



AGENCY: City Council
MEETING DATE: May 11, 2020
DEPARTMENT: City Manager
PRESENTED BY: Tabatha Miller
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AGENDA ITEM SUMMARY

TITLE:

Receive Report and Consider Adoption of Urgency Ordinance No. 961-2020 Establishing Administrative Penalties for Violations of the Mendocino County Public Health Officer's Orders Pertaining to the Coronavirus (COVID-19) Pandemic

ISSUE:

The Mendocino County Health Officer, Dr. Noemi Doohan, declared a local health emergency on March 4, 2020. The County Health Officer issued a Recommended Shelter-in-Place Order on March 16, 2020, a Mandatory Shelter-in-Place Order on March 18, 2020, a Revised Mandatory Shelter-in-Place Order on March 24, 2020, a Revised Mandatory Shelter-in-Place Order on April 24, 2020, and a Revised Mandatory Shelter-in-Place Order dated May 8, 2020 (collectively referred to as "Orders"). The Orders require all persons in the County to shelter in place, except to perform Essential Activities and operate Essential Businesses, as defined in the Orders. Reports of violations of the Orders continue to be received throughout the County, including the City of Fort Bragg.

The Mendocino County Board of Supervisors approved an Administrative Penalty Ordinance at its March 31, 2020 meeting and the City of Ukiah followed suit and approved an Ordinance on April 1, 2020. The ordinances provide that any violation of the COVID-19 related Health Officer's Orders is also a violation of a local Ordinance and therefore allows Code Enforcement to impose administrative penalties to any person or business failing to comply with the Orders after receiving notice of non-compliance.

On April 6, 2020 staff presented the City Council with a proposed ordinance with the same provisions as the City of Ukiah and Mendocino County. The City Council did not adopt the Ordinance and directed staff to revise the ordinance to provide for a progressively increasing fine structure and an ordinance that would only apply to commercial establishments. A revised ordinance is presented for City Council's consideration.

ANALYSIS:

Most businesses and individuals within the City of Fort Bragg have and it is expected will continue to comply with the Shelter-in-Place Orders. Efforts between the County Health Department, the County Sheriff's Office and the Fort Bragg Police Department have been coordinated and cooperative. An Ordinance establishing administrative penalties for violating the Shelter-in-Place Orders merely provides the City another tool, if it becomes necessary, and allows the City's actions to be consistent with the County's policies and practices.

At City Council direction, the revised proposed Ordinance only provides for administrative penalties to be levied for violations of the County's COVID-19 Shelter-in-Place Orders by

those engaged in Commercial Activity, as defined by the Ordinance. The revised proposed Ordinance requires that a business receive a warning that they are violating the Orders twenty-four hours prior to a citation being issued which would include an administrative penalty, so there is ample opportunity to cure the violation prior to incurring any penalty. The first offense penalty amount is set at \$100.00. The second offense penalty amount is set at \$150.00 and third or subsequent penalty amounts are set at \$500.00. Any business receiving a citation has the right and opportunity for review and determination of the citation by the County Health Officer, City Manager or designee. The revised Ordinance allows a party who wishes further review of the citation, after review and final determination, to appeal to the City Council who will conduct a hearing and make a decision issued as a written order.

The revised Ordinance limits the definition of Enforcement Officer to the City Manager, any peace officer with jurisdiction in the City of Fort Bragg and anyone identified by resolution of the City Council.

Police Chief Naulty supports establishing the Administrative Penalties as an additional means of enforcement, if necessary, and as an alternative to using sworn officers who may be needed for higher priorities such as controlling the peace and responding to emergencies.

Urgency Ordinances

Urgency Ordinances that are necessary for the immediate preservation of the public peace, health or safety, must contain a declaration of the facts constituting the urgency, and must be passed by a four-fifths vote of the City Council per Government Code Section 36937. Urgency Ordinances go into effect immediately upon adoption per California Government Code Section 36934. The proposed Ordinance contains the required findings.

RECOMMENDED ACTION:

City Council upon review may waive the reading of the Ordinance and adopt by title only an Urgency Ordinance of the City of Fort Bragg establishing administrative penalties for violations of the Mendocino County Public Health Officer's Orders pertaining to the COVID-19 Pandemic.

ALTERNATIVE ACTION(S):

The City Council may choose to decline to adopt the Urgency Ordinance and/or provide other direction to staff.

FISCAL IMPACT:

Although there is no expectation that it will be necessary to levy penalties, any fees collected would partially help offset the costs of enforcing the Shelter-in-Place Orders. Costs to enforce the Shelter-in-Place Orders are expected to exceed any penalties collected and such efforts will be funded from the General Fund.

GREENHOUSE GAS EMISSIONS IMPACT:

Not applicable to enforcement actions.

CONSISTENCY:

The proposed urgency ordinance is consistent with all state laws, city ordinances, and emergency orders currently in effect.

IMPLEMENTATION/TIMEFRAMES:

If adopted by a four-fifths vote of the entire membership of the City Council, the proposed Urgency Ordinance will become effective immediately.

ATTACHMENTS:

1. Urgency Ordinance 961-2020
2. Urgency Ordinance 961-2020 – Redline version

NOTIFICATION:

1. Press Release, Notify Me subscriber list