



**STAFF REPORT**  
**3/24/2020**

**TO:** Honorable Mayor and City Council Members

**FROM:** Best Best & Krieger, City Attorney

**SUBJECT:** Ordinance No. 1159, an Urgency Ordinance of the City of Coachella, California, Prohibiting Violation of Any Emergency Order Issued by the State or County of Riverside.

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**STAFF RECOMMENDATION:**

Approval of Urgency Ordinance of the City of Coachella, California, Prohibiting Violation of Any Emergency Order Issued by the State or County of Riverside.

The proposed Urgency Ordinance would supplement the City's ability to enforce State and County emergency orders to prevent the spread of any contagious, infectious, or communicable disease by making it unlawful and a public nuisance to violate any such emergency orders and gives the City the authority to enforce them by issuing administrative citations; denying, not renewing, suspending, or revoking a business license; suspending or revoking any conditional use permit; revoking a legal nonconforming status; suspending or revoking any other land use approval; instituting a misdemeanor criminal prosecution; or by filing a civil action to seek abatement.

**BACKGROUND:**

International, national, state, and local health and governmental authorities are responding to an outbreak of respiratory disease caused by a novel coronavirus named "SARS-CoV-2," and the disease it causes has been named "coronavirus disease 2019," abbreviated COVID-19 ("COVID-19").

On March 4, 2020, the Governor of the State of California declared a state of emergency to make additional resources available, formalize emergency actions already underway across multiple state agencies and departments, and help the state prepare for broader spread of COVID-19, and on March 8, 2020, the Riverside County Public Health Officer declared a local health emergency, and on March 13, 2020, the President of the United States declared a state of national emergency.

Pursuant to Chapter 2.56 of the Coachella Municipal Code, the City Manager in his capacity as the Director of Emergency Services proclaimed the existence of a local state of emergency on March 19, 2020, due to the COVID-19 outbreak, to enhance the City's ability to protect public health and safety.

The Coachella City Council ratified the proclamation of a local state of emergency by Resolution dated March 25, 2020.

The Governor's May 19, 2020 Executive Order N-33-20 ordered closure of all non-essential retail businesses (subject to certain exceptions), indoor malls and shopping centers, playgrounds for children, and prohibits all public and private group events and gatherings and requires people to stay home (except for essential activities like buying groceries and obtaining medication) in an effort to stem or slow the spread of this communicable virus.

The Governor's May 19, 2020 Executive Order N-33-20 is made in two capacities, in the Governor's emergency authority under the California Emergency Services Act (Government Code sections 8550–8669.7) and in his authority as State Public Health Officer.

### **DISCUSSION/ANALYSIS:**

#### **Local Enforcement**

The City's only means to enforce an order of the Governor made under the Emergency Services Act or an order of the State Department of Public Health or Riverside County Health Officer is criminal enforcement by local peace officers and the District Attorney, pursuant to Government Code section 8665 and Health and Safety Code sections 101029 and 120155.

The purpose of the proposed Urgency Ordinance is to supplement the City's ability to enforce State and County emergency orders by adopting local regulations necessary to allow it to utilize code enforcement procedures and remedies related to civil, administrative, or criminal available for enforcing Municipal Code violations.

The proposed Urgency Ordinance would add Section 1.08.303 *Emergency Order Enforcement* to Chapter 1.08 *General Penalty* of the Coachella Municipal Code, which would provide:

- **Violation Unlawful.** It is unlawful and declared a public nuisance for any person to violate any emergency order made by the Governor of the State of California under the Emergency Services Act or any order of the State Department of Public Health or Riverside County Health Officer issued for the purpose of preventing the spread of any contagious, infectious, or communicable disease.
- **Remedies.** The City may enforce this ordinance using any remedy available under the law, including:
  - Issuance of an **administrative citation** under Chapter 3.20 of this Code.
  - Denial, nonrenewal, suspension, or revocation of a **business license** under Chapter 5.0 of this Code.
  - Suspension or revocation of any **conditional use permit** under Section 17.74.050 of this Code, revocation of **legal nonconforming status** under Section 17.78.040

of this Code, or suspension or revocation of other **land use approval** under Title 17 of this Code.

- **Misdemeanor criminal prosecution** by the city prosecutor under Section 1.08.010 of this Code.
  - Punishable as provided under Section 2.56.100 of this Code.
  - Filing of a **civil or equitable action** to seek abatement of any violation.
- **Violations Ongoing.** Each and every day a violation is maintained, caused, aided, abetted, concealed, suffered, or permitted is a separate offense.
  - **Remedies Cumulative.** The remedies, procedures, and penalties provided by this Chapter are cumulative to each other and to any other available under City, State, or federal law.

#### Urgency Nature of this Proposed Ordinance and Procedure

Section 36937 of the California Government Code provides that an ordinance takes effect immediately if it is for the preservation of the public peace, health or safety, containing a declaration of the facts constituting the urgency, and is passed by a four-fifths vote of the city council.

Staff requests that the City Council find and declare that the adoption of the proposed Ordinance is necessary for the immediate preservation of the public peace, health, and safety. Currently, the City is severely limited in its ability to address violations of emergency orders issued by the State or County. The proposed ordinance addresses this gap and creates a framework for local enforcement. COVID-19 has prompted the declaration of a statewide state of emergency by the Governor of California.

As this is an Urgency Ordinance, it would take effect immediately upon its adoption.

#### ALTERNATIVES:

1. Do not adopt the Urgency Ordinance.
2. Provide additional direction.

#### FISCAL IMPACT:

None Anticipated.

#### RECOMMENDED ALTERNATIVE(S):

None.