

COUNTY OF KINGS  
Office of the County Counsel  
KINGS COUNTY  
GOVERNMENT CENTER  
1400 W. LACEY BLVD.  
LAW BLDG. NO. 4  
HANFORD, CA 93230  
TEL: (559) 852-2445  
FAX: (559) 584-0865




LEE BURDICK  
County Counsel  
CARRIE R. WOOLLEY  
Assistant County Counsel  
Deputies:  
DIANE WALKER FREEMAN  
RISÉ A. DONLON  
FRANK A. RUIZ  
THOMAS Y. LIN  
CINDY CROSE KLIEVER

## MEMORANDUM

DATE: March 31, 2020

TO: Board of Supervisors

CC: Rebecca Campbell, CEO

FROM: Lee Burdick, County Counsel   
Carrie R. Woolley, Assistant County Counsel

RE: Local measures to enforce and expand the State's "Stay in Place" orders

This memorandum outlines the County's options for using local measures to enforce and expand the State's "Stay in Place" ("SIP") Orders to increase protections for County residents during the COVID-19 crisis.

### EXECUTIVE SUMMARY

The County has broad discretionary powers to take preventative measures during an emergency. The Governor's March 4, 2020 Proclamation of a State of Emergency and the County's subsequent Declaration of a Local Emergency on March 17, 2020, expanded those discretionary powers, giving the County the authority to institute local measures to protect its residents during the COVID-19 crisis, in addition to executing orders from the State. Examples of such local measures could include passing a local SIP Order with a longer term and better guidance for County residents and local law enforcement or instituting measures to protect residents and local businesses from evictions. Essentially, the County can institute local measures to increase protections for its residents as long as the local measure does not contradict or limit any State measures.

The following discusses options the County may wish to deploy to further address the spread of the virus in Kings County.

### Discussion

#### *Background*

When faced with the spread of a contagious, infectious, or communicable disease such as COVID-19, the California Department of Public Health ("CDPH") has the authority to "take measures as are necessary to ascertain the nature of the disease and to prevent its spread."<sup>1</sup> This includes the

<sup>1</sup> Health & Safety Code § 120140.

power to establish and maintain quarantine or isolation, control and regulate the actions of local health officials, quarantine or isolate individuals, destroy property if necessary to prevent the spread of the disease, and “take possession or control of the body of any living person, or the corpse of any deceased person.”<sup>2</sup>

The current SIP Orders represent the Governor’s exercise of authority consistent with the CDPH’s authority, as he incorporated a reference to the CDPH’s authority into Executive Order N-33-20 (“EO N-33-20”), issued on March 19, 2020. Under EO N-33-20, all California residents must “stay home or at their place of residence except as needed to maintain continuity of operations of the federal critical infrastructure sectors . . . .” Further, any individual who must leave to obtain a necessity, such as food, prescriptions, or health care “should at all times practice social distancing.” EO N-33-20 is “enforceable pursuant to California law, including, but not limited to, Government Code section 8665.” The inclusion of this code section means a violation of the SIP Order is a misdemeanor.

To appreciate the scope and context of the SIP Order, it needs to be read with an earlier executive order, Executive Order N-25-20 (“EO N-25-20”), issued on March 12, 2020, as well as the current COVID-19 guidance from the CDPH. Under EO N-25-20, the Governor ordered “[a]ll 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.” EO N-25-20 included direction to the public to access the CDPH’s COVID-19 Guidance page to locate CDPH orders and guidance.<sup>3</sup> The CDPH webpage contains detailed information about what individuals can and cannot do and what measures should be taken to prevent the spread of COVID-19.

In addition to the SIP Order, the State has taken several other actions to address the COVID-19 crisis, such as imposing a stay on commercial and residential evictions caused by the COVID-19 crisis, authorizing temporary changes to the Brown Act to accommodate the need to maintain social distancing while holding public meetings, and ordering the monitoring of customer service protections implemented by utility companies to ensure the public has continued access to critical utilities.

#### *Potential Additional Local Measures*

Local measures could build upon the State’s efforts to address the needs of an individual community. Here are several options the Board might consider to better tailor the COVID-19 response and action plan to this community, if it was so inclined.

- Local “Stay in Place Order”: One option the County could explore is enacting a local SIP order to either extend the term of the State SIP Order if the Board believed it was lifted prematurely, or to provide clarification for residents as to what the local legal expectations are

---

<sup>2</sup> Health & Safety Code §§ 120135 (establish and maintain quarantine or isolation), 131080 (control and regulate local authorities), 120145 (quarantine or isolate individuals), 120150 (destroy property), and 120140 (control of bodies).

<sup>3</sup> [www.cdph.ca.gov/Programs/CID/DCDC/Pages/Guidance.aspx](http://www.cdph.ca.gov/Programs/CID/DCDC/Pages/Guidance.aspx).

under the SIP Order. For instance, the Board could better define what are considered to be essential businesses” under the SIP such that they could stay open while others would be ordered closed. Different counties have addressed certain kinds of businesses differently when determining whether they are essential (*e.g.*, gun shops and golf courses).

Another benefit of a local SIP order would be to provide guidance to local law enforcement on how the County expects to enforce the local health officer’s orders. Including more specific enforcement provisions, such as making it a misdemeanor under the County’s Code of Ordinances to violate the County’s SIP order, would send a clear signal to law enforcement as to the County’s intention regarding the importance of enforcement of the SIP orders.

- Moratorium on Evictions: Another area where the County could institute local measures to better buttress the current SIP Order and any individual isolation orders would be to formally implement measures to temporarily suspend commercial and residential evictions. Such measures are encouraged in Executive Order N-28-20 (“EO N-28-20”), as efforts to “promote housing security and stability . . . to protect public health or to mitigate the economic impacts of COVID-19 . . . .” Similarly, local jurisdictions are encouraged to institute local measures to promote “stability amongst commercial tenancies . . . by allowing commercial establishments to decide whether and how to remain open based on public health concerns rather than economic pressures . . . .” Local measures such as these would not only secure housing and protect local businesses during a crisis, they would also provide much needed stability to the residents of the County.

- Local Efforts to Support Small Businesses: The County may also want to investigate and pursue relief for local small businesses at both the federal and State level. This office has not undertaken such an investigation, but Board action would reflect the Board’s emphasis on ensuring it is doing everything possible to assist the County’s small businesses during this crisis.

## CONCLUSION

The County has broad discretion in what types of local measures it takes to address the COVID-19 crisis. Although the State has issued orders that touch nearly every area of life, the County can use local measures to modify and clarify the State’s orders to better suit County residents and conditions. More importantly, the County can use local measures to address areas where the State did not act or refrained from acting in deference to local authority.