



AGENCY: City Council  
MEETING DATE: April 6, 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 and a Revised Mandatory Shelter-in-Place Order on March 24, 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.

### **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.

The proposed Ordinance provides flexibility on the part of the designated Code Enforcement Officer in applying the amount of penalty, as it is set in an amount not to exceed \$500 for an individual violating the Orders and \$10,000 for a business violating the Orders. Thus, the Code Enforcement Officer has discretion to set the penalty as low as \$1.00 or at the maximum level. The proposed Ordinance requires that an individual and 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. Any individual or business receiving a citation has the right and opportunity to appeal the citation to a hearing officer which includes the County Health Officer, City Manager or designee.

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:**

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 provide other direction to staff.

#### **FISCAL IMPACT:**

Although there is no expectation that it will be necessary to levy penalties, any fees collected would offset the costs of enforcing the Shelter-in-Place Orders.

#### **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. Governor's Order N-28-20

#### **NOTIFICATION:**

1. Press Release, Notify Me subscriber list