

AN URGENCY ORDINANCE OF THE COUNTY OF MONTEREY, STATE OF CALIFORNIA, PROVIDING THAT VIOLATIONS OF LOCAL HEALTH OFFICER ORDERS, STATE PUBLIC HEALTH OFFICER ORDERS, CALIFORNIA DEPARTMENT OF PUBLIC HEALTH GUIDANCE, OR EXECUTIVE ORDERS OF THE GOVERNOR OF THE STATE OF CALIFORNIA, THAT REQUIRE THE WEARING OF MASKS OR FACIAL COVERINGS IN THE UNINCORPORATED AREA DURING THE COVID-19 PANDEMIC ARE VIOLATIONS OF THE COUNTY CODE AND SUBJECT TO THE ADMINISTRATIVE CITATION PROCESS OF MONTEREY COUNTY CODE CHAPTER 1.22

County Counsel Summary

This ordinance is an urgency ordinance for the immediate preservation of the public peace, health and safety of the County of Monterey while the State's Stay at Home Order and associated orders and guidance regarding the wearing of masks or facial coverings are in effect due to the COVID-19 pandemic. This ordinance would provide that violations of local health officer orders, State public health officer orders, guidance from the California Department of Public Health, or executive orders of the Governor of the State of California that require the wearing of masks or facial coverings in the unincorporated area during the COVID-19 pandemic are violations of the County Code and subject to the administrative citation process set forth in Chapter 1.22 of the County Code. This ordinance is an urgency ordinance pursuant to Government Code section 25123 and requires a four-fifths vote for adoption.

WHEREAS, on March 4, 2020, Governor Newsom issued a Proclamation of a State of Emergency in the State of California related to the COVID-19 pandemic; and,

WHEREAS, on March 6, 2020, the County Administrative Officer of the County of Monterey issued a proclamation declaring the existence of a local emergency in the County, and on March 13, 2020, the Monterey County Board of Supervisors ratified and extended the Declaration of a Local Emergency; and,

WHEREAS, on March 13, 2020, the President of the United States declared a national emergency; and,

WHEREAS, the Governor has issued from time-to-time Executive Orders establishing regulations restricting certain activities to protect the public health and safety during the COVID-19 pandemic; and,

WHEREAS, on March 17, 2020, Health Officer of the County of Monterey issued a Shelter-In-Place Order, which the Health Officer has extended and modified periodically, enacting restrictions on activities in Monterey County, including requiring physical distancing, to protect the public health and safety in compliance with the State Public Health Officer Orders setting baseline restrictions due to COVID-19; and,

WHEREAS, on March 19, 2020, the Governor and the State Public Health Officer issued a statewide Stay at Home order; and,

WHEREAS, the County Health Officer has issued various orders from time-to-time supplementing or replacing his orders; and,

WHEREAS, on April 28, 2020, the County Health Officer issued an order requiring the use of facial coverings in Monterey County with certain exceptions; and,

WHEREAS, the Health Officer of the County of Monterey issued a new Shelter-In-Place Order on May 26, 2020, which took effect when the State approved the County's Variance Attestation and which allowed certain categories of business to open with certain restrictions, including maintaining physical distancing measures; and,

WHEREAS, the May 26, 2020, Order did not rescind or replace the April 28, 2020, facial covering order; and,

WHEREAS, on June 18, 2020, the State Department of Public Health issued guidance requiring the wearing of masks and facial coverings during the COVID-19 pandemic, with various exemptions; and,

WHEREAS, the termination of the COVID-19 pandemic, Shelter-In-Place and Stay at Home Orders, and mask or facial covering orders and guidance are not known and cannot be known at this time; and

WHEREAS, the number of COVID-19 positive cases and related hospitalizations and fatalities in Monterey County continue to increase, and such increases are an issue of concern; and,

WHEREAS, the evidence and scholarly research has concluded that the wearing of masks or facial coverings helps slow the spread of COVID-19; and,

WHEREAS, violations of local health officer orders, State public health officer orders, guidance from the California Department of Public Health, or executive orders of the Governor of the State of California that require the wearing of masks or facial coverings are misdemeanors than can be processed through the criminal justice system; and,

WHEREAS, such criminal proceedings are burdensome to those involved in the process, including the California courts, Sheriff, District Attorney and Public Defender; and,

WHEREAS, an administrative citation and fine process will provide for more regular and cost effective enforcement of local health officer orders, State public health officer orders, guidance from the California Department of Public Health, and executive orders of the Governor of the State of California that require the wearing of masks or facial coverings; and,

WHEREAS, in light of the declared federal, state, and County emergency due to the occurrence of COVID-19, and the Orders of the County Health Officer and State Public Health Officer, the guidance from the California Department of Public Health, and the executive orders of the Governor of the State of California, there is an immediate need to provide for enforcement of those orders and guidance in a more administrative manner rather than through traditional criminal proceedings; and,

WHEREAS, pursuant to California Government Code section 25123, the immediate preservation of the public peace, health, safety and welfare requires adoption of this urgency ordinance to establish an administrative citation process for violations of local health officer orders, State public health officer orders, guidance from the California Department of Public Health, and executive orders of the Governor of the State of California that require the wearing of masks or facial coverings in the unincorporated area during the COVID-19 pandemic; and

WHEREAS, such an administrative citation process currently exists in Chapter 1.22 of the Monterey County Code; and,

WHEREAS, it is neither necessary nor appropriate to amend the County Code to provide for the administrative processing of violations of local health officer orders, State public health officer orders, guidance from the California Department of Public Health, or executive orders of the Governor of the State of California that require the wearing of masks or facial coverings during the COVID-19 pandemic because of the potential temporary nature of the circumstances requiring such orders and guidance; and,

WHEREAS, it is necessary and appropriate for the immediate protection of the public peace, health, safety and welfare of the County to provide that violations of local health officer orders, State public health officer orders, guidance from the California Department of Public Health, or executive orders of the Governor of the State of California that require wearing of masks or facial coverings in the unincorporated areas during the COVID-19 pandemic are violations of the Monterey County Code and subject to the Administrative Citation process set forth in Chapter 1.22 of the Monterey County Code; NOW THEREFORE,

The Board of Supervisors of the County of Monterey ordains as follows:

SECTION 1. PURPOSE AND FINDINGS.

Pursuant to Article XI, section 7 of the California Constitution, and Government Code sections 25845 and 53069.4, the County of Monterey may adopt and enforce ordinances and regulations not in conflict with general laws to protect and promote the public health, safety, and welfare of its citizens.

The Monterey County Board of Supervisors hereby finds and declares that the recitals set forth above are true and correct.

SECTION 2. VIOLATIONS.

Notwithstanding the definition of “administrative citation” in Section 1.22.020 of the Monterey County Code, any violation of a local health officer order, State public health officer order, guidance from the California Department of Public Health, or executive order of the Governor of the State of California that requires the wearing of masks or facial coverings in the unincorporated area during the COVID-19 pandemic is a violation of the Monterey County Code and subject to the Administrative Citation process set forth in Chapter 1.22 of the Monterey County Code, and subject to the fines set forth therein. Repeated violations of such order or guidance may be prosecuted as a misdemeanor in the discretion of the Monterey County District Attorney.

SECTION 4. ENFORCEMENT.

The Monterey County Sheriff and the Monterey County District Attorney shall not be required to, but may, enforce the provisions of this ordinance. The County Administrative Officer is authorized and directed to designate such County employees or officers as “enforcement officials,” as defined in Section 1.22.020 of the Monterey County Code, to enforce the provisions of this ordinance, and may hire full or part-time temporary employees or retired annuitants to perform such function. The County Administrative Officer shall ensure that appropriate training is provided to those persons designated to enforce the provisions of this ordinance.

SECTION 7. SEVERABILITY.

If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this ordinance. The Board of Supervisors hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared invalid.

SECTION 8. EFFECTIVE DATE AND TERM.

This ordinance shall take effect immediately as an urgency ordinance based on the finding of the Board of Supervisors that this ordinance is adopted in compliance with Government Code Section 25123, that it is necessary for the immediate protection of the public peace, health, and safety, and that it is necessary to prevent the County of Monterey from suffering significant deleterious impacts to the public health during this COVID-19 pandemic emergency.

This ordinance shall remain in effect until the last to occur of: a) termination of a local health officer order, b) termination of a State public health officer order, c) termination of guidance from the California Department of Public Health, or d) termination of an executive order of the Governor of the State of California, each of which requires the wearing of masks or facial coverings during the COVID-19 pandemic.

PASSED AND ADOPTED this ____ day of July 2020, by the following vote:

AYES:

NOES:

ABSENT:

Christopher M. Lopez, Chair,
Monterey County Board of Supervisors

AT T E S T:

VALERIE RALPH
Clerk of the Board

By: _____
Deputy

APPROVED AS TO FORM:

LESLIE J. GIRARD
County Counsel