



Agenda Item B.3
DISCUSSION/ACTION ITEM
Meeting Date: April 7, 2020

TO: Mayor and Councilmembers

FROM: Michael Jenkins, City Attorney

CONTACT: Winnie Cai, Assistant City Attorney

SUBJECT: Urgency Ordinance Adding Punishment of Violation Section to Title 2 of the Goleta Municipal Code.

RECOMMENDATION:

By a four-fifths vote, Adopt Ordinance No. 20-__ entitled "An Urgency Ordinance of the City Council of the City of Goleta, California, Adding Section 2.10.100 (Punishment of Violation) to Title 2 (Administrative Personnel) Chapter 2.10 (Emergency Organization)."

BACKGROUND:

Title 2 (Administrative Personnel) Chapter 2.10 (Emergency Organization) of the Goleta Municipal Code provides for the preparation and implementation of plans for the protection of persons and property within the City in an event of an emergency.

Under Goleta Municipal Code Section 2.10.016 (Powers and Duties of the Director and Assistant Director of Emergency Services) the City Manager has authority to declare a local State of Emergency.

DISCUSSION:

The urgency ordinance proposes to add penalty provisions to any violations of Chapter 2.10. The proposed ordinance makes it a violation to:

- a) willfully obstruct, hinder, or delay any member of the emergency organization in the enforcement of any lawful rule or regulation issued pursuant to Chapter 2.10;
- b) do any act forbidden by any lawful rule or regulation issued pursuant to that chapter;
- c) wear, carry or display, without authority, any means of identification specified by the emergency agency of the state; and
- d) be in violation of any lawful curfew order enacted pursuant to that chapter, unless the individual violates such order by reason of good cause, necessity or is homeless and has no place to go.

Staff proposes that a violation during an emergency shall be subject to imposition of an administrative citation or prosecuted as a misdemeanor. The standard penalties associated with administrative citations would apply, including \$100 per occurrence for the first violation, \$200 per occurrence for the second violation within a year of the first violation, and \$500 per occurrence for any subsequent violations within a year of the first violation. (GMC 1.02.080.) In addition, if a misdemeanor is pursued, it would be punishable by a fine, not-to-exceed one thousand dollars (\$1,000), or by imprisonment, not-to-exceed six months, or both. (Penal Code section 19.)

This ordinance is adopted on an urgency basis for the immediate preservation of the public peace, health and safety pursuant to Government Code section 36937. The world is currently experiencing a pandemic of the COVID-19 illness, which could result in severe sickness or death. In its regularly scheduled meeting on March 17, 2020, the City Council passed Resolution 20-18 to ratify the City Manager's emergency proclamation made on March 14, 2020 and issued orders to require the closure of restaurants and bars with the exception of take-out or pick-up orders, require the closure of commercial gyms and fitness centers, bowling alleys, movie theatres and arcades, prohibit the use of public play structures and equipment, require the placement of signs at City parks and beaches about the need to social distance, and impose a temporary moratorium on residential and commercial evictions. These orders were taken in order to the alleviate the threat to the health and safety of City residents in light of the imminent spread of the COVID-19 illness.

This ordinance must be passed by a four-fifths vote of the City Council in order for it to take effect immediately.

ALTERNATIVES:

The City Council could elect not to adopt the proposed urgency ordinance adding Section 2.20.100 (Punishment of Violation) to Chapter 2.10 (Emergency Organization) of the City of Goleta Municipal Code. Not adopting the ordinance would result in ambiguity as to the enforceability of the City's orders issued during an emergency.

FISCAL IMPACTS:

There are no fiscal impacts associated with the proposed urgency ordinance.


Reviewed By:


Kristine Schmidt
Assistant City Manager

Legal Review By:


Michael Jenkins
City Attorney

Approved By:


Michelle Greene
City Manager

ATTACHMENT:

1. Urgency Ordinance No. 20-__ entitled "An Ordinance of the City of Goleta, California, Adding Section 2.10.100 (Punishment of Violation) To Title 2 Chapter 2.10 (Emergency Organization) and Declaring the Urgency Thereof"

Attachment 1

An Ordinance of the City of Goleta, California, Adding Section 2.10.100 (Punishment of Violation) To Title 2 Chapter 2.10 (Emergency Organization) and Declaring the Urgency Thereof

ORDINANCE NO. 20-__U

**AN ORDINANCE OF THE CITY OF GOLETA,
CALIFORNIA, ADDING SECTION 2.10.100
(PUNISHMENT OF VIOLATION) TO TITLE 2
CHAPTER 2.10 (EMERGENCY
ORGANIZATION) AND DECLARING THE
URGENCY THEREOF**

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF
GOLETA DOES HEREBY ORDAIN AS FOLLOWS:**

SECTION 1. Title 2 (Administrative Personnel) of Chapter 2.10 (Emergency Organization) of the Goleta Municipal Code provides for the preparation and implementation of the plans for the protection of persons and property within the City in the event of an emergency. The purpose of this Ordinance is to amend Title 2 Chapter 2.10 to add Section 2.10.100 (Punishment of Violation) to add penalty provisions for violations of any emergency order issued by the City.

SECTION 2. Section 2.10.100 (Punishment of Violations) is hereby added to Title 2 (Administrative Personnel) Chapter 2.10 (Emergency Organization) of the Goleta Municipal Code and shall read as follows:

2.10.100 Punishment of Violations.

A. During a local emergency, no person shall:

1. Willfully obstruct, hinder, or delay any member of the emergency organization in the enforcement of any lawful rule or regulation issued pursuant to this chapter, or in the performance of any lawful rule or regulation issued pursuant to this chapter.
2. Do any act forbidden by any lawful rule or regulation issued pursuant to this chapter.
3. Wear, carry, or display, without authority, any means of identification specified by the emergency agency of the state.
4. Be in violation of any lawful curfew order enacted pursuant to this chapter, unless the individual violates such order by reason of good cause, necessity or is homeless and has no place to go.

B. The City may enforce violations of this section by:

1. imposing an administrative citation pursuant to Chapter 1.02.
2. prosecuting a misdemeanor, punishable by a fine of not to exceed one thousand (\$1,000) dollars or by imprisonment for not to exceed six months, or both.

SECTION 3. Certification of City Clerk.

The City Clerk shall certify to the adoption of this ordinance and, within 15 days after its adoption, shall cause it to be published in accord with California Law.

SECTION 4. **Urgency Findings.** This ordinance is adopted on an urgency basis for the immediate preservation of the public peace, health and safety pursuant to Government Code section 36937. The world is currently experiencing a pandemic of COVID-19 virus, which is spreading and resulting in severe illness or death. In its regularly scheduled meeting on March 17, 2020, the City Council passed Resolution 20-18 to ratify the City Manager's emergency proclamation made on March 14, 2020 and issued orders to require the closure of restaurants and bars with the exception of take-out or pick-up orders, require the closure of commercial gyms and fitness centers, bowling alleys, movie theatres and arcades, prohibit the use of public play structures and equipment, require the placement of signs at City parks and beaches about the need to social distance, and impose a temporary moratorium on residential and commercial evictions. These orders were taken in order to the alleviate the threat to the health and safety of City residents in light of the imminent spread of the COVID-19 virus. It is necessary for the immediate preservation of public health and safety that the City's emergency orders be enforceable by criminal penalty in order that they be effective and serve their intended purpose. In the absence of this ordinance, the City will be hampered in its ability to enforce its emergency orders.

SECTION 5. Effective Date.

This ordinance is adopted as an urgency ordinance for the immediate preservation of the public peace, health and safety within the meaning of California Government Code Section 36937 (b) and therefore shall be passed immediately upon its introduction and take effect immediately upon adoption by four-fifths of the City Council.

PASSED, APPROVED, AND ADOPTED this _____ day of _____ 2020.

PAULA PEROTTE, MAYOR

ATTEST:

APPROVED AS TO FORM:

DEBORAH S. LOPEZ
CITY CLERK

MICHAEL JENKINS
CITY ATTORNEY

STATE OF CALIFORNIA)
COUNTY OF SANTA BARBARA) ss.
CITY OF GOLETA)

I, DEBORAH S. LOPEZ, City Clerk of the City of Goleta, California, do hereby certify that the foregoing Ordinance No. 20-__ was introduced on _____, and adopted at a regular meeting of the City Council of the City of Goleta, California, held on the _____, by the following roll-call vote, to wit:

AYES:

NOES:

ABSENT:

ABSTENTIONS:

(SEAL)

DEBORAH S. LOPEZ
CITY CLERK