



**ORDINANCE NO. 5121**

**AN URGENCY ORDINANCE OF THE COUNTY OF EL DORADO BOARD OF SUPERVISORS ADOPTING ADMINISTRATIVE PENALTIES FOR VIOLATION OF THE COUNTY HEALTH OFFICER'S ORDER PERTAINING TO NON-ESSENTIAL TRAVEL TO THE LAKE TAHOE BASIN**

**WHEREAS**, on March 4, 2020, Governor Newsom issued a proclamation of a State of Emergency for the State of California due to the COVID-19 pandemic.

**WHEREAS**, on March 12, 2020, El Dorado County's Health Officer declared a local health emergency based on an imminent and proximate threat to public health from the introduction of COVID-19 in the County of El Dorado, which declaration was ratified by the El Dorado County Board of Supervisors by Resolution No. 051-2020 on March 17, 2020.

**WHEREAS**, on March 12, 2020, the El Dorado County Sheriff, as the County's Director of the Office of Emergency Services, proclaimed a local emergency based on conditions of extreme peril to the safety of persons and property within the territorial limits of the County of El Dorado as a result of the COVID-19 pandemic, which proclamation was ratified by the El Dorado County Board of Supervisors by Resolution No. 052-2020 on March 17, 2020.

**WHEREAS**, on March 12, 2020, Governor Newsom issued Executive Order N-25-20 ordering residents to "heed any orders and guidance of state and local public health officials, including but not limited to the imposition of social distancing measures, to control the spread of COVID-19."

**WHEREAS**, on March 19, 2020, El Dorado County's Health Officer issued a directive, which directed that all individuals living in the County remain at their place of residence to the fullest extent possible and only travel for essential purposes, except as otherwise set forth in the directive.

**WHEREAS**, on March 19, 2020, Governor Newsom issued Executive Order N-33-20, which directed all California residents to immediately heed the California Department of Public Health's directives to stay home or at their place of residence except as needed to maintain continuity of operations of the identified federal critical infrastructure sectors.

**WHEREAS**, on March 24, 2020, El Dorado County's Health Officer issued a directive clarifying the Governor's March 19 "stay-at-home order" pertaining to the use of lodging facilities in El Dorado County.

**WHEREAS**, on April 3, 2020, El Dorado County's Health Officer issued an order restricting non-essential travel into the El Dorado County portion of the Lake Tahoe Basin.

**WHEREAS**, travel into the Lake Tahoe Basin for non-essential purposes continues to take place and these visitors further impact an already decreased availability of essential supplies and food at grocery stores and pharmacies.

**WHEREAS**, Barton Memorial Hospital is the only general acute care hospital in the Tahoe Basin and it has been notified that its usual back-up facilities for accommodating patient surge will not be accepting patient transfers due to COVID-19 cases already impacting them.

**WHEREAS**, people traveling to the mountains for non-essential travel, particularly those engaging in winter recreation activities, can have non-COVID related injuries and illnesses which divert the limited, overworked, first responders and medical personnel at a time when the resources are already constrained.

**WHEREAS**, spring weather conditions in the Tahoe area can change rapidly, and in the event of severe spring storms, it might be impossible to transport patients safely if Barton is unable to care for all of the patients in Tahoe.

**WHEREAS**, high altitudes create breathing issues for many people and can make it more difficult to successfully treat people with respiratory illnesses like COVID.

**WHEREAS**, a violation of the County Health Officer's orders made to control the spread of COVID-19 is a violation of Executive Order N-25-20, which, in turn, is a misdemeanor pursuant to Government Code section 8665.

**WHEREAS**, 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.

**WHEREAS**, the immediate enforcement of the orders of the County Health Officer is necessary for the effective implementation of such orders for the purpose of controlling the spread of COVID-19 in El Dorado County.

**WHEREAS**, Government Code section 53069.4 provides authority for the County of El Dorado to set administrative penalties for violation of any ordinance and the establishment of such administrative penalties as a mechanism to enforce certain orders of the County Health Officer on an urgency basis is necessary for such remedy to be effective and useful.

**WHEREAS**, Government Code section 25131 expressly authorizes the Board of Supervisors to adopt an urgency ordinance immediately upon its introduction and Government Code section 25123 makes such an urgency ordinance effective immediately.

**NOW, THEREFORE**, the Board of Supervisors of the County of El Dorado ordains as follows:

### **SECTION 1. FINDINGS AND PURPOSE**

The Board of Supervisors of the County of El Dorado finds and declares all of the following:

- A. The above recitals are true and correct and are incorporated herein.
- B. In order to address the immediate threat to the public peace, health, safety, and welfare, this ordinance helps to ensure that specified orders of the County Health Officer, issued for the purpose of controlling the spread of COVID-19, are followed by providing an administrative enforcement mechanism as an alternative to the mechanisms already available.
- C. Pursuant to Government Code 53069.4, the Board of Supervisors elects to create an administrative penalty and hearing process for the purpose of enforcing specified orders of the County Health Officer that are issued for the purpose of controlling the spread of COVID-19.
- D. The potential damage caused by a violation of specified orders of the County Health Officer demands a substantial penalty so as to provide an effective deterrent to violating such orders.

### **SECTION 2. TITLE**

This ordinance may be referred to as the **"COVID-19 Administrative Penalties Ordinance."**

### **SECTION 3. DEFINITIONS**

- A. "Board" means the El Dorado County Board of Supervisors
- B. "Citation" or "Administrative Citation" means a civil citation issued pursuant to this Ordinance or El Dorado County Ordinance Code section 9.02.180 et seq.
- C. "County" means the County of El Dorado.
- D. "Days" means calendar days.
- E. "Enforcement Official" means the El Dorado County Health Officer or designee, any Code Enforcement Officer appointed by the Director of Planning and Building, or anyone identified as an Enforcement Official pursuant to Chapter 9.02 of the El Dorado County Ordinance Code.
- F. "Non-Essential Travel Order" means the County Health Officer's April 3, 2020 order regarding non-essential travel to the Lake Tahoe Basin (as may be modified from time-to-time by the County Health Officer), which reflects the Governor's orders to heed the orders of local public health officials (see Executive Order N-25-20) and to stay home or

at one's place of residence except as needed to maintain continuity of operations of the identified federal critical infrastructure sectors (see Executive Order N-33-20).

- G. "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 violates the Non-Essential Travel Order.

#### **SECTION 4. VIOLATION AND ENFORCEMENT**

- A. The Non-Essential Travel Order (as may be modified from time-to-time by the County Health Officer) is hereby incorporated into this ordinance as the law of the County of El Dorado.
- B. A violation of the Non-Essential Travel Order shall be a violation of this Ordinance and, as such, may be enforced as provided in the El Dorado County Ordinance Code or as a civil violation through imposition of an administrative citation as detailed herein.
- C. This Ordinance provides for enforcement proceedings that are supplemental to all other enforcement proceedings provided by local, state, or federal law, whether administrative, civil, or criminal in nature. As such, the provisions of this Ordinance may be utilized alone or in conjunction with other remedies. Election to employ one or more such remedies shall be at the sole discretion of the County and shall be without prejudice to the County choosing to also proceed simultaneously or subsequently by pursuing different enforcement proceedings.
- D. This Ordinance may be enforced by an Enforcement Official.

#### **SECTION 5. ISSUANCE OF ADMINISTRATIVE CITATION; FINES**

- A. Except as otherwise modified by this Ordinance, Administrative Citations and fines issued pursuant to this Ordinance shall be subject to the procedural and substantive provisions regarding Administrative Citations and fines contained within Chapter 9.02 of the El Dorado County Ordinance Code.
- B. Any Responsible Party violating the Non-Essential Travel Order may be issued an Administrative Citation by the Enforcement Official.
- C. The Enforcement Official may issue an Administrative Citation for a violation not committed in their presence if they determine through investigation that the Responsible Party did commit or is otherwise responsible for the violation.
- D. When an Enforcement Official discovers or otherwise determines that a violation of the Non-Essential Travel Order may have occurred, such Enforcement Official shall notify the Responsible Party in writing or by phone of the alleged violation and request written verification within 48 hours and under penalty of perjury of their essential travel need.
- E. If the Responsible Party has not provided satisfactory information of an essential travel need or otherwise abated the alleged violation after expiration of 48 hours from initial notification of the alleged violation, the Enforcement Official may issue an Administrative Citation to the Responsible Party imposing an administrative fine as set forth herein.
- F. An Administrative Citation shall be served on the Responsible Party as provided in Section 9.02.120 of the El Dorado County Ordinance Code.

G. The fine for a violation of this Ordinance shall be \$1,000 per violation. Each and every day a violation exists may constitute a separate and distinct offense.

**SECTION 6. 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 invalid, the Board declares that it would have passed this Ordinance irrespective of the invalidity of the provision held to be invalid and such invalidity shall therefore not affect the remaining provisions of this Ordinance or the validity of its application to other persons or circumstances.

**SECTION 7. EFFECTIVE DATE**

Pursuant to Government Code section 25123(d) and for the reasons stated herein, this Ordinance shall take effect immediately upon adoption by the Board of Supervisors. However, enforcement of this Ordinance with respect to individuals travelling to property that they own in the El Dorado County portion of the Lake Tahoe Basin shall be stayed pending further action of the Board of Supervisors. This Ordinance shall sunset upon expiration of the County Health Officer's Non-Essential Travel Order.

**PASSED AND ADOPTED** by the Board of Supervisors of the County of El Dorado at a regular meeting of said Board, held on the 14th day of April, 2020, by the following vote of said Board:

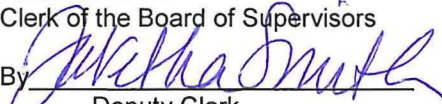
Ayes: Parlin, Frentzen, Veerkamp, Hidaht, Novasel

**ATTEST**

**KIM DAWSON**

Clerk of the Board of Supervisors

By

  
Deputy Clerk

Noes: None

Absent: None

  
Chair, Board of Supervisors  
Brian K. Veerkamp

**APPROVED AS TO FORM**  
**DAVID A. LIVINGSTON**  
**COUNTY COUNSEL**

By



**I CERTIFY THAT:**

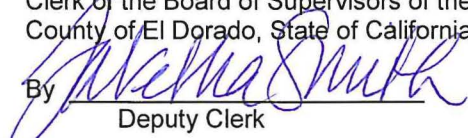
The foregoing instrument is a correct copy of the original on file in this office

Date 4/14/20

**ATTEST: KIM DAWSON,**

Clerk of the Board of Supervisors of the County of El Dorado, State of California.

By

  
Deputy Clerk