



AGENCY: City Council
MEETING DATE: July 27, 2020
DEPARTMENT: City Manager
PRESENTED BY: Tabatha Miller
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AGENDA ITEM SUMMARY

TITLE:

Receive Report and Provide Direction to Staff on Possible Adoption of an Urgency Ordinance Amending the Established Administrative Penalties for Violations of the Mendocino County Facial Coverings Health Order

ISSUE:

On May 11, 2020, the City Council adopted Urgency Ordinance No. 961-2020 establishing administrative penalties for violations of the Mendocino County Health Officer's COVID-19 Pandemic Orders. On July 13, 2020, the City Council directed the City Manager to place an agenda item on the next City Council meeting to discuss and provide possible direction on an amendment to the City's administrative penalties ordinance that would waive the 24-hour warning period for violations of the Mendocino County Health Officer's Order requiring members of the public to wear facial coverings.

ANALYSIS:

The City's adoption of Urgency Ordinance No. 961-2020 followed adoption by Mendocino County of a similar ordinance establishing administrative penalties for violations of the County Health Officer's orders. On July 8, 2020 Mendocino County amended its administrative penalties ordinance to increase the penalties for violations of the Mendocino County Health Officer's Order requiring members of the public to wear facial coverings and waiving the 24-hour warning period in which an individual person is provided time to abate the violation and avoid a citation. The City of Ukiah took similar action at its July 15, 2020 City Council Meeting. Both Mendocino County and City of Ukiah established a penalty of \$100 for the first offense, \$250 for the second offense and \$500 for each additional offense. City of Point Arena passed an urgency ordinance which mirrors Mendocino County's, and the City of Willits will likely take similar action. Note, the City of Point Arena is serviced by the Mendocino County Sheriff.

The City Council has been urged by members of the public to adopt the same penalty amounts and to waive or remove the 24-hour warning period for noncommercial violations of the County Health Officer COVID-19 orders. The current ordinance establishes administrative penalties of \$25.00 for the first offense of a noncommercial violation of the Health Orders, \$50.00 for a second and \$75.00 for the third or additional violations. The 24-hour abatement warning period makes citing for not wearing a facial covering cumbersome at best. A draft revision to the City's current administrative penalties ordinance is attached as a sample and for reference. It is generally consistent with the ordinance amendments adopted by Mendocino County, City of Point Arena and City of Ukiah.

Enforcement of facial covering mandates is an issue that divides not only our community but much of the United States. Chief Naulty and Police Chiefs and Sheriffs around the country

struggle with how to enforce the mandate for health reasons without creating hostile or even confrontational encounters. Education has been the preferred method of encouraging individual compliance by the City, the County and the other Mendocino cities. The City has increased its presence of signs on the Coastal Trail and around town, especially in the Central Business District. The Mask Up Mendocino campaign was developed as an educational tool. As of July 20, 2020, none of the Mendocino County jurisdictions had issued a citation under the administrative penalties ordinance to an individual for not complying with the facial covering mandate.

Some California counties and cities have enacted similar stringent penalties for violations of the state and (if applicable) county or city order requiring individuals to wear facial coverings in public. Notably, a number of cities in Southern California have not only increased the amount of the fines to levels similar to or even higher than Mendocino County, but mandated a stricter but simpler standard for wearing facial coverings. The requirement is that a facial covering must be worn when a person leaves their place of residence. The exceptions are limited to: children under two, a medical or mental health condition or disability that would prevent it, the hearing impaired, individuals when swimming or in a restaurant or establishment that serves food and beverage, but only while eating or drinking.

The Southern California cities of Manhattan Beach, West Hollywood, Beverly Hills and Santa Monica have all enacted emergency orders along these lines. Of course these cities are in an urban setting and much more densely populated. However, a simpler mandate to wear a mask when you leave your residence would solve current difficulties of enforcement when one is outside. Under the current state and county facial covering orders, individuals who can socially distance by staying six-feet apart from others or are in the same social or household bubble are allowed to not wear the masks outdoors. Many of Fort Bragg's reports and complaints about individuals not wearing masks involve these types of situations. A few cities have limited their stricter compliance to more densely populated areas such as the downtown shopping districts, popular beaches and boardwalks or crowded outdoor malls. The City could consider stricter requirements in the Central Business District and/or on the Coastal Trail.

In researching how other jurisdictions are approaching enforcement of facial coverings, I noted that the Southern California cities are using an emergency order signed by the City Manager acting as the Emergency Services Director. The enforcement order is discussed by the City Council and direction is then provided to the City Manager to draft and implement the order. This simplifies the process and eliminates the cost to print the ordinance in the local paper. The emergency order can be implemented the day after City Council direction is provided and would not incur the costs associated with hosting another meeting, just for that action.

RECOMMENDED ACTION:

Staff is not recommending a specific action as this agenda item was requested as a discussion item for City Council to consider future action. A draft amendment to the City's administrative penalties ordinance is attached for discussion purposes only.

City Council could also direct the City Manager to implement an emergency order based on Council direction provided during the City Council meeting.

ALTERNATIVE ACTION(S):

1. Leave the Administrative Penalties Ordinance without changes.
2. Only change the 24-hour notice requirement in the current Administrative Penalties Ordinance.
3. Provide staff other direction.

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. Draft Amendment to Urgency Ordinance 961-2020

NOTIFICATION:

1. Press Release, Notify Me subscriber list