

ORDINANCE NO. _____

AN URGENCY ORDINANCE ESTABLISHING TEMPORARY COMPLIANCE
OFFICERS TO ASSIST LOCAL BUSINESSES AND MEMBERS OF THE PUBLIC IN
THE GRADUAL REOPENING OF LAKE COUNTY DURING THE CONTINUING
PUBLIC HEALTH EMERGENCY AND TO PROVIDE A PROCESS FOR THE
ASSESSMENT OF ADMINISTRATIVE FINES FOR VIOLATORS OF STATE AND
LOCAL PUBLIC HEALTH ORDERS

WHEREAS, the Board of Supervisors is empowered by Article XI, section 7 of the California Constitution with police power, authorizing the Board to take actions determined to be necessary to protect public, health, welfare and safety; and

WHEREAS, Government Code section 25123 authorizes the Board of Supervisors to adopt, by four-fifths vote, an ordinance for the immediate preservation of the public peace, health or safety with a declaration of the facts constituting the urgency; and

WHEREAS, while Health and Safety Code section 10129 authorizes a sheriff or peace officer to enforce the orders of a local health officer, section 10129 makes clear that such authorization is not a limitation on the authority of public officers to enforce local health officer orders; and

WHEREAS, Division 20 of the Health and Safety Code governs certified code enforcement officers and code enforcement officers, the legislative history of which refers to code enforcement functions as a unique skill set of public officers; and

WHEREAS, code enforcement officers are public officers for the purpose of enforcing a public health order for a limited duration; and

WHEREAS, as the County of Lake begins the gradual process of reopening its economy and loosening public restrictions, it is imperative to address the significant concerns of the public that the requirements which accompanying this process are adhered to; and

WHEREAS, to ensure compliance with this gradual process, it is necessary for the County to provide local businesses and the public with education, training, and compliance assistance to ensure, to the extent possible, the successful reopening of the County of Lake without any undue risk to public health and safety; and

WHEREAS, by establishing code enforcement officers as public officers authorized to and capable of assisting local businesses and the public, this Board seeks to advance the reopening of the County in a reasonable and successful manner; and

WHEREAS, although the vast majority of the local businesses and the public will work collaboratively with County and City officials to ensure this reopening complies with existing state and local public health orders, this Board believes that an administrative fine or penalty should exist as a deterrent to those who violate said orders and put the health of the general public at risk.

NOW, THEREFORE, THE LAKE COUNTY BOARD OF SUPERVISORS ORDAINS AS FOLLOWS:

Section One. The above recitals are true and correct, are incorporated herein by reference and hereby establish the factual basis constituting the urgent need supporting the adoption of this Ordinance.

Section Two. This Board hereby establishes that County Code Enforcement Officers shall be temporarily designated as Compliance Officers and shall offer training, information, and other assistance to local businesses and members of the public as necessary in order to foster compliance with state and local public health orders and the County's reopening plan during this period of the gradual reopening of the County of Lake. Additional qualified personnel may be hired temporarily as Compliance Officers if necessary and qualified existing County employees not presently able to return to work shall be given the opportunity to work as temporary Compliance Officers.

Section Three: The functions of said Compliance Officers shall consist of offering education, training, and compliance assistance to local businesses and to members of the public as needed. Compliance Officers shall have the authority to enter local businesses and survey whether such businesses are presently in compliance with state and local public health orders and the County's reopening plan and to work with those businesses, where applicable, to attain such compliance.

Section Four: In those rare situations where members of the public and/or local businesses reject offers of assistance and refuse to take corrective action to attain compliance with state and local public health orders and the County's reopening plan, Compliance Officers may issue citations assessing administrative fines or penalties as described hereinbelow.

Section Five: A procedure for the imposition of administrative fines and penalties is hereby established to address the willful violation of this Ordinance, state and local public health orders, and the County's reopening plan as follows:

- a. Any person violating any provision of this Ordinance or of the state and local public health orders and/or of the County reopening plan shall be subject to the assessment of civil fines and penalties pursuant to the administrative procedures

established in this Ordinance and authorized by Government Code section 53069.4.

Each and every day a violation of this Ordinance exists constitutes a separate and distinct violation.

- b. Administrative Enforcement Authority. The Public Health Officer shall have the authority and powers necessary to determine whether a violation of this Ordinance, state and local public health orders, and/or the County's reopening plan exists and the authority to take appropriate action to gain compliance with the provisions of this Ordinance, existing state and local public health orders, and the County's reopening plan during the existence of the ongoing COVID-19 public health emergency. Said powers include the power to issue Notices of Violation; the power to assess and collect civil fines and penalties as provided in this Ordinance; and the power to enter and inspect public and private property.

(b) The Public Health Officer and/or code enforcement officers when acting as Compliance Officers under the Public Health Officer's direction are authorized to enter upon any property or premises to ascertain whether there are violations of this Ordinance, local or state public health orders, and/or the County's reopening plan to inquire as to compliance concerns and/or issues.. All such inquiries shall be made in a reasonable manner. If the property owner or other responsible person refuses permission to enter or inspect, the Public Health Officer and/or Compliance Officers may seek an administrative inspection warrant pursuant to the California Code of Civil Procedure.

(c) Fines/Penalties. The Public Health Officer and/or the Compliance officers acting under his/her direction are authorized to assess civil fines or penalties pursuant to this Ordinance and shall be responsible for the implementation of the administrative procedures set forth in this Ordinance.

(d) Amount of Fines and Penalties. Any person who violates any provisions of this Ordinance Code or state and/or local public health orders during the course of the existing COVID-19 Public Health emergency shall be subject to an administrative fine or penalty up to the maximum amounts set forth in this Ordinance.

The Public Health Officer and/or the Compliance Officers under his/her direction may impose as the administrative fine for the violations described herein up to the maximum fine or penalty amounts for infractions set forth in subdivision (b) of California Government Code section 25132.

(e) Notice of Violation and Assessment of Penalties. Upon determining that a violation exists and that correction efforts have been made but were unsuccessful, the Public Health Officer may issue to the person committing said violation a Notice of Violation, Order to Correct, and Notice of Assessment of Administrative Fines/Penalties.

Said notice may be made by personal service by a compliance officer or by mail. The notice of violation shall contain:

- (1) The name and address of the violator;
- (2) A statement that a determination has been made that a violation of this Ordinance and/or the existing state or local public health orders exists and the conditions constituting each and every violation;
- (3) A specified time period of not less than ____ days from receipt of the Notice of Violation within which the violation must be corrected;
- (4) A statement advising the violator that in the event the violation is not corrected by the expiration of the time specified in the Notice of Violation, the violator shall be subject to administrative fines and penalties under this Ordinance and specifying the maximum amount of such fines and penalties;

(5) A statement that the violator affected by the Notice of Violation may, within fifteen (15) calendar days after delivery or service of the Notice of Violation, request administrative review in writing, to the Board of Supervisors of the findings, determinations and amount of potential fines and penalties set out in the Notice of Violation.

(6) The Notice of Violation shall contain a statement that, if the violator fails to request administrative review of the determination of administrative fines set out in the Notice of Violation, the determination of fines in the Notice of Violation shall be final.

(7) If the Public Health Officer determines that an effort is being made to correct the violation, he or she may grant an additional period of time for correction of the violation.

(8) Notwithstanding (3) above, the Public Health Officer may require immediate correction of a violation if the violation creates an immediate danger to the health and safety of persons.

(f) Administrative Appeal. Any person upon whom a Notice of Violation is served may request administrative appeal of the findings, determinations, and/or amount of potential fines and penalties set out in the Notice of Violation pursuant to the procedures set forth in Section 13-53 of the Lake County Code.

(g) Enforcement and Collection. When an administrative fine or penalty becomes a final order under this Section or Government Code section 53069.4, the County may proceed to collect the fine or penalty through a civil action to enjoin and/or collect the administrative fines and penalties, the County may withhold issuance of licenses, permits and other entitlements to the property owner on any project, property, or application of any kind whenever an administrative penalty remains unpaid and/or any other actions as are allowed for enforcement of a civil judgment.

Section Six:

It can be seen with certainty that there is no possibility that this Ordinance may have a significant effect on the environment.

Section Seven: All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict and no further.

Section Eight: This Ordinance shall take effect immediately, and within fifteen (15) days after adoption of the ordinance, the Clerk to the Board of Supervisors shall publish a summary of the Ordinance with the names of those supervisors voting for and against the ordinance and the Clerk shall post in the office of the Clerk to the Board of Supervisors a certified copy of the full text of the adopted ordinance along with the names of those supervisors voting for and against the Ordinance.

The Foregoing Ordinance was passed and adopted by the Board of Supervisors on the _____ day of _____, 2020, by the following vote:

AYES:

NOES:

ABSENT OR NOT VOTING:

COUNTY OF LAKE

Chair Board of Supervisors

ATTEST: CAROL J. HUCHINGSON

Clerk of the Board of Supervisors

APPROVED AS TO FORM:

ANITA L. GRANT

By: _____

Deputy

By: _____