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Consider adopting an urgency ordinance providing that violations of a local health officer order, state public health officer order, or executive order of the Governor of the State of California, requiring the wearing of masks or facial coverings in the unincorporated area during the COVID-19 pandemic are subject to an administrative citation process and fines.

..Report

RECOMMENDATION:

It is recommended that the Board of Supervisors consider adopting an urgency ordinance providing that violations of a local health officer order, state public health officer order, or executive order of the Governor of the State of California, requiring the wearing of masks or facial coverings in the unincorporated area during the COVID-19 pandemic are subject to an administrative citation process and fines.

SUMMARY/DISCUSSION:

The number of COVID-19 cases, and related hospitalizations and fatalities continues to increase in Monterey County. Studies have shown, and health professionals believe, the wearing of facial coverings or masks helps to slow the spread of the virus, and it is critical that the local and state orders requiring the wearing of facial coverings and masks be enforced. The Monterey County Health Officer issued an order on April 28, 2020, requiring the wearing of facial coverings (attached as Exhibit A) and on June 18, 2020, the State Department of Public Health issued similar guidance (attached as Exhibit B).

Violations of local and state health officer orders are misdemeanors, and the Governor has declined to make such violations an infraction. Processing as a misdemeanor is burdensome on the criminal justice system including the courts, District Attorney and law enforcement.

One alternative that has been pursued by many local cities, and other cities and counties around the state, is to make such violations administrative proceedings, subject to an administrative citation and fine. The County has an administrative citation process set forth in Chapter 1.22 of the County Code, and the proposed ordinance (attached as Exhibit C) makes violations of facial covering/mask orders subject to that process. The fines are already set forth in the County Code and escalate: \$100 for the first violation, \$200 for the second, and \$500 for subsequent violations. Repeated violations may be prosecuted as misdemeanors in the discretion of the District Attorney.

The County Administrative Officer will be authorized to designate the enforcement officials to enforce the ordinance, and will be authorized to hire temporary workers to fill that need. Such enforcement officials will be provided appropriate training.

The focus of the County will be on education, rather than citations, but citations may be necessary if education efforts are insufficient.

OTHER AGENCY INVOLVEMENT:

The Administrative Office and Health Department have been consulted on this issue.

FINANCING:

Implementation of the administrative citation process will have a financial impact. The extent of the impact, and source of financing is to be determined.

CEQA:

This action is not a project pursuant to the California Environmental Quality Act.

BOARD OF SUPERVISORS STRATEGIC INITIATIVES:

This proposed program correlates to the Health & Human Services Strategic Initiatives adopted by the Board of Supervisors by working towards the goals of improving health and quality of life outcomes to individuals and families to address the immediate threat to the public peace, health and safety and prevent displacement of tenants resulting from the economic impact of the COVID-19 pandemic.

Check the related Board of Supervisors Strategic Initiatives:

Economic Development:

- Through collaboration, strengthen economic development to ensure a diversified and healthy economy.

Administration:

- Promote an organization that practices efficient and effective resource management and is recognized for responsiveness, strong customer orientation, accountability and transparency.

Health & Human Services:

- Improve health and quality of life through County supported policies, programs, and services; promoting access to equitable opportunities for healthy choices and healthy environments in collaboration with communities.

Infrastructure:

- Plan and develop a sustainable, physical infrastructure that improves the quality of life for County residents and supports economic development results.

Public Safety:

- Create a safe environment for people to achieve their potential, leading businesses and communities to thrive and grow by reducing violent crimes as well as crimes in general.

Dated: July ____, 2020

Approved by: Leslie J. Girard, County Counsel

Prepared by: Leslie J. Girard

Attachments: Ex. A – Monterey County Health Officer order
Ex. B – CDPH Guidance for the use of face coverings
Ex. C – Draft ordinance