

COVID ENFORCEMENT

Summary of Enforcement 10 Similar Counties

Kings County:

Primarily Education and Outreach. Reports every non-compliant business licensed by the State to the State for enforcement of those licenses. No specific ordinance related to COVID; their existing code of ordinance would allow for administrative citations to be issued.

Summary of Enforcement 10 Similar Counties

San Luis Obispo:

Local cities have administrative fine authority (and some cities have issued administrative fines), but the County currently does not. The Health Officer has issued a number of “Directed Orders” which order a business to comply with the State Public Health Order.

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Santa Cruz:

Has a PHO Order requiring face coverings; an infraction/admin penalties ordinance prohibiting violation of PHO Orders (SCCC Chapter 7.109), with \$100/200/500 penalties for first/second/third offenses. Enforcement work has been in unincorporated area to date.

Summary of Enforcement 10 Similar Counties

Kern County.

Primarily education and outreach.

Summary of Enforcement 10 Similar Counties

Monterey.

Focused on education. One misdemeanor charge brought by the District Attorney. District Attorney is also pursuing a 17200 action. Environmental Health has been very active with inspections and revoked the health permit of one business and taken action to suspend the permit of another.

Summary of Enforcement 10 Similar Counties

Fresno:

Primarily education and outreach. One civil injunction pursued. The City of Fresno has an administrative fine ordinance and has issued fines to restaurants and some businesses.

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Stanislaus:

Education and outreach. Has issued directed local health orders to specific businesses with action required to reduce the chance of transmission.

Summary of Enforcement 10 Similar Counties

Madera:

Primarily outreach and education. Reports most non-compliant business licensed by the State to the State for enforcement of those licenses. No specific ordinance related to COVID.

METHODS OF ENFORCEMENT

ORDINANCE

Levels of Severity (in decreasing order)

- Broad COVID Enforcement ordinance with significant fines
- Broad COVID Enforcement ordinance with more limited fines
- Facial Covering Ordinance (with fines up to \$500)
- Facial Covering Ordinance (with maximum fines of \$100.)

METHODS OF ENFORCEMENT

CIVIL INJUNCTION

Levels of Severity (in decreasing order)

- Authorize standing authority to staff to pursue civil injunctions
- Authorize civil action on a case by case basis
- Do not authorize the use of civil action/injunctions

METHODS OF ENFORCEMENT

USE OF STATE AGENCIES

Levels of Severity (in decreasing order)

- Refer all applicable cases of violation to applicable state agencies
- Only refer significant violations to state agencies
- Do not refer violations to state agencies

METHODS OF ENFORCEMENT

Use of other Administrative Remedies

Take action to revoke health permit

Take action to revoke business license (after ordinance is modified)

Decision Points:

1. Is An Ordinance Needed?
2. What should be the scope of the ordinance?
 1. Broad Enforcement – Allowing Administrative Citations for all violations of State and Local Public Health Orders?
 2. Face Covering Ordinance?
 3. Ordinance modifying Business License Ordinance to allow revocation?

Decision Points:

Ordinance Details:

1. What should be the citation amount?
2. Difference between business/commercial violations and non-commercial violations?
3. Written warning required? Is it still required if the Violator is already aware of the law and indicates that they will not comply?
4. Criminal Violations for Serious or Repeat Violations?

Decision Points:

Ordinance Details: Should the fine amount in a set amount e.g. \$100, \$250 and \$500, or should the Enforcing Officer have Discretion within an Established Range?

- 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.

Decision Points:

Ordinance Details:

1) Should the ordinance grant standing authority to pursue civil action if necessary to enforce the ordinance?

2) Should the ordinance provide for criminal penalties for

- Obstructing an enforcement or hearing officer
- Making false statements to an Enforcement Officer or a Hearing Officer
- Repeated or serious violations?

Decision Points:

Jurisdiction of Ordinance:

Countywide vs. Unincorporated Area

Pros: Consistency, Allows more Enforcement

Cons: Cities may wish to determine their own levels of enforcement, management of ordinance

Decision Points:

Administrative Actions:

Direct staff to take necessary action:

- To Revoke Health Permit in applicable cases
- To Revoke Business License (after ordinance is modified), in applicable cases

Decision Points:

Use of State Agencies

- Continue Status Quo: certain businesses are referred to state agencies, primarily for continued violations

Or

- Direct staff to refer as many violating businesses as possible to the relevant state agencies for enforcement

Or

- Direct staff not refer violating businesses to relevant state agencies for enforcement

TIMING OF ORDINANCE:

Urgency Ordinance: 4/5 vote.

Effective Immediately. 2 meetings are not required. May be adopted at any meeting (special or regular)

Regular Ordinance (3/5 vote) –

2 meetings are required. Not effective until 30 days after adoption. May be introduced at a special meeting. May not be adopted at other than a regular meeting, or an adjourned regular meeting.