



## CITY COUNCIL STAFF REPORT

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**TO:** Honorable Mayor and City Council                      **DATE:** July 6, 2020

**FROM:** Matthew Bronson, City Manager

**PREPARED BY:** David Hale, City Attorney  
Matthew Bronson, City Manager

**SUBJECT:** Urgency Face Coverings Ordinance Affirming Guidance Issued by the California Department of Public Health

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### **RECOMMENDATION**

Adopt an Urgency Ordinance affirming the guidance issued by the California Department of Public Health on June 18, 2020 requiring use of face coverings in indoor and outdoor settings where physical distance is not practical and rescind the previous Urgency Ordinance adopted on June 1, 2020.

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### **BACKGROUND**

Given the COVID-19 pandemic, numerous organizations at many different levels of government have declared national and local emergencies consistent with their authority and based upon enabling legislation authorizing these actions. The President of the United State proclaimed a Declaration of a National Emergency and on March 4, 2020, the Governor of the State of California declared a State of Emergency for the State of California and has issued numerous Executive Orders and directions regarding measures to mitigate the spread of cases of COVID-19 within the state.

The City of Grover Beach has also taken numerous actions to protect public health including adoption of an Urgency Ordinance on June 1, 2020 to protect essential workers by the use of face coverings. This ordinance was adopted by the Council as a way to minimize the spread of COVID-19 within our community with requirements similar to those adopted in Pismo Beach for regional consistency. The ordinance requires businesses to post signage with recommendations from the Centers for Disease Control (CDC) to wear face coverings when physical distancing is not possible and also requires face coverings by employees working in a publicly accessible area when physical distancing is not possible. The City's ordinance was adopted in lieu of a countywide ordinance and the Council provided policy direction to contact the County requesting such a countywide ordinance which was carried out by staff.

On June 18, 2020, the California Department of Public Health issued new guidance on the use of cloth face coverings that is applicable statewide (shown as Attachment 2). This guidance was tied to the State's Executive Order directing all residents to follow State Public Health directives. In general, face coverings are required to be worn when individuals are in high-risk situations identified below unless the individuals have a defined exemption:

- Inside of, or in line to enter, any indoor public space;
- Obtaining services from the healthcare sector in settings including, but not limited to, a hospital, pharmacy, medical clinic, laboratory, physician or dental office, veterinary clinic, or blood bank;

- Waiting for or riding on public transportation or paratransit or while in a taxi, private car service, or ride-sharing vehicle;
- Engaged in work, whether at the workplace or performing work off-site, when:
  - Interacting in-person with any member of the public;
  - Working in any space visited by members of the public, regardless of whether anyone from the public is present at the time;
  - Working in any space where food is prepared or packaged for sale or distribution to others;
  - Working in or walking through common areas, such as hallways, stairways, elevators, and parking facilities;
  - In any room or enclosed area where other people (except for members of the person's own household or residence) are present when unable to physically distance.
- Driving or operating any public transportation or paratransit vehicle, taxi, or private car service or ride-sharing vehicle when passengers are present. When no passengers are present, face coverings are strongly recommended.
- While outdoors in public spaces when maintaining a physical distance of 6 feet from persons who are not members of the same household or residence is not feasible.

Local agencies generally have the ability to enforce State public health orders and guidance. The San Luis Obispo County Counsel has opined that the State's orders and guidance are issued under both the Health and Safety Code and the State Emergency Services Act and therefore may be enforced by local agencies if those agencies have incorporated and affirmed the State's orders and guidelines. Approval and adoption by the Council of the Urgency Ordinance shown in Attachment 1 will not only affirm the enforceability of the California Department of Public Health and regulations within the city, but further enhance the ability of the City Attorney's Office to act in any court proceedings arising from any enforcement action such as an administrative or criminal citation. However, the City's approach will be to seek compliance by businesses and individuals through education and awareness with enforcement action as a last resort if other compliance activities are not successful. This approach mirrors the City's approach to achieving compliance with other COVID-19 public health orders and the community has demonstrated a strong level of compliance.

In conclusion, staff is recommending the Council's adoption of an Urgency Ordinance that affirms the guidance issued by the California Department of Public Health on use of face coverings. Adoption of the ordinance requires a unanimous vote of the Council since there are currently four members of the Council and the ordinance would go into effect immediately with expiration upon the termination of this State guidance. In addition, staff is recommending the Council rescind the City's previous Urgency Ordinance adopted on June 1, 2020 to minimize confusion between the State guidance and City requirements. The only area that would be different from the State guidance in the new Urgency Ordinance is retaining the requirement for a business to post signage about the use of face coverings. Such a requirement is part of the City's existing Urgency Ordinance and this requirement as proposed would be modified so the signage reflected the State order rather than the CDC recommendation. The City will work with the South County Chambers of Commerce to distribute a revised sign that businesses can post to meet this ordinance requirement or businesses could post their own signage.

### **FISCAL IMPACT**

There is no fiscal impact from adopting this ordinance.

### **ALTERNATIVES**

The City Council has the following alternatives to consider:

1. Adopt the Urgency Ordinance affirming guidance of the California Department of Public Health and their enforceability within the City of Grover Beach and rescind the previous Urgency Ordinance adopted on June 1, 2020; or
2. Do not adopt the Urgency Ordinance or rescind the previous Urgency Ordinance; or
3. Provide alternative direction to staff.

### **PUBLIC NOTIFICATION**

The agenda was posted in accordance with the Brown Act.

### **ATTACHMENTS**

1. Urgency Ordinance
2. California Department of Public Health Guidance



SONIA Y. ANGELL, MD, MPH  
State Public Health Officer & Director

# State of California—Health and Human Services Agency California Department of Public Health



GAVIN NEWSOM  
Governor

Released June 18, 2020

- Revised on June 29, 2020 to clarify that children under two years old are exempt from wearing face coverings due to risk of suffocation

## GUIDANCE FOR THE USE OF FACE COVERINGS

Because of our collective actions, California has limited the spread of COVID-19 and associated hospitalizations and deaths in our state. Still, the risk for COVID-19 remains and the increasing number of Californians who are leaving their homes for work and other needs, increases the risk for COVID-19 exposure and infection.

Over the last four months, we have learned a lot about COVID-19 transmission, most notably that people who are infected but are asymptomatic or pre-symptomatic play an important part in community spread. The use of face coverings by everyone can limit the release of infected droplets when talking, coughing, and/or sneezing, as well as reinforce physical distancing.

This document updates existing [CDPH guidance](#) for the use of cloth face coverings by the general public when outside the home. It mandates that face coverings be worn state-wide in the circumstances and with the exceptions outlined below. It does not substitute for existing guidance about social distancing and handwashing.

### Guidance

People in California must wear face coverings when they are in the high-risk situations listed below:

- Inside of, or in line to enter, any indoor public space;<sup>1</sup>
- Obtaining services from the healthcare sector in settings including, but not limited to, a hospital, pharmacy, medical clinic, laboratory, physician or dental office, veterinary clinic, or blood bank;<sup>2</sup>
- Waiting for or riding on public transportation or paratransit or while in a taxi, private car service, or ride-sharing vehicle;
- Engaged in work, whether at the workplace or performing work off-site, when:
  - Interacting in-person with any member of the public;
  - Working in any space visited by members of the public, regardless of whether anyone from the public is present at the time;

<sup>1</sup> Unless exempted by state guidelines for specific public settings

<sup>2</sup> Unless directed otherwise by an employee or healthcare provider



- Working in any space where food is prepared or packaged for sale or distribution to others;
- Working in or walking through common areas, such as hallways, stairways, elevators, and parking facilities;
- In any room or enclosed area where other people (except for members of the person's own household or residence) are present when unable to physically distance.
- Driving or operating any public transportation or paratransit vehicle, taxi, or private car service or ride-sharing vehicle when passengers are present. When no passengers are present, face coverings are strongly recommended.
- While outdoors in public spaces when maintaining a physical distance of 6 feet from persons who are not members of the same household or residence is not feasible.

*The following individuals are exempt from wearing a face covering:*

- Persons younger than two years old. These very young children must not wear a face covering because of the risk of suffocation.
- Persons with a medical condition, mental health condition, or disability that prevents wearing a face covering. This includes persons with a medical condition for whom wearing a face covering could obstruct breathing or who are unconscious, incapacitated, or otherwise unable to remove a face covering without assistance.
- Persons who are hearing impaired, or communicating with a person who is hearing impaired, where the ability to see the mouth is essential for communication.
- Persons for whom wearing a face covering would create a risk to the person related to their work, as determined by local, state, or federal regulators or workplace safety guidelines.
- Persons who are obtaining a service involving the nose or face for which temporary removal of the face covering is necessary to perform the service.
- Persons who are seated at a restaurant or other establishment that offers food or beverage service, while they are eating or drinking, provided that they are able to maintain a distance of at least six feet away from persons who are not members of the same household or residence.
- Persons who are engaged in outdoor work or recreation such as swimming, walking, hiking, bicycling, or running, when alone or with household members, and when they are able to maintain a distance of at least six feet from others.

- Persons who are incarcerated. Prisons and jails, as part of their mitigation plans, will have specific guidance on the wearing of face coverings or masks for both inmates and staff.

**Note:** Persons exempted from wearing a face covering due to a medical condition who are employed in a job involving regular contact with others should wear a non-restrictive alternative, such as a face shield with a drape on the bottom edge, as long as their condition permits it.

## **Background**

*What is a cloth face covering?*

A cloth face covering is a material that covers the nose and mouth. It can be secured to the head with ties or straps or simply wrapped around the lower face. It can be made of a variety of materials, such as cotton, silk, or linen. A cloth face covering may be factory-made or sewn by hand or can be improvised from household items such as scarfs, T-shirts, sweatshirts, or towels.

*How well do cloth face coverings work to prevent spread of COVID-19?*

There is scientific evidence to suggest that use of cloth face coverings by the public during a pandemic could help reduce disease transmission. Their primary role is to reduce the release of infectious particles into the air when someone speaks, coughs, or sneezes, including someone who has COVID-19 but feels well. Cloth face coverings are not a substitute for physical distancing, washing hands, and staying home when ill, but they may be helpful when combined with these primary interventions.

*When should I wear a cloth face covering?*

You should wear face coverings when in public places, particularly when those locations are indoors or in other areas where physical distancing is not possible

*How should I care for a cloth face covering?*

It's a good idea to wash your cloth face covering frequently, ideally after each use, or at least daily. Have a bag or bin to keep cloth face coverings in until they can be laundered with detergent and hot water and dried on a hot cycle. If you must re-wear your cloth face covering before washing, wash your hands immediately after putting it back on and avoid touching your face. Discard cloth face coverings that:

- No longer cover the nose and mouth
- Have stretched out or damaged ties or straps
- Cannot stay on the face
- Have holes or tears in the fabric

**ORDINANCE NO. 20-**

**AN URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GROVER BEACH, CALIFORNIA IMPOSING REGULATIONS TO PROTECT THE GENERAL PUBLIC THROUGH THE USE OF FACE COVERINGS TO PREVENT THE SPREAD OF THE NOVEL CORONAVIRUS (COVID-19)**

**WHEREAS**, conditions of peril to the safety of persons and property have arisen within the City of Grover Beach, due to the Novel Coronavirus (COVID-19); and

**WHEREAS**, on March 4, 2020, the Governor of the State of California declared a state of emergency due to conditions caused by COVID-19; and

**WHEREAS**, on March 13, 2020, the Director of Emergency Services for the County of San Luis Obispo declared a state of emergency due to conditions caused by COVID-19 and issued County of San Luis Obispo's Local Emergency Order and Regulation No. 4; and

**WHEREAS**, on March 13, 2020, the President of the United States declared a state of emergency due to conditions caused by COVID-19; and

**WHEREAS**, on March 16, 2020, the City Manager of the City of Grover Beach, confirmed by the City Council, declared a state of emergency within the City of Pismo Beach due to conditions caused by COVID-19; and

**WHEREAS**, on June 18, 2020, the California Department of Public Health issued new guidelines for the use of cloth face coverings by the general public when outside the home; and

**WHEREAS**, the new California Department of Public Health guidelines mandates that face coverings be worn state-wide in those circumstances and with the exceptions outlined herein; and

**WHEREAS**, the City Council of the City of Grover Beach affirms the June 18, 2020 guidelines issued by the California Department of Public Health and incorporates those guidelines and requirements herein; and

**WHEREAS**, Ordinance 20-05, adopted by the City Council on June 1, 2020, established regulations wherein city businesses were required to post signage related to the wearing of face coverings by employees and the general public within the city; and

**WHEREAS**, the Ordinance 20-05 is hereby amended consistent with the requirements of this ordinance; and

**WHEREAS**, in the interest of public peace, health, and safety as affected by the emergency caused by the spread of COVID-19, it is necessary to issue these regulations related to the protection of the public peace, health and safety.

**NOW THEREFORE, BE IT HEREBY ORDAINED BY THE CITY COUNCIL OF THE CITY OF GROVER BEACH AS FOLLOWS:**

**PART 1.** All recitals and WHEREAS provisions set forth above, and all recitals and WHEREAS provisions included in support of the California Department of Public Health actions referenced herein, are adopted as though fully set forth herein as findings in support of this

Ordinance. Further the June 18<sup>th</sup>, 2020 guidelines of the California Department of Public Health are hereby attached as "Attachment 1" and incorporated by reference herein as if set out in full.

**PART 2.** The June 18, 2020 updated guidelines of the California Department of Public Health, establishing regulations for the wearing of face coverings by the general public when outside the home, are hereby expressly affirmed, acknowledged and declared to be enforceable within the City of Grover Beach and shall be enforceable under Municipal Code Sections 5300 et seq and other pertinent provisions of the Municipal Code.

**PART 3.** Effective 5 p.m. on July 7, 2020, all places of business open to business within the City of Grover Beach shall post at each public entrance to the business a sign not smaller than 8.5 inches x 11 inches and not less than 28-point type that enumerates the requirements of the June 18, 2020 Department of Public Health guidelines. This will include the requirement to wear face coverings at all times when required under the updated Department of Public Health guidelines as incorporated herein.

**PART 4.** All employees employed in businesses within the City of Grover Beach and customers of businesses within the city who are not exempt under the June 18, 2020 California Department of Public Health guidelines shall wear a face covering over their nose and mouth consistent with the attached guidelines.

**PART 5.** All business owners or operators shall ensure their employees and customers comply with the requirements of this ordinance, and they shall provide, pay for, or reimburse their employees for face coverings as needed to comply with this ordinance. Single-use face coverings shall be properly discarded into trash receptacles when no longer in use. All persons, including non-medical Essential Workers are discouraged from using Personal Protective Equipment (PPE), such as N95 masks, for non-medical reasons.

**PART 6.** Any violation of this ordinance is punishable as an administrative penalty and an infraction pursuant to Grover Beach Municipal Code Article 1, Chapters 2 or 4 at the discretion of the City Attorney.

**PART 7.** If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held invalid by a court of competent jurisdiction, such a decision shall not affect the validity of the remaining portions of this Ordinance. The City Council declares that it would have passed this Ordinance and each section, subsection, sentence, clause, or phrase thereof, irrespective of the fact that one or more sections, subsections, sentences, clauses, or phrases, be declared invalid.

**PART 8.** This ordinance shall become effective immediately upon passage and adoption hereof, as it is an urgency ordinance intended to immediately protect the public welfare, health and safety. This ordinance shall be reviewed on a periodic basis by the City Council, and shall expire upon the termination of the Department of Public Health's June 18, 2020 Guidelines.

**PART 9.** Under the provisions of the California Environmental Quality Act (CEQA) Guidelines Section 15061 (b) (3), this ordinance is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, such as the adoption of the regulations contained herein, the activity is not subject to CEQA.



**PART 10.** This ordinance shall not be interpreted in any manner to conflict with controlling provisions of state or federal law, including, without limitation, the Constitution of the State of California. If any section, subsection, or clause of this ordinance shall be deemed to be unconstitutional or otherwise invalid, the validity of the remaining sections, subsections and clauses shall not be affected thereby.

**INTRODUCED** at a regular meeting of the City Council the foregoing urgency ordinance was **PASSED, APPROVED,** and **ADOPTED** by the City Council on July 6, 2020, on the following roll call vote, to wit:

AYES:  
NOES:  
ABSENT:  
ABSTAIN:  
RECUSED:

\_\_\_\_\_  
JEFF LEE, MAYOR

Attest:

\_\_\_\_\_  
WENDI SIMS, CITY CLERK

Approved as to Form:

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DAVID P. HALE, CITY ATTORNEY