerk



CITY OF
FOLSOM

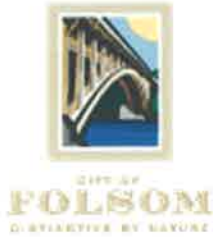
OATH OF ALLEGIANCE

I, Rosario Rodriguez, do solemnly swear that I will support and defend the Constitution of the United States and the Constitution of the State of California against all enemies, foreign and domestic; that I will bear true faith and allegiance to the Constitution of the United States and the Constitution of the State of California; that I take this obligation freely, without mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties upon which I am about to enter.

Rosario Rodriguez, City Council Member

The above Oath was subscribed and sworn to before me on this 7th day of December, 2020.

Christa Freemantle, City Clerk



Folsom City Council Staff Report



MEETING DATE:	12/7/2020
AGENDA SECTION:	New Business
SUBJECT:	Proposed Sacramento County Urgency Ordinance Adopting Penalties for Violations of Public Health Order Addressing the COVID-19 Pandemic
FROM:	City Attorney's Office

RECOMMENDATION / CITY COUNCIL ACTION

Review the proposed Sacramento County Urgency Ordinance and provide direction to staff.

BACKGROUND / ISSUE

On Tuesday, December 8, 2020, the Sacramento County Board of Supervisors is scheduled to review and take action on the proposed Urgency Ordinance that would authorize issuance of administrative citation and levy of monetary penalties for violation of the County and State Public Health Orders. The Urgency Ordinance requires supermajority vote of the County Board of Supervisors and, if passed, would be enforceable everywhere within Sacramento County, including incorporated cities in the County.

FINANCIAL IMPACT

There is no financial impact to the City’s General Fund associated with the proposed County Urgency Ordinance or the City Council discussion of said Ordinance.

ENVIRONMENTAL REVIEW

The California Environmental Quality Act (CEQA) only applies to projects that have the potential for causing a significant effect on the environment. This agenda item is not considered a project under CEQA pursuant to Section 15061(b)(3).

ATTACHMENT

1. Proposed Sacramento County Urgency Ordinance Adopting Penalties for Violations of Public Health Order Addressing the COVID-19 Pandemic

Respectfully Submitted,

Steven Wang, City Attorney

ORDINANCE NO. _____**AN URGENCY ORDINANCE OF THE SACRAMENTO COUNTY BOARD OF SUPERVISORS ADOPTING PENALTIES FOR VIOLATIONS OF PUBLIC HEALTH ORDERS ADDRESSING THE COVID-19 PANDEMIC**

The Board of Supervisors of the County of Sacramento, State of California, ordains as follows:

SECTION 1. INTRODUCTION, PURPOSE AND DECLARATION OF URGENCY.

At a national, state, and local level, the COVID-19 pandemic is a serious public health crisis. Over 242,000 Americans have died and millions are infected or recovering from infection, and the crisis is worsening. Statistics within California and Sacramento County are also sobering. As of November 12, 2020:

- Nearly one million Californians have been confirmed to be infected with COVID-19 and over 18,000 have died.
- 29,510 confirmed cases of COVID-19 were reported in Sacramento County.
- 517 people in Sacramento County have died of COVID-19.
- Sacramento County experienced a sharp increase in cases during the week ending on November 7 with 1,917 new cases, a 74.0% increase compared to the previous week and a 207.2% increase over the week four weeks prior.
- Hospitalizations due to COVID-19 in Sacramento County have increased by 80.0% since November 1.
- Sacramento County added 496 new COVID-19 cases on November 12, 2020, the highest single day total since the pandemic began.

Significant state and local government actions have been taken to address the pandemic and reduce its public health effects. Section 2 (Legal Background and Findings), below, summarizes these actions, including steps taken to close many businesses, schools, and organized activities long considered essential to everyday life in our community. In recent weeks, many businesses have reopened and activities have resumed under orders and other guidance issued by the California Department of Public Health, the State Public Health Officer, and the County Health Officer, defined

collectively in Section 5, below, as “Public Health Orders.” The vast majority of reopened businesses and activities are being conducted in compliance with applicable Public Health Orders, reducing the risk of COVID-19 spread.

The purpose of this Urgency Ordinance is to address the small but increasing number of businesses and activities that are being 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 wellbeing, increasing the potential for renewed curtailment of business operations, school closures, and activity restrictions. This Urgency Ordinance provides a framework for addressing such violations by establishing an administrative enforcement strategy to complement other, existing means of enforcing Public Health Orders.

SECTION 2. LEGAL BACKGROUND AND FINDINGS.

On March 4, 2020, Governor Newsom issued a Proclamation of a State of Emergency in the State of California related to the COVID-19 pandemic. The County Health Officer proclaimed a local health emergency related to the COVID-19 on March 5, 2020. The County Chief of Emergency Services proclaimed the existence of a local emergency related to COVID-19 on March 5, 2020. The Board of Supervisors ratified these proclamations on March 10, 2020.

In light of the COVID-19 pandemic and Governor Newsom's state of emergency proclamation, on March 12, 2020, the Governor issued Executive Order N-25-20, ordering residents to heed any order by local public health officials, “including but not limited to the imposition of social distancing measures, to control the spread of COVID-

19.” A violation of the Governor’s Executive Order N-25-20 is a misdemeanor pursuant to California Government Code section 8665. Further, a violation of the County Health Officer’s orders adopted to control the spread of COVID-19 is a violation of the Governor’s Executive Order N-25-20.

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 to facilitate isolation. Government Code section 25132 makes it a misdemeanor to violate any County ordinance unless by ordinance it is made an infraction. Finally, as set forth in Section 1, above, Government Code section 53069.4 authorizes the Board of Supervisors to set administrative penalties for violation of any County ordinance, and Government Code section 8634 authorizes the County to adopt orders and regulations (which this Ordinance and all Public Health Orders shall constitute) that apply during a local emergency, including within incorporated areas.

In support of the adoption of this Urgency Ordinance, the Board of Supervisors finds as follows:

- A. The facts set forth in Section 1, above, are true and correct.
- B. Violations of Public Health Orders adopted to control of the spread of COVID-19 present an immediate threat to the public health and safety. Consistent with Government Code section 25123(d), the Board finds that such violations increase the likelihood that the COVID-19 virus will spread throughout the County and overwhelm our health care systems, cause preventable illnesses and deaths, and inflict other significant harms—including economic and social effects—on our community.
- C. Immediate enforcement of Public Health Orders is necessary to ensure

their consistent, effective implementation and to achieve their intended purposes, including controlling the spread of COVID-19 in Sacramento County.

D. Existing strategies for enforcing Public Health Orders include misdemeanor citations and prosecution, civil actions to obtain injunctive relief, code enforcement actions under existing authorities, business license suspension or cancellation, and a variety of other approaches. These approaches are not sufficient to deter violations.

E. Government Code section 8634 authorizes the County to promulgate rules and regulations in the event of a declared state of emergency. Such rules and regulations may apply throughout the County, including within incorporated as well as unincorporated territory. Government Code section 53069.4 authorizes the Board of Supervisors to set administrative penalties for violation of any County ordinance.

F. Administrative penalties will provide an alternative enforcement mechanism to augment the County's ability to combat the negative effects of the COVID-19 pandemic. In particular, administrative penalties deter violations of public health orders and other binding, enforceable mandates adopted in connection with the COVID-19 pandemic. Administrative penalties could also provide relief to law enforcement, enabling additional County staff to assist with enforcing Public Health Orders and enhancing the County's ability to control the spread of COVID-19.

G. In some circumstances, Public Health Order violations demand a substantial penalty to provide an effective and significant deterrent. Administrative penalties must be—where necessary and appropriate—significant enough to ensure they cannot be dismissed as “the cost of doing business.”

H. Government Code section 25131 expressly authorizes the Board of

Supervisors to adopt an urgency ordinance immediately upon its introduction. The Board finds that, as set forth herein, the facts and circumstances support adoption of this Ordinance on an urgency basis. The Board further finds that this Ordinance should apply within both unincorporated and incorporated areas to provide the County with broad authority to address violations of Public Health Orders that contribute to the spread of COVID-19 in our communities.

SECTION 3. CITATION.

This Ordinance may be referred to as the “COVID-19 Penalty Ordinance.”

SECTION 4. DEFINITIONS.

- A. “Board” means the Sacramento County Board of Supervisors.
- B. “Citation” or “Administrative Citation” means a citation issued pursuant to this Ordinance.
- C. “County” means the County of Sacramento.
- D. “Days” means calendar days.
- E. “Enforcement Officer” means any peace officer, the County Health Officer and anyone designated by the Health Officer, the Director of Emergency Services and anyone designated by the Director, any Code Enforcement Officer from the Division of Code Enforcement in the Office of Development and Code Services, the Environmental Health Director and anyone designated by the Director, and anyone identified by resolution of the Board.
- F. “Hearing Officer” means any person appointed to conduct any hearing or proceeding under the provisions of this Ordinance, unless otherwise specified, including, without limitation, the administration of oaths, the issuance of subpoenas, the receipt of evidence, and the entry of findings of fact and law.

G. "Public Health Order(s)" shall have the meaning set forth in Section 5, below.

H. "Responsible Party" means an individual or legal entity, or the agent or legal guardian of such individual or entity, whose action or failure to act violated a Public Health Order. This term specifically means and includes any of the following:

1) Any person or entity that causes, maintains, permits, or allows a violation of this Ordinance.

2) Any person or entity that owns, possesses, or controls any parcel of real property in the County upon which a violation of this Ordinance is maintained.

3) Any trustee of any trust that holds legal title to any parcel of real property in the County upon which a violation of this Ordinance is maintained.

4) Any person or entity that owns, possesses, operates, manages, or controls any business within the County that is responsible for causing or maintaining a violation of this Ordinance.

SECTION 5. ADOPTION OF PUBLIC HEALTH ORDERS AS COUNTY LAW.

All of the following are hereby incorporated by reference into this Ordinance and shall constitute "Public Health Orders," as that term is used herein:

1) County Health Officer orders relating to the COVID-19 pandemic, including those now in existence and any that later come into existence, and including all materials expressly incorporated by reference into such orders;

2) All orders of the State Public Health Officer, state guidance documents issued for businesses and activities that have been adopted or approved by the County Health Officer, as well as any state guidance and directives posted on [covid19.ca.gov](https://www.cdph.ca.gov/Programs/CID/DCDC/Pages/COVID-19/State-Guidance) that are described as mandatory, binding, or otherwise presented as enforceable

obligations;

3) Any site-specific protocol (including but not limited to a completed Social Distancing Protocol Worksheet) completed as required by state and local requirements. The failure to post such protocol in violation of any of the foregoing requirements shall also be a violation of this Ordinance.

All Public Health Orders are hereby deemed orders and regulations of the Board of Supervisors pursuant to Government Code section 8634, shall constitute the law of the County within both unincorporated and incorporated areas, and are determined to be necessary for the protection of life and property during the local emergency declared in connection with the COVID-19 pandemic. Any violation of a Public Health Order shall constitute an immediate danger to public health and safety pursuant to Government Code section 53069.4 and shall constitute a public nuisance. Nothing in this Ordinance shall be interpreted to make any conduct that does not violate a Public Health Order a violation of this Ordinance.

SECTION 6. VIOLATION AND ENFORCEMENT.

A. Citations; Each Day a Separate Violation. This Ordinance may be enforced at any location within the County by an Enforcement Officer through the issuance of an Administrative Citation with penalties, as described more fully in Section 8, below. Each and every day, or portion thereof, that a violation of this Ordinance exists constitutes a separate and distinct offense.

B. Powers of Enforcement Officer. As set forth more fully in Section 8, below, the Enforcement Officer shall have the authority and powers necessary to determine whether a violation exists and take appropriate action to gain compliance with the law and abate any violation. The Enforcement Officer shall further have authority to

issue Administrative Citations and any other notices and orders necessary to obtain compliance and cost recovery, as well as the power to inspect public and private property as provided by law, impose fines and fees, and use the administrative remedies that are available under state law, this Ordinance, and other applicable provisions of the Sacramento County Code.

C. Obstruction. In addition, every person who willfully resists, delays, or obstructs any Enforcement Officer or Hearing Officer in the discharge or attempt to discharge any duty of their office or employment in connection with this Ordinance shall be guilty of a misdemeanor, punished by a fine not exceeding \$1,000, or by imprisonment in a County jail not to exceed one year, or by both that fine and imprisonment.

D. False Statements. Further, every person who willfully states anything which that person knows to be false in any oral or written statement to an Enforcement Officer or Hearing Officer regarding the subject of an investigation, Citation, or hearing occurring pursuant to this Ordinance shall be guilty of a misdemeanor, punished by a fine not exceeding \$1,000, or by imprisonment in a County jail not to exceed one year, or by both that fine and imprisonment.

E. Litigation Authority. The Office of the County Counsel is hereby authorized to file a civil action on behalf of the County to enjoin any violation(s) of this Ordinance and to obtain other appropriate relief needed to cease and abate such violations, as well as to recover all associated County costs, attorneys' fees, and any fines or penalties imposed. No further Board authority or permission to initiate litigation is required to enforce violations of this Ordinance.

SECTION 7. NONEXCLUSIVITY AND ELECTION OF PROCEEDINGS.

A. This Ordinance provides for enforcement proceedings that are supplemental to all other enforcement proceedings authorized by local, state or federal law, whether administrative, civil or criminal in nature. Any election to proceed under this Ordinance and shall be without prejudice to the County choosing to also proceed simultaneously or subsequently by pursuing different or additional means of enforcing the same violation. Election to issue a Citation or take any other action authorized by this Ordinance shall be at the sole discretion of the Enforcement Officer, and nothing in this Ordinance shall be interpreted to mandate that an Enforcement Officer take certain steps in response to potential violations of Public Health Orders or to preclude and Enforcement Officer from engaging informal oral or written requests to gain compliance.

B. Nothing in this Ordinance alters or diminishes the authority of the Sheriff, local police departments, the County Counsel, or the District Attorney to address any such violations. Further, nothing in this Ordinance or decisions made hereunder, including decisions not to take an enforcement action authorized in this Ordinance, shall create any liability for the County or the Enforcement Officer.

SECTION 8. ADMINISTRATIVE CITATIONS; PENALTIES AND FEES.

A. Issuance. An Enforcement Officer may issue a Citation to any Responsible Party violating any provision of this Ordinance. The Enforcement Officer may issue a Citation for a violation not committed in their presence if they determine through investigation, including but not limited to credible input from County staff, that the Responsible Party did commit or is otherwise responsible for the violation.

B. Penalties. Penalties (fines) for Administrative Citations issued pursuant to this Ordinance shall be as follows:

1) The civil penalty for each non-commercial violation shall be a fine not to exceed \$500. The minimum amount of any such fine shall be \$25.

2) The civil penalty for each violation involving a commercial activity shall be a fine not to exceed \$10,000. The minimum amount of any such fine shall be \$250.

C. Factors in Setting Amount. In determining the amount of a fine pursuant to subsection B, above, the Enforcement Officer shall consider:

- 1) The gravity of the public health risk posed by the violation;
- 2) Whether the Responsible Party has been previously counseled regarding the violation;
- 3) For a violation arising from commercial activities, whether the violation is likely to result in increased revenue or avoided costs;
- 4) Whether the violation is the subject of a prior Citation;
- 5) Whether the Responsible Party is making good faith efforts to achieve and maintain compliance with Public Health Orders; and
- 6) Any other matters relating to the nature, circumstances, extent, and gravity of the violation.

For a Citation that includes one or more violations arising from commercial activity, fines imposed for each day of violation shall automatically double, up to the maximum amounts set forth above.

D. Grace Period. If a violation is capable of being cured (i.e., is an ongoing violation and the Responsible Party has the apparent ability to effect a resolution), an Administrative Citation may include a grace period to cure the violation(s) and avoid the civil penalty set forth in the Citation. The grace period may range from 24-72 hours from the date of the Citation. In determining whether to provide a grace period and in

determining the length of any grace period included in a Citation, the Enforcement Officer shall consider the same factors provided above in connection with setting a fine amount. All matters relating to grace periods are within the sole discretion of the Enforcement Officer and are not appealable.

E. Compliance Reporting Following Grace Period. The Responsible Party must cure each cited violation and must report to the Enforcement Officer when each cited violation is cured prior to expiration of the grace period. Each such report must include the Responsible Party's contact information and availability information sufficient to ensure the Enforcement Officer can verify compliance within 72 hours of the date of cure.

F. Payment of Administrative Fines. All fines and fees shall be payable to the County in accordance with the procedures specified in this Ordinance, unless otherwise directed in the Citation. Fines shall be paid to the County within 30 days from the date of service of the Administrative Citation, unless an appeal is properly requested. If an appeal is properly requested and the fine is upheld or reduced at that administrative hearing, then the confirmed fine amount shall be paid to the County within 30 days from the date of service of the decision. Payment of the fines and fees shall not excuse the failure to correct the violation or bar further enforcement action by the County.

G. Administrative Fees. The County may adopt one or more administrative fees to recover the costs associated with the issuance, enforcement, processing, and collection of Administrative Citations. The administrative fees shall be established by resolution of the Board. The administrative fees shall be assessed on each Administrative Citation and collected in the same manner and at the same time as the

civil penalty; however, the administrative fees shall be assessed only once per Administrative Citation.

H. Late Fee; Collection Costs. Any person who fails to pay any fine or administrative fee imposed pursuant to the provisions of this Ordinance shall be liable for the payment of a late fee. The late fee shall be in an amount established by resolution of the Board. In addition to the administrative fee and late fee, the County is entitled to recover all costs, expenses, fees, and attorneys' fees associated with collecting upon any administrative fines, fees, or costs authorized by this Ordinance.

SECTION 9. CONTENTS OF AN ADMINISTRATIVE CITATION; SERVICE.

A. Contents. Each Citation issued under this Ordinance shall contain:

- 1) The date of the violation.
- 2) The name of the Responsible Party being cited.
- 3) The address or a description of the location where the violation occurred.
- 4) Identification and a brief description of the Public Health Order(s)

requirements violated by the Responsible Party.

5) The grace period (if any) to cure each cited violation in order to avoid a fine, along with an order that the Responsible Party report to the Enforcement Officer when each cited violation is cured, along with the Responsible Party's contact information, in order for the Officer to verify compliance promptly after the correction.

6) The amount of the fine for each cited violation that will be imposed if the cited Violation is not cured within the grace period (if any). If there is no Grace Period, the fine shall be immediately imposed.

7) The amount of all other fees and charges authorized by this Ordinance.

8) A brief statement that the violation determination and/or fine amount may

be appealed, as follows:

To Appeal this Citation: The violations(s) identified in this Citation and the amount of fine imposed (if \$1000 or greater) may be appealed within ten calendar days of service of the Citation by providing the Clerk of the Board of Supervisors (700 H St. Sacramento CA) with a request in writing for an appeal. The request shall be entitled "REQUEST FOR APPEAL OF ADMINISTRATIVE CITATION" and must set forth the factual and/or legal basis for the appeal in detail sufficient to apprise the County of the nature of the appeal and general objections and arguments to be raised by the Responsible Party. All appeal requests shall include a deposit of \$750 toward the costs of a hearing officer unless you include a request for waiver of the deposit concurrently with filing the appeal. The Clerk of the Board may grant the waiver request if you provide sufficient evidence of an inability to pay. If your request is denied, you must provide the deposit within five calendar days or the appeal shall be deemed withdrawn. Any appeal that does not meet all of these requirements will be rejected following review by the Office of the County Counsel.

If you do not prevail on the appeal, the hearing officer will require you to reimburse all hearing costs incurred by the County, including the hearing officer's fees and charges.

9) A brief description of the fine payment process, including the 30-day timeframe to pay the fine and other fees and charges, the late fee for failure to pay on time, and that unpaid amounts may become a lien and special assessment against the real property where the violation occurred.

10) The name and signature of the citing Enforcement Officer and appropriate contact information.

B. Service. Service of a Citation may occur by any of the following methods:

1) Personal service upon the owner or other Responsible Party.

2) First-class or certified mail to a Responsible Party's business address, or last known personal address using data from the last equalized assessment roll or other reliable information available to the Enforcement Officer.

3) For violations involving the use of real property owned or leased by a Responsible Party, by posting the notice in a conspicuous place at the property entrance.

4) For any Responsible Party registered with the Secretary of State, by certified mail to that party's agent for service of process at the address registered with the Secretary of State, or as otherwise permitted by law. For any such party required to register with the Secretary of State that has not designated an agent for service of process with the Secretary of State, then a notice may be served on that party by certified mail to the Secretary of State.

5) By e-mail when an email address is provided by that party.

6) In any other manner reasonably calculated to effectuate notice. Service by posting shall be deemed effective at the time of posting. Service by mail or e-mail shall be deemed effective upon deposit in the mail or transmission of the e-mail. The failure of any Responsible Party to receive any Citation served in accordance with this Section shall not affect the validity of the Citation nor any subsequent proceeding or action relating to the Citation or the violation(s) identified therein.

SECTION 10. ADMINISTRATIVE APPEALS.

A. To hear appeals of Administrative Citations issued pursuant to this Ordinance, the Board of Supervisors authorizes the use of a hearing officer appointed

pursuant to Sacramento County Code section 16.18.204.

B. Upon receipt of the written appeal, the matter shall be set for a hearing before the hearing officer. The hearing will be conducted remotely using video technology, such as WebEx or ZOOM, unless the parties otherwise mutually agree to an in-person hearing with the concurrence of the hearing officer.

C. Unless a hearing is waived by the County and the Responsible Party (appellant) in favor of a determination based upon written filings, including arguments and supporting evidence in the form of declaration testimony and other competent evidence, the hearing officer shall hold an de novo administrative hearing to determine whether the conditions described in the Citation constitute a violation under this Ordinance and to review and decide any other matters properly appealed by the appellant. The hearing may be continued from time to time for good cause.

D. The appellant shall be given an opportunity at the hearing to present and elicit testimony (including by cross-examination) and other evidence regarding matters properly appealed, including the existence of one or more violations and the administrative penalty amount (if \$1,000 or greater). Failure of the appellant(s) to appear and present evidence at the hearing shall be deemed a withdrawal of the request for hearing and shall constitute a failure to exhaust administrative remedies.

E. The appellant may choose to be represented by an attorney; however, formal rules of evidence or procedure shall not apply, including rules relating to evidence, witnesses and hearsay. Any relevant evidence shall be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs regardless of the existence of any common law or statutory rule which might make improper the admission of the evidence over objection in civil actions. The

hearing officer has discretion to exclude evidence if its probative value is substantially outweighed by the probability that its admission will require an undue amount of time.

F. The standard of proof shall be a preponderance of the evidence and the County bears the burden of proof to establish the existence of the violation, if placed in dispute by the notice of appeal. The burden of proof on all other matters shall be borne by the appellant.

G. The hearing shall be conducted in the English language. The proponent of any testimony by a witness who does not proficiently speak the English language shall provide an interpreter certified by the state or Sacramento County Superior Court at its sole cost.

H. After the hearing, the hearing officer shall render his or her written decision affirming, reversing or modifying the determination that one or more violations occurred. If the violation is affirmed, the decision shall include a statement that the County is entitled to recover administrative penalties and any other fees, charges, or costs authorized by this Ordinance and included in the Citation. The hearing officer may also reduce the amount of the administrative penalty if warranted, taking into consideration all evidence provided by the appellant (and any responsive evidence adduced by the County) in connection with the factors set forth in Section 8, above.

I. A copy of the decision shall be served on the parties and shall be final and conclusive when signed by the hearing officer and served upon the County Counsel and the appellant. For service upon the appellant, the hearing officer shall effect service in the manner requested by the appellant or, if no manner of service is provided, pursuant to the service methods in Section 9, above, with the assistance of the County if desired.

J. Payment of all fines, fees, charges, and costs specified in the hearing

officer's decision shall be made to the County within 30 calendar days of service of the decision, unless timely appealed to the Superior Court. Any Responsible Party aggrieved by the decision of a Hearing Officer may obtain further review by filing appropriate materials with the Sacramento County Superior Court in accordance with the timelines and provisions as set forth in California Government Code section 53069.4. The Hearing Officer's decision shall constitute the final administrative order or decision of the County pursuant to Section 53069.4.

K. Excepting the \$750 deposit required at the time an appeal is filed, hearing officer fees and costs shall be advanced by the County. If the violation is affirmed, the hearing officer shall award the County reimbursement of all hearing expenses borne by the County, including the Hearing Officer's compensation. If the Enforcement Action is only partially upheld and/or if the fine amount is reduced, the Hearing Officer may proportionately reduce the County's reimbursement of hearing expenses in his or her sole discretion. If the Enforcement Action is dismissed entirely, then the County shall bear the hearing costs and reimburse any deposit provided by the appellant.

L. The appellant may settle any appeal with the Office of the County Counsel at any time for good cause, without the need for approval by the Board of Supervisors. The County Counsel shall consult with the County Administrator and County Health Officer, or their designees, prior to entering into any settlement. The terms of all such settlements shall be publicly disclosed upon request.

SECTION 11. CONFIDENTIALITY OF COMPLAINTS.

The County shall take all reasonable steps to ensure that the identity and personal information of any person making a complaint to the County concerning a violation of this Ordinance shall remain confidential. It is declared and found by the

Board that the public interest served by encouraging complaints to the County without fear of retribution clearly outweighs the public interest served by disclosure of the complainant's identity and information.

SECTION 12. REAL PROPERTY LIENS.

All violations of this Ordinance constitute a public nuisance and associated enforcement costs are considered costs of abatement. All unpaid abatement costs may be secured by a nuisance abatement lien recorded on title to the property where the violation occurred. All steps taken to impose a lien shall comply with applicable requirements of state law.

SECTION 13. SEVERABILITY.

The provisions of this Ordinance are separate and severable. If any provision of this Ordinance is for any reason held by a court to be unconstitutional or invalid, the Board declares that it would have passed this Ordinance irrespective of the invalidity of the provision held to be unconstitutional or invalid. Such unconstitutionality or invalidity shall therefore not affect the remaining provisions of this Ordinance, or the validity of its application to other persons or circumstances.

SECTION 14. EFFECTIVE DATE AND PUBLICATION.

This Ordinance shall take effect immediately as an urgency ordinance upon its passage by a 4/5 or greater vote of the Board of Supervisors. A fair and accurate summary of this Ordinance shall be published once within 15 days of its passage or as may otherwise be required by state law.

This ordinance was introduced and the title thereof read at the regular meeting of the Board of Supervisors on _____ and on _____ further reading was waived by the unanimous vote of the Supervisors present.

On a motion by Supervisor _____, seconded by Supervisor _____, the foregoing ordinance was passed and adopted by the Board of Supervisors of the County of Sacramento, State of California, this ____ day of _____ 2020, by the following vote:

AYES: Supervisors,

NOES: Supervisors,

ABSENT: Supervisors,

ABSTAIN: Supervisors,

RECUSAL: Supervisors,
(PER POLITICAL REFORM ACT (§ 18702.5.))



Chair of the Board of Supervisors
of Sacramento County, California

(SEAL)

ATTEST: _____
Clerk, Board of Supervisor

1997998

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