



Legislation Details (With Text)

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File created: 7/14/2020 **In control:** Emergency Management
On agenda: 7/23/2020 **Final action:**
Title: Consideration of enhanced COVID-19 Education and Compliance Program and Administrative Citation and Civil Penalty Ordinance
Sponsors: County Counsel, County Administrator, Health Services, Emergency Management
Indexes:
Attachments: 1. 07-23-20 Agenda Item Summary Report, 2. 7.23.2020 Consideration COVID Compliance Program Ordinance_PowerPoint FINAL REV2.pdf

Date	Ver.	Action By	Action	Result
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To: Board of Supervisors, County of Sonoma
Department or Agency Name(s): County Counsel, County Administrator,, Emergency Management
Staff Name and Phone Number: Debbie Latham/565-2421; Sheryl Bratton/565-2431; Chris Godley/565-1152
Vote Requirement: Majority
Supervisory District(s): Countywide

Title:
Consideration of enhanced COVID-19 Education and Compliance Program and Administrative Citation and Civil Penalty Ordinance

- Recommended Action:**
- A) Receive staff report and consider development of an enhanced COVID-19 Education and Compliance Program.
 - B) Provide Direction on adoption of an Administrative Citation and Civil Penalty Urgency Ordinance.

Executive Summary:
The COVID-19 pandemic is unprecedented in duration and scope. On July 13, 2020, Sonoma County was placed on a State County Watch List by the California Department of Public Health due to the recent local spread of COVID-19 infections and hospitalizations. As a result, State orders closed a number of local business sectors. It is more important than ever to remain vigilant in stopping the spread of the virus to protect the capacity of the health care system, the health of our most vulnerable community members and our economy. Education and community engagement remain critical tools to mitigate COVID-19 spread. Enhancement of these efforts through a targeted educational and compliance program is now key to support public health as Sonoma County experiences a surge in increased virus infections. Enforcement of the safety protocols and business closure requirements proscribed in State and local Health Officer Orders, to date, is complaint driven by reports to local law enforcement. In Sonoma County, each law enforcement jurisdiction has responded to complaints by educating those involved and, as a last resort, issuing citations. Adoption of a civil administrative citation ordinance with civil penalties on an urgency basis is recommended as an adjunct to

current efforts both to give law enforcement additional tools and to allow other staff resources to be devoted to addressing those violations of the health orders that create serious risk of virus spread.

To achieve these goals a number of county departments have coordinated their efforts. These compliance and education efforts would be coordinated with each city in the County, all of whom are committed to reducing virus spread within their own jurisdictions. This civil compliance team would further work to coordinate with the State "Strike team" consisting of ABC, Board of Cosmetology, OSHA, State contractors/ Licensing Board that are ramping up state health order enforcement efforts in counties on the Watch List.

Discussion:

On July 10, 11, and 12, 2020, Sonoma County recorded daily case counts of COVID-19 exceeding the limits set forth by the State Public Health Officer and State health officials directed closure of certain businesses and indoor operations for a period of not less than three weeks. Additionally, on July 13, 2020, the Governor announced that certain businesses and indoor operations that promote the mixing of populations beyond households must close statewide, and that Sonoma County must close indoor operations such as gyms, places of worship, offices for non-critical businesses, personal care services, and malls.

Prior to the State orders, Sonoma County's COVID-19 infection rates doubled in a matter of weeks and hospitalizations and deaths - currently at 19-- have tragically continued to climb. These statistics reveal a need to enhance education and outreach efforts as well as enforcement to incentivize compliance to protect community health and local businesses from additional closures

Enforcement to date:

Since the inception of the original County Health Officer Shelter in Place Order in March 2020, enforcement of the provisions in the Order has primarily rested with city and county law enforcement. Law Enforcement response occurs in response to observed violations and/or upon receipt of a specific complaint. Education and voluntary compliance has been the predominant strategy. In some instances, Law Enforcement has issued criminal citations where voluntary compliance was not achieved. Those citations are referred to the District Attorney's Office for possible prosecution. Other enforcement efforts have included County Counsel issuance of Cease and Desist letters to commercial violators, negotiated closures and one civil action.

Complaints of possible violations come from many sources, including emails to the County Health Department, telephone calls to 211, and direct reports to law enforcement. Enforcement of the order has been complicated, in part, due to the rapid change in requirements of both State and County orders.

Additionally, the State has recently taken a more active role with an Enforcement Task Force consisting of ABC, CalOSHA and other State licensing entities.

The violations most complained of are commercial establishments operating in violation of the order. With the dimming of the switch by the State Health Orders to reclose certain industries, it is anticipated that enforcement needs will increase. Non-household gatherings, social distancing and mask order violations have also increased and have led to increased transmission rates.

Proposed Compliance Program:

To address the ongoing COVID-19 increases, Staff is recommending your Board consider an enhanced program that contains the following components:

1. Enhanced Education and Outreach

Providing timely, consistent and detailed information to the public will play a pivotal role in the success of a COVID-19 Education and Compliance Program. Given the time sensitivity of this proposed ordinance, the County's Strategic Communications unit (staff) will add the public awareness portion of this COVID-19 compliance program as a component of the COVID-19 Summer Communications Plan, already approved by the Board of Supervisors.

Thus, the "Safe Sonoma Summer" campaign would be expanded to include:

- Bilingual (English and Spanish) social media posts using relevant data to educate the public about the importance of compliance and the dates concerning when the County will begin issuing citations.
- Creation of bilingual infographics indicating the various civil penalties proposed as part of the compliance program. The graphics would be made available to share as posters for businesses, supermarkets and other available public locations.
- Creation of videos to be shared on social media and the county's SoCoemergency.org and SoCoEmergencia.org web sites explaining details and timeline of the compliance program. Staff also can support the creation of additional videos, in different formats, to delve into the "why" behind the compliance program as well as to reiterate the importance of wearing masks and practicing proper social distancing.
- Developing radio commercials and print ads to increase public awareness about the implementation timeline of the compliance program.
- Providing support for the county hotline call takers as they respond to public inquiries about the program.
- Participate in interviews with local, and Bay Area, media outlets to share about the program, as requested.
- Leverage other communication channels, including the SoCoEmergency website, the regional public information group, the Latinx stakeholder group and any other relevant stakeholders to expand the public's awareness about the compliance program.

The estimated cost of staffing for a 20-week education/communications campaign is approximately \$76,800 which includes two fulltime employees devoted to COVID communications campaign for 20 week. In addition, the campaign would need approximately \$30,000 to \$50,000 to support the marketing efforts:

- Video production: \$1,000 - \$5,000
- Infographic development for social media: \$1,200 - \$2,000
- Print, digital and social media ads: \$12,000
- Radio Commercials (English and Spanish) per month: \$15,000 - \$25,000
- Latinx supermarket videos: \$2,000 - \$3,000
- Printing: \$1,000 - \$5,000

2. **Creation of a centralized Compliance Hotline**

Outreach to City partners through City Managers and City Attorneys has revealed interest in a centralized call-in line for compliance reporting similar to the model just adopted in Napa County. The COVID-19 Compliance Hotline could be staffed by the County. Call takers would triage the calls and forward to the applicable local agency designated staff for follow-up. The hotline would be similar in approach to using 211 for COVID-19 questions. The benefits of a hotline creation are centralization to provide better coordination between the jurisdictions within the County and to provide the public with a dedicated resource to report suspected significant violations of Health Officer Orders to streamline the process.

3. **Adoption of an Administrative Citation and Civil Penalty Ordinance (Urgency)**

To supplement the existing misdemeanor criminal citation process available to law enforcement to enforce Health Officer Orders, staff is seeking direction from your Board to bring back for adoption an Administrative Citation Ordinance with civil penalties. Staff proposes adopting an urgency ordinance to enable County staff to use existing administrative enforcement mechanisms in Chapter 1 to enforce a violation of any local or state health order, mandate, or site-specific protocol. Chapter 1 provides several administrative enforcement mechanisms including imposing a one-time civil penalty via an administrative citation and pursuing administrative abatement and imposing ongoing civil penalties via a notice and order. The ordinance could propose civil penalties specifically for violations of a public health order, recommended at a flat penalty amount as follows:

- \$100 for non-commercial activity, per violation, such as a large house party, or repeated refusal to wear a mask;
- \$1,000 for commercial activity, such as holding a concert or a business's repeated refusal to enforce mask requirements for employees or customers inside their establishment.

Other jurisdictions have adopted civil penalties at various ranges. Napa County has adopted a range of \$25 to \$500 fines for masking and other violations by individuals and fines for commercial violations of between \$200 and \$5,000; Mendocino's ordinance also established a non-commercial penalty not to exceed \$500 and commercial penalty not to exceed \$10,000. The civil penalties are intended to be high enough to deter violations, while remaining proportionate to the activity.

Staff is recommending a flat penalty amount in order to remove discretion as to the amount from the issuer that could lead to a disparate financial impact.

The proposed urgency ordinance would be effective throughout the county, including both incorporated and unincorporated areas. This would enable enforcing officers in incorporated cities and towns to enforce public health order violations under the same provisions without being mandated to do so with the option of adopting their own locally tailored ordinance. Lastly, the proposed ordinance would clearly authorize the County Counsel's Office to file a civil action to enjoin a violation of a public health order, without first seeking

authority from the Board, so that staff can move quickly to address the most egregious violations. The ordinance would remain in effect for the duration of the local emergency, unless modified or revoked by the Board.

4. Staffing the COVID Compliance Hotline and Inspection Team

Staff recommend the Board dedicate sufficient resources to hire additional code enforcement inspectors, an additional environmental health specialist and administrative personnel to operate the complaint hotline and triage and investigate complaints that occur in the unincorporated county. The code enforcement inspectors would be able to educate violators first and where necessary issue administrative penalties. In addition, park rangers could help educate park visitors at the County’s regional parks and if needed, issue administrative tickets to park users who refuse to follow the State and local health order. The projected cost for setting up the code enforcement team is approximately \$350,000-\$450,000 and would allow for 3 extra help code enforcement inspectors, 1 environmental health specialist and 2 office assistants to support the work needed associated with the hotline and administrative citation program.

Prior Board Actions:

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FISCAL SUMMARY

Expenditures	FY 19-20 Adopted	FY20-21 Projected	FY 21-22 Projected
Budgeted Expenses			
Additional Appropriation Requested			
Total Expenditures			
Funding Sources			
General Fund/WA GF			
State/Federal			
Fees/Other			
Use of Fund Balance			
Contingencies			
Total Sources			

Narrative Explanation of Fiscal Impacts:

If the Board directs staff to bring back the civil enforcement ordinance and program, the necessary resources (approximately \$426,800 to 526,800) would be funded out of identified available source and/or General Fund contingencies.

Staffing Impacts:

Position Title (Payroll Classification)	Monthly Salary Range (A-I Step)	Additions (Number)	Deletions (Number)

Narrative Explanation of Staffing Impacts (If Required):

None.

Attachments:

PowerPoint Presentation.

Related Items "On File" with the Clerk of the Board:

None.