

**ORDINANCE NO. 2020-012**

**AN EMERGENCY ORDINANCE OF THE  
CITY COUNCIL OF THE CITY OF SAN  
BUENAVENTURA, CALIFORNIA,  
AMENDING CHAPTER 2.370, "CITY  
EMERGENCY ORGANIZATION AND  
FUNCTIONS," OF THE SAN  
BUENAVENTURA MUNICIPAL CODE TO  
ENABLE CITY OFFICERS TO ISSUE  
ADMINISTRATIVE CITATIONS WITH  
RESPECT TO VIOLATIONS OF THE  
VENTURA COUNTY HEALTH OFFICER'S  
ORDERS ISSUED IN CONJUNCTION WITH  
DECLARED LOCAL HEALTH  
EMERGENCIES, EMERGENCY ACTIONS  
OF THE CITY, AND MAKING THE AMOUNT  
OF THE PENALTY FOR VIOLATIONS  
CONSISTENT WITH STATE LAW**

**WHEREAS**, Section 706(c) of the Charter of the City of San Buenaventura authorizes the City Council to adopt emergency ordinances which become effective immediately upon adoption when the City Council determines the same is necessary to preserve the public peace, health, or safety, and the emergency ordinance contains the reasons for its urgency; and,

**WHEREAS**, On March 4, 2020, the Governor of the State of California proclaimed a state of emergency to exist in California as a result of the threat of COVID-19; and,

**WHEREAS**, On March 12, 2020, the County of Ventura declared a state of emergency as a result of the threat of COVID-19; and,

**WHEREAS**, On March 13, 2020, the President of the United States declared a national emergency as a result of the threat of COVID-19; and,

**WHEREAS**, On March 15, 2020, as a result of this danger to the residents of Ventura, the City Manager, acting as the Director of Disaster Services under Chapter 2.370 of the San Buenaventura Municipal Code, proclaimed the existence of a local emergency; and,

**WHEREAS**, The City Council ratified the City Manager's proclamation on March 17, 2020; and,

**WHEREAS**, On March 17, 2020, the Ventura County Health Officer issued an Order Directing Vulnerable Individuals Living in the County to Shelter at Their Place of Residence, Restrictions of Certain Businesses, Among Other Orders, which placed operational limitations on businesses within the County in Response to COVID-19; and,

**WHEREAS**, On March 19, 2020, the Governor of the State of California issued an executive order directing all residents of California to stay at their place of residence unless needed to maintain a continuity of operations of designated services; and,

**WHEREAS**, On March 20, 2020, the Ventura County Health Officer issued an Order Directing Persons Living in the County of Ventura to Stay at Their Places of Residence and Restricting Non-Essential Activities in Response to COVID-19 imposing stay-at-home directives and further operational restrictions on businesses within the County in an effort to stop the spread of COVID-19; and,

**WHEREAS**, On March 31, 2020, the Ventura County Health Officer issued an Order Extending the Health Officer's Order Dated March 17, 2020, and Imposing Additional Limitations on Activities and Businesses, which placed additional restrictions on restaurants, essential businesses, and other businesses within the County; and,

**WHEREAS**, The orders of the Ventura County Health Officer above are and any future orders will be designed to protect the health of residents within the City's jurisdiction by limiting the social interaction of City residents through social distancing in an effort to limit the spread of COVID-19; and,

**WHEREAS**, The Ventura Police Department and Code Enforcement Division have reported that some businesses within the City's jurisdiction are not complying with the orders; and,

**WHEREAS**, The City of San Buenaventura Municipal Code does not currently authorize the enforcement of orders of the Ventura County Health Officer nor include a mechanism to encourage compliance with the orders in an expedient and effective way; and,

**WHEREAS**, Without immediate action to authorize enforcement of the orders and create a program to encourage compliance with the orders, the benefit of those orders in reducing the spread of COVID-19 may not be realized; and,

**WHEREAS**, The City Council finds that this Emergency Ordinance is a necessary step to protect the health of the City and its residents and visitors.

The Council of the City of San Buenaventura does ordain as follows:

Section 1. **PURPOSE.** The purpose of this amendment is to authorize appropriate City officers to enforce the provisions of orders issued by the Ventura County Health Officer in conjunction with declared local health emergencies.

Section 2. **AMENDMENT TO CODE.** Division 2, "Administration," of the San Buenaventura Municipal Code is hereby amended to add subsection (7) to Section 2.370.050, "Director of Disaster Services," and to add Section 2.370.055, "Citation Process—Public Health Orders," and Section 2.370.056, "Citation Process—Emergency Actions," to read as follows:

**"Chapter 2.370  
City Emergency Organization and  
Functions**

**Sec. 2.370.050. Director of Disaster  
Services.**

The City Manager shall also serve as the Director of Disaster Services, and in that capacity shall have the additional power and responsibility to:

1. Request the City Council to proclaim the existence or threatened existence of a 'local emergency' if the City Council is in session, or to issue such proclamation if the City Council is not in session. However, whenever the Director of Disaster Services proclaims the existence of a local emergency, the City Council shall take action to ratify the proclamation within seven days thereafter or the proclamation shall have no further force or effect.
2. Request the Governor to proclaim a 'state of emergency' when, in the opinion of the Director of Disaster Services, the locally available resources are inadequate to cope with the emergency.
3. Control and direct the effort of the emergency organization of the city for the accomplishment of the purposes of this Chapter.
4. Direct cooperation between and coordination of services and staff of the emergency organization of the City, and resolve questions of authority and responsibility that may arise between them.
5. Represent the city in all dealings with public or private agencies on matters pertaining to emergencies as defined herein.
6. In the event of the proclamation a state

of emergency by the Governor or the Director of the State Office of Emergency Services:

- (a) To make and issue rules and regulations on matters reasonably related to the protection of life and property as affected by such emergency; provided, however, such rules and regulations must be confirmed at the earliest practicable time by the City Council.
- (b) To obtain vital supplies, equipment and such other property found lacking and needed for the protection of the life and property and to bind the City for the fair value thereof and, if required immediately, to commandeer the same for public use.
- (c) To require emergency services of any city officer or employee and command the aid of as many citizens of this community as the Director of Disaster Services deems necessary in the execution of his or her duties, which persons shall be entitled to all privileges, benefits and immunities as are provided by state law for registered disaster service workers.
- (d) To requisition necessary personnel or material of any City department or agency; and,

- (e) To execute all of all of the special powers conferred upon the Director of Disaster Services by this Chapter or by resolution or emergency plan adopted by the City Council, and all powers conferred upon him or her by a statute, by an agreement approved by the City Council and by any other lawful authority.

7. Direct the Ventura Police Department and the City's Code Enforcement Division to enforce any and all orders issued by the Ventura County Health Officer in conjunction with declared local health emergencies, utilizing the enforcement procedures under Section 2.370.055.

**Sec. 2.370.055. Citation Process – Public Health Orders.**

In addition to, and not in lieu of, any remedy that may be pursued for a violation, if the City Manager issues a directive provided for in Section 2.370.050(7), the following procedure shall be utilized with respect to the issuance of administrative citations issued under that section:

1. Definitions

- a. 'Citee' means the person to whom an enforcement officer has issued an administrative citation for a violation of a Ventura County Health Officer order.

b. 'Enforcement officer' means a Ventura Police Officer or a City Code Enforcement Officer.

c. 'Day' means a business day during which City Hall is typically open to the public.

2. Educational Process – The City Manager, Chief of Police, and Community Development Director will formulate a process to educate the public and organizations regarding the provisions of the Ventura County Health Officer order and to encourage voluntary compliance therewith. That educational and voluntary compliance process will be implemented prior to the City utilizing any of the enforcement procedures in this section.

3. Warning Process – The following warning process shall be followed by the Ventura Police Department and the City's Code Enforcement Division subsequent to the educational process referred to in subsection (2) being implemented:

(a) Documented Verbal Warning – Upon witnessing a violation of the order issued by the Ventura County Health Officer in conjunction with a declared local health emergency, the enforcement officer witnessing the violation shall orally notify the violator of the violation and request compliance therewith. The enforcement officer shall document the verbal warning in a format approved by the City Attorney's Office.

(b) Written Warning – If the verbal warning given pursuant to subsection (3)(a)

does not result in compliance with the Ventura County Health Officer's order within 24 hours of the issuance of the verbal warning, the enforcement officer shall issue the violator a written warning listing the specific provision(s) of the order that has or have been violated. The written warning shall be in a form approved by the City Attorney's Office.

#### 4. Administrative Citation Process

(a) Administrative Citation -- If the written warning given pursuant to subsection 3(b) does not result in compliance with the Ventura County Health Officer's order within 24 hours of the issuance of said warning, the enforcement officer shall issue the violator an administrative citation listing the specific provision(s) of the order that has or have been violated. The administrative citation shall be in a form typically utilized by the City. A copy of the citation shall be provided to the City Clerk's Office. An administrative citation issued under this sub-section shall carry with it a civil fine of \$500.

#### (b) Administrative Review

(1) Initial Review – If a person or organization issued an administrative citation pursuant to subsection 4(a) elects to contest the citation, a 'Request for Initial Review' must be submitted to the City Clerk's Office, on a form approved by the City Attorney's Office, within ten days of issuance of the citation. The City Clerk's Office shall send a copy of the administrative citation and 'Request for Initial Review' to the enforcement officer and his or her department head. The department head shall immediately appoint a



reviewer. If the citation was issued by a Ventura Police Officer, the reviewer shall be a member of the Ventura Police Department of the rank of Commander or higher; if the citation was issued by a Code Enforcement Officer, the reviewer shall be the City's Code Enforcement Division Manager. In determining whether to uphold or overturn the citation, the reviewer shall consider (a) whether there was a violation of the Ventura County Health Officer order, and (2) whether the violation was, in fact, committed by the citee. The initial review decision shall be in writing, either upholding or overturning the issuance of the administrative citation, and shall be completed within five days of receipt of the request for initial review. The reviewer shall send the decision to the citee by US Mail and to the enforcement officer by e-mail, with a copy to the City Clerk. If the decision is not sent within five days of the department head appointing the reviewer, the administrative citation will be considered vacated.

(2) Administrative Hearing -- If a person or organization issued an administrative citation which is upheld by the reviewer pursuant to subsection (4)(b)(1) elects to contest the reviewer's decision, a 'Request for Administrative Hearing' must be submitted to the City Clerk's Office, on a form approved by the City Attorney's Office, within ten days of the reviewer's decision being mailed to the citee. The request shall be accompanied by a deposit of \$500, unless the citee demonstrates a valid financial hardship pursuant to Section 1.050.430.

a. Notice – Notice of the hearing shall be sent to the cite by the City

Clerk via US Mail and the enforcement officer who issued the citation via e-mail. A copy of the notice shall also be provided to the enforcement officer's department head. The department head shall immediately provide the City Clerk with copies of the documented verbal warning, written warning and reviewer's decision.

b. Time – The administrative hearing shall be scheduled for a date within 15-30 days of the notice being mailed to the cite and e-mailed to the enforcement officer. The hearing date may be continued once for an additional period of ten days if a request to do so is made by the citee or enforcement officer within five days of receiving the original notice.

c. Hearing Officer – The hearing officer shall be the Assistant City Manager, Deputy City Manager or a City department head (other than the City Attorney, Police Chief, or Community Development Department Director), appointed by the City Manager. The City Manager shall inform both the hearing officer and City Clerk's Office of the appointment. The hearing officer shall provide copies of the verbal warning, written warning, administrative citation and reviewer's decision to the hearing officer.

d. Enforcement Officer – The enforcement officer who issued the citation shall appear at the hearing, testify under oath, and present documentary evidence of the alleged violation. If the enforcement officer fails to appear at the hearing, the citation shall be vacated by the hearing officer.

e. Citee – The citee is not required to attend the hearing. If the citee does not attend the hearing, the enforcement officer must still attend the hearing and present evidence of the alleged violation.

f. Evidence – The provisions of the California Evidence Code shall not apply at the hearing, but (1) testimonial and documentary evidence submitted to the hearing officer shall be relevant to the matters at issue, and (2) rules of privilege shall apply. Copies of the documented verbal warning, written warning, and administrative citation shall be admitted into evidence. The citee and enforcement officer shall be given an opportunity to submit testimony from witnesses and to present documents.

g. Issues – In determining whether to uphold or overturn the decision of the reviewer, the hearing officer should consider (a) whether there was a violation of the Ventura County Health Officer order, and (2) whether the violation was, in fact, committed by the citee.

h. Decision – The hearing officer shall render a decision based on a preponderance of the evidence standard. The hearing officer shall issue a written decision either upholding or overturning the decision of the reviewer, citing the specific violation and the evidence which supports said violation. The decision shall be prepared within five days of the hearing being completed. The City Clerk shall send the decision to the citee via US Mail, and to the enforcement officer,

the reviewer and the enforcement officer's department head via e-mail. If the decision is not mailed and e-mailed within ten days of the decision being prepared, the administrative citation will be considered vacated.

i. Fine – If the hearing officer upholds the administrative citation, the City shall retain the \$500 deposit. If the hearing officer overturns the administrative citation, the City shall promptly return the \$500 deposit to the citee.

(3) Court Action – If a person or organization issued an administrative citation, which is upheld by a hearing officer, elects to contest the hearing officer's decision, said person or organization must do so in accordance with California Code of Civil Procedure section 1094.5, *et seq.*

### **Sec. 2.370.056. Citation Process – Emergency Actions.**

In addition to, and not in lieu of, any remedy that may be pursued for a violation, if the City Manager issues a directive provided for in Section 2.370.050 or the City Council adopts emergency ordinances for the purposes of mitigating a declared disaster or emergency ('Emergency Actions'), the following procedure shall be utilized with respect to the issuance of administrative citations issued under that section or to such emergency ordinance:

#### **1. Definitions**

a. 'Citee' means the person to whom an enforcement officer has issued an

administrative citation for a violation of an Emergency Action by the City.

b. 'Enforcement officer' means a Ventura Police Officer or a City Code Enforcement Officer.

c. 'Day' means a business day during which City Hall is typically open to the public.

2. Educational Process – The City Manager, Chief of Police, and Community Development Director will formulate a process to educate the public and organizations regarding the provisions of any Emergency Actions adopted by the City and to encourage voluntary compliance therewith. That educational and voluntary compliance process will be implemented prior to the City utilizing any of the enforcement procedures in this Section.

3. Warning Process – The following warning process shall be followed by the Ventura Police Department and the City's Code Enforcement Division subsequent to the educational process referred to in subsection (2) above being implemented:

(a) Written Warning – The enforcement officer shall issue the violator a written warning listing the specific provision(s) of the Emergency Action that has or have been violated. The written warning shall be in a form approved by the City Attorney's Office.

4. Administrative Citation Process

(a) Administrative Citation -- If the

written warning given pursuant to subsection 3(b) does not result in compliance with the Emergency Actions within 1 hour of the issuance of said warning, the enforcement officer shall issue the violator an administrative citation listing the specific provision(s) of the Emergency Actions that has or have been violated. The administrative citation shall be in a form typically utilized by the City. A copy of the citation shall be provided to the City Clerk's Office. An administrative citation issued under this subsection shall carry with it a civil fine of \$500.

(b) Administrative Review

(1) Initial Review – If a person or organization issued an administrative citation pursuant to subsection 4(a) elects to contest the citation, a 'Request for Initial Review' must be submitted to the City Clerk's Office, on a form approved by the City Attorney's Office, within ten days of issuance of the citation. The City Clerk's Office shall send a copy of the administrative citation and 'Request for Initial Review' to the enforcement officer and his or her department head. The department head shall immediately appoint a reviewer. If the citation was issued by a Ventura Police Officer, the reviewer shall be a member of the Ventura Police Department of the rank of Commander or higher; if the citation was issued by a Code Enforcement Officer, the reviewer shall be the City's Code Enforcement Division Manager. In determining whether to uphold or overturn the citation, the reviewer shall consider (a) whether there was a violation of any Emergency Actions, and (2) whether the violation was, in fact, committed by the citee.

The initial review decision shall be in writing, either upholding or overturning the issuance of the administrative citation, and shall be completed within five days of receipt of the request for initial review. The reviewer shall send the decision to the citee by US Mail and to the enforcement officer by e-mail, with a copy to the City Clerk. If the decision is not sent within five days of the department head appointing the reviewer, the administrative citation will be considered vacated.

(2) Administrative Hearing -- If a person or organization issued an administrative citation which is upheld by the reviewer pursuant to subsection (4)(b)(1) elects to contest the reviewer's decision, a 'Request for Administrative Hearing' must be submitted to the City Clerk's Office, on a form approved by the City Attorney's Office, within ten days of the reviewer's decision being mailed to the citee. The request shall be accompanied by a deposit of \$500, unless the citee demonstrates a valid financial hardship pursuant to Section 1.050.430.

a. Notice – Notice of the hearing shall be sent to the cite by the City Clerk via US Mail and the enforcement officer who issued the citation via e-mail. A copy of the notice shall also be provided to the enforcement officer's department head. The department head shall immediately provide the City Clerk with copies of the documented verbal warning, written warning and reviewer's decision.

b. Time – The administrative hearing shall be scheduled for a date within 15-30 days of the notice being

mailed to the cite and e-mailed to the enforcement officer. The hearing date may be continued once for an additional period of ten days if a request to do so is made by the citee or enforcement officer within five days of receiving the original notice.

c. Hearing Officer – The hearing officer shall be the Assistant City Manager, Deputy City Manager or a City department head (other than the City Attorney, Police Chief, or Community Development Department Director), appointed by the City Manager. The City Manager shall inform both the hearing officer and City Clerk's Office of the appointment. The hearing officer shall provide copies of the verbal warning, written warning, administrative citation and reviewer's decision to the hearing officer.

d. Enforcement Officer – The enforcement officer who issued the citation shall appear at the hearing, testify under oath, and present documentary evidence of the alleged violation. If the enforcement officer fails to appear at the hearing, the citation shall be vacated by the hearing officer.

e. Citee – The citee is not required to attend the hearing. If the citee does not attend the hearing, the enforcement officer must still attend the hearing and present evidence of the alleged violation.

f. Evidence – The provisions of the California Evidence Code shall not apply at the hearing, but (1) testimonial and documentary evidence submitted to the hearing officer shall be



relevant to the matters at issue, and (2) rules of privilege shall apply. Copies of the documented verbal warning, written warning, and administrative citation shall be admitted into evidence. The citee and enforcement officer shall be given an opportunity to submit testimony from witnesses and to present documents.

g. Issues – In determining whether to uphold or overturn the decision of the reviewer, the hearing officer should consider (a) whether there was a violation of the Emergency Actions, and (2) whether the violation was, in fact, committed by the citee.

h. Decision – The hearing officer shall render a decision based on a preponderance of the evidence standard. The hearing officer shall issue a written decision either upholding or overturning the decision of the reviewer, citing the specific violation and the evidence which supports said violation. The decision shall be prepared within five days of the hearing being completed. The City Clerk shall send the decision to the citee via US Mail, and to the enforcement officer, the reviewer and the enforcement officer's department head via e-mail. If the decision is not mailed and e-mailed within ten days of the decision being prepared, the administrative citation will be considered vacated.

i. Fine – If the hearing officer upholds the administrative citation, the City shall retain the \$500 deposit. If the hearing officer overturns the administrative citation, the City shall promptly return the \$500 deposit to the citee.

(3) Court Action – If a person or organization issued an administrative citation, which is upheld by a hearing officer, elects to contest the hearing officer’s decision, said person or organization must do so in accordance with California Code of Civil Procedure section 1094.5, *et seq.*”

Section 3. AMENDMENT TO CODE. Division 2, “Administration,” of the San Buenaventura Municipal Code is hereby amended to adjust Section 2.370.110, “Violations,” to read as follows:

“Sec. 2.370.110. - Violations.

It shall be a misdemeanor, punishable by a fine of not to exceed \$1,000.00, or by imprisonment for a period not to exceed six months, or both such fine and imprisonment, for any person, during an emergency to:

1. Willfully obstruct, hinder or delay any member of the City's emergency response organization in the enforcement of any lawful rule or regulation issued pursuant to this Chapter, or in the performance of any duty imposed upon him or her by virtue of this Chapter.
2. Do any act forbidden by any lawful rule or regulation issued pursuant this Chapter, if such act is of such a nature as to give or likely to give assistance to the enemy, or to imperil the lives or property of inhabitants of the City, or to prevent, hinder, or delay the defense or protection thereof.

3. Wear, carry or display without authority, any means of identification specified by the emergency agency of the State.”

Section 4. EXEMPTION FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT. The City Council finds that the enactment of this Ordinance is determined to be exempt under Section 15061(b)(3) of Title 14 of the California Code of Regulations (the "State CEQA Guidelines") in that its adoption does not present a potential for causing an adverse change in any of the physical conditions of the area. It can therefore be foreseen that the enactment of this Ordinance does not have the potential to result in significant effects on the environment.

Section 5. EFFECTIVE DATE. This Ordinance is an Emergency Ordinance pursuant to City Charter Section 706(c) and shall be in full force and effect immediately upon its adoption.

Section 6. PUBLICATION. The City Clerk is directed to cause a summary of this Emergency Ordinance to be published in the official newspaper at least once within fifteen (15) days after its adoption showing the vote thereon.

The foregoing Emergency Ordinance was introduced, passed, and adopted at a regular meeting of the City Council of the City of San Buenaventura on the \_\_\_ day of April, 2020.

PASSED and ADOPTED this 7th day of April, 2020.



MATT LAVERRE

Mayor

ATTEST:



ANTOINETTE M. MANN, MMC, CRM  
City Clerk

APPROVED AS TO FORM  
Gregory G. Diaz, City Attorney

By: Andy H. Viets 4/6/2020  
Andy H. Viets Date  
Senior Assistant City Attorney



CERTIFICATION

STATE OF CALIFORNIA            )  
COUNTY OF VENTURA         )    SS.  
CITY OF SAN BUENAVENTURA    )

I, ANTOINETTE M. MANN, City Clerk of the City of San Buenaventura, DO HEREBY CERTIFY that the foregoing is a full, true, and correct copy of Ordinance No. 2020-012 that was introduced and adopted by said City Council at a special meeting held April 7, 2020, by the following vote:

AYES:            Councilmembers Brown, Friedman, Weir, Heitmann, Deputy Mayor Rubalcava and Mayor LaVere

NOES:           None

ABSENT:         Councilmember Nasarenko

I further certify that said Ordinance No. 2020-012 was published as required by law in the VENTURA COUNTY STAR, a newspaper of general circulation printed and published in said City.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the City of San Buenaventura, California.

Antoinette M. Mann  
Antoinette M. Mann, MMC, CRM  
City Clerk  
City of San Buenaventura, California

April 7, 2020  
Date Attested

