



Discussion/Action Item

AGENDA 1  
ITEM NO. \_\_\_\_\_

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## CITY COUNCIL STAFF REPORT

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**DATE:** MARCH 17, 2020

**TO:** HONORABLE MAYOR, AND MEMBERS OF THE CITY COUNCIL

**FROM:** ROXANNE DIAZ, CITY ATTORNEY

**RE:** CONSIDERATION OF AN URGENCY ORDINANCE TO MAKE VIOLATIONS OF THE COUNTY HEALTH CODE AND COUNTY HEALTH OFFICER ORDERS SUBJECT TO AN ADMINISTRATIVE CITATION AND AMENDING THE PROVISIONS REGARDING THE ADMINISTRATIVE FINE SCHEDULE; and

A RESOLUTION ADOPTING A FINE SCHEDULE FOR VIOLATIONS OF THE COUNTY HEALTH OFFICERS ORDERS THEREOF

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### **RECOMMENDATION**

Staff recommends that City Council: (1) waive full reading of the ordinance, read the ordinance by title only: An Urgency Ordinance of the City of Maywood Amending the Maywood Municipal Code to Make Violations of the County Health Code and County Health Officer Orders Subject to an Administrative Citation and Amending the Provisions regarding the Administrative Fine Schedule; and (2) Adopt the Resolution adopting a Fine Schedule for Violations of the County Health Officer Order.

### **FISCAL IMPACT**

The fiscal impact for the City's response to COVID-19 is being tracked by the Finance department.

## **LEGAL REVIEW**

The City Attorney has drafted this report.

## **BACKGROUND/DISCUSSION**

On March 19, 2020, the Governor of the State of California issued Executive Order N-33-20, directing all residents of the State of California to heed directives issued by the State Health Officer on the same date instructing all Californians to stay home except as needed to maintain continuity of operations of the federal critical infrastructure sectors. Concurrently, the Los Angeles County Department of Public Health (“County Public Health”) has issued similar orders and further guidance, the most recent is the order dated March 21, 2020 ordering the closing of all nonessential businesses and prohibiting all public and private group events and gatherings among persons not in the same households (the “County Stay at Home Order”). The City of Maywood has adopted the County Public Health Code as the City’s health code and has made itself subject to the jurisdiction of County Public Health. Therefore, the County Stay at Home order applies to the City.

Violation of the County Stay at Home Order is a misdemeanor and punishable by a fine or imprisonment, or both, pursuant to Government Code Section 8665 and the Maywood Municipal Code. Alternatively, pursuant to Section 6-4.30, any violation of the City’s Municipal Code may be subject to an administrative citation which would allow City staff to quickly and efficiently issue administrative citations, similar to a parking ticket, for violations of the County Stay at Home Order. The fines for such citations, however, are nominal in that the first violation is subject to a \$100 fine.

City officials have been informed that persons within the City are violating the County Stay at Home Order. While the Sherriff’s department can issue misdemeanor citations, those must be processed with the District Attorney and the court system. The City, however, has the ability to issue administrative citations and these would have a more immediate impact in curbing the violations of the County Order. The fines, however, need to be increased in order for a citation to be a deterrent for those that violate the orders. In order to slow the local transmission of COVID-19, the City needs all its residents, workers and visitors to obey the County order and stay at home. This in turn will contribute to the stem of transmission. There are currently as of April 6th, 6,360 confirmed cases of COVID-19 in the County of Los Angeles. To provide some context as to how quickly this number is rising, on April 1st there were 3,518 confirmed cases.

The urgency findings for the adoption of the proposed ordinance are set forth in the ordinance and adoption requires a 4/5 vote of the City Council.

Attachment 1: Ordinance No. 20-03-U

Attachment 2: Resolution No. 6103

# **ATTACHMENT NO. 1**

**URGENCY ORDINANCE NO. 20-03-U**

**AN URGENCY ORDINANCE OF THE CITY OF MAYWOOD AMENDING  
THE MAYWOOD MUNICIPAL CODE TO MAKE VIOLATIONS OF THE  
COUNTY HEALTH CODE AND COUNTY HEALTH OFFICER ORDERS  
SUBJECT TO AN ADMINISTRATIVE CITATION AND AMENDING THE  
PROVISIONS REGARDING THE ADMINISTRATIVE FINE SCHEDULE**

**THE CITY COUNCIL OF THE CITY OF MAYWOOD DOES ORDAIN AS  
FOLLOWS:**

**Section 1.** A new Section 6-3.05 is hereby added to Chapter 3 (Health Code) of Title 4 (Sanitation and Health) of the Maywood Municipal Code to read as follows:

**“6-3.05 - Penalties-Administrative Citations.**

In addition to the penalties set forth in Section 11.02.080 for any violation of the Public Health Code, the City may issue the City may issue an administrative citation for any violation of the Public Health Code, including any violation of County Public Health Orders issued pursuant to Section 11.02.020 and 11.02.030.D. Such administrative remedy may be exercised in place of, or in addition to, any administrative, criminal, civil, or equitable remedy allowed by law. The amount of the fine associated with the administrative citation will be assessed according to a schedule of fines adopted by Resolution of the City Council.”

**Section 2.** Paragraph (c) of Section 6-4.30 (Administrative Citations) of Chapter 4 (Property Maintenance) of Title 6 (Sanitation and health) is hereby amended in to read as follows:

“(c) *Uses of the administrative citation.* Whenever an Enforcement Officer determines that a violation of this Municipal Code has occurred, the Enforcement Official may issue an administrative citation to each and any responsible person. The procedures established in this section may be in addition to criminal, civil or any other legal remedy established by law which may be pursued to address violations of the Municipal Code. The use of the issuance of an administrative citation shall not be deemed a waiver of any other enforcement remedies found within this Municipal Code.”

**Section 3.** Paragraph (d) of Section 6-4.30 (Administrative Citations) of Chapter 4 (Property Maintenance) of Title 6 (Sanitation and health) is hereby amended in to read as follows:

(d) *Fines.* Except as otherwise provided for in this Municipal Code, any responsible person who receives an administrative citation shall not be required to pay a fine in excess of the following:

(1) One Hundred and No/100ths (\$100.00) Dollars for a first issued administrative citation;

(2) Two Hundred and No/100ths (\$200.00) Dollars for a second issued administrative citation for a violation of a same ordinance within a twelve (12) consecutive month period; and

(3) Five Hundred and No/100ths (\$500.00) Dollars for any subsequent issued administrative citation for violations of the same ordinance within a twelve (12) consecutive month period.

The failure of any person to pay the civil fines assessed by an administrative citation may result in the matter being referred for collection which includes but is not limited to the filing of a small claims court action.”

#### **Section 4. Urgency Findings.**

The City Council of the City of Maywood deems it necessary to adopt an urgency ordinance pursuant to Government Code Sections 37100 and 36937(b) to amend the Maywood Municipal Code to stem the local transmission of what is known as “COVID-19” based on the on the following facts.

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. On March 13, 2020, the President of the United States of America declared a national emergency because of COVID-19. On that same day, the City Manager, as Directory of Emergency Services, declared a state of local emergency, pursuant to Section 8568 of the California Emergency Services Act and Maywood Municipal Code Section 4-1.06.

On March 19, 2020, the Governor of the State of California issued Executive Order N-33-20, directing all residents of the State of California to heed directives issued by the State Health Officer on the same date instructing all Californians to stay home except as needed to maintain continuity of operations of the federal critical infrastructure sectors (the “State Stay at Home Order”). Concurrently, the Los Angeles County Department of Public Health (“County Public Health”) has issued similar orders and further guidance, the most recent is the order dated March 21, 2020 ordering the closing of all nonessential businesses and prohibiting all public and private group events and gatherings among persons not in the same households (the “County Stay at Home Order”). The City of Maywood has adopted the County Public Health Code as the City’s health code and has made itself subject to the jurisdiction of County Public Health. Therefore the County Stay

at Home order applies to the City. Violation of the County Stay at Home Order is a misdemeanor and punishable by a fine or imprisonment, or both, pursuant to Government Code Section 8665 and the Maywood Municipal Code. Alternatively, pursuant to Section 6-4.30, any violation of the City's Municipal Code may be subject to an administrative citation which would allow City staff to quickly and efficiently issue administrative citations, similar to a parking ticket, for violations of the County Stay at Home Order. The fines for such citations, however, are nominal in that the first violation is subject to a \$100 fine.

The City has been informed of persons violating the County Stay at Home Order and the issuance of a \$100 fine is not a deterrent. It is imperative that persons living, working or otherwise located in the City of Maywood abide by the order which prohibits the gathering of persons not in the same household and prohibits public and private group events. In order to send a deterrent, a higher fine amount is required stem the local transmission of COVID-19 as there are 6,360 confirmed cases of COVID-19 in the County of Los Angeles with that number rising every day.

Article XI, Section 7 of the California Constitution and California Government Code Section 37100 provide the City with authority to enact local ordinances to protect the health, safety, and welfare of its residents; and Government Code Section 36937(b) also authorizes the City Council to adopt an urgency ordinance to become effective immediately upon a four-fifths (4/5) vote, when such an ordinance is necessary for the immediate preservation of public peace, health, and safety. This urgency ordinance is required to enact penalties that can be issued easily and quickly to those persons that violate the County Stay at Home Order to stem the transmission of COVID-19. Persons within the City of Maywood are violating the order and the City needs to quickly impose higher penalties to deter the actions of these persons and to ensure that the order directing all Californians to stay at home.

Unless this ordinance takes effect immediately as provided herein, there is a possibility that persons will continue to violate the Governor's order and the County Stay at Home Order because there is no monetary deterrent. Having gatherings of persons in our city will be a detriment to the public health, safety and welfare of our residents but the County at large.

For all these reasons, *inter alia*, the City Council finds there is a current and immediate threat to the public health, safety and welfare absent the implementation of the provisions contained in this ordinance. Accordingly, there is an urgent need for the immediate preservation of the public peace, health, and safety to enact this ordinance on an urgency basis.

#### **Section 5. Severability.**

If any section, subsection, sentence, clause, or phrase of this ordinance, or any part thereof, is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance or any part thereof. The City Council hereby declares that it

would have passed each section, subsection, subdivision, paragraph, sentence, clause, or phrase thereof, irrespective of the fact that any one or more section, subsection, subdivision, paragraph, sentence, clause, or phrase would be subsequently declared invalid or unconstitutional.

**Section 6. Compliance with California Environmental Quality Act.** The City Council finds that this Ordinance is not subject to the California Environmental Quality Act pursuant to Section 15060(c)(2), as it constitutes an activity that will not result in a direct or reasonably foreseeable indirect physical change in the environment, and pursuant to Section 15060(c)(3) it constitutes an activity that is not a project as defined in Section 15378.

**Section 7. Effective Date.** This Ordinance is an urgency ordinance for the immediate preservation of the public peace, health, and safety within the meaning of Government Code Section 36937(b); and therefore shall be passed immediately upon its introduction and shall become effective immediately upon its adoption.

**Section 8. Certification and Publication.** The City Clerk shall certify to the adoption of this Ordinance and shall cause the same to be published or posted in the manner prescribed by law.

PASSED, APPROVED AND ADOPTED this 8th day of April, 2020.

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Eduardo De La Riva, Mayor

ATTEST:

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Gerardo Mayagoitia, City Clerk

APPROVED AS TO FORM:

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Roxanne Diaz, City Attorney

I, Gerardo Mayagoitia, City Clerk of the City of Maywood, do hereby certify that the foregoing Urgency Ordinance was adopted at a regular meeting of the City Council of the City of Maywood held on the 8th day of April, 2020 by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

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Gerardo Mayagoitia, City Clerk



# **ATTACHMENT NO. 2**

**RESOLUTION NO. 6103**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF  
MAYWOOD ADOPTING A FINE SCHEDULE FOR  
VIOLATIONS OF THE COUNTY HEALTH OFFICER  
ORDERS**

**THE CITY COUNCIL OF THE CITY OF MAYWOOD DOES HEREBY  
FIND, RESOLVE AND ORDER AS FOLLOWS:**

**Section 1.** Any responsible person who receives an administrative citation for violation of public health orders issued by the County of Los Angeles Public Health Officer pursuant to Section 11.02.020 and 11.02.030.D of the Los Angeles County Code, as adopted by reference by the City of Maywood, shall be required to pay an administrative fine of one-thousand dollars (\$1,000) for each and every citation issued to such responsible person.

**Section 2.** This Resolution shall be effective immediately upon its passage and approval.

**Section 3.** The City Clerk shall certify to the passage and adoption of this Resolution and shall enter it into the book of original resolutions.

PASSED, APPROVED AND ADOPTED this 8th day of April, 2020.

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Eduardo De La Riva, Mayor

ATTEST:

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Gerardo Mayagoitia, City Clerk

APPROVED AS TO FORM:

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Roxanne Diaz, City Attorney

I, Gerardo Mayagoitia, City Clerk of the City of Maywood, do hereby certify that the foregoing Resolution No. 6103 was adopted at a regular meeting of the City Council of the City of Maywood held on the 8th day of April 2020 by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

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Gerardo Mayagoitia, City Clerk