

Code Enforcement

An Overview of the Basics



Goal and Purpose

- Protect health, safety, and welfare
- Maintain and preserve community standards
- Provide for orderly growth and economic development (in land use code enforcement matters)
- Obtain compliance with state and local laws

General Phases to Code Enforcement

- Education and Outreach
- Administrative Action
- Judicial Intervention

Education & Outreach

- Make Contact
- Educate, inform, and advise
- Provide notice
- **Provide the opportunity to “cure” the violation**

Administrative Action

- Notices of Violations/Notice to Abate a Public Nuisance
 - Typically used for violations like unpermitted construction or violations involving structural elements (building, electrical, etc.) that require significant corrective efforts
- Administrative Citations
 - Typically for non-structural, behavior-related violations which are susceptible to immediate remediation, like placing a sandwich board sign in the public right-of-way
- Note: a local ordinance is a predicate for any administrative (local) action – without a local ordinance, there is no administrative tool
- Note: the “consequence” is financial, i.e. the punishment includes a monetary fine, but may also include the refusal to issue permits, and recording the violations on the property title with the County Recorder’s Office

Judicial Intervention (Civil)

- A Civil Action in Superior Court
 - File a Civil Complaint for violations of [fill in the blank]
 - If warranted, Request a Temporary Restraining Order (known as “injunctive relief”) requiring
 - Correction of the violation, and/or
 - Cessation of the activity
 - Penalties are typically financial, i.e. the imposition of fines which are often “suspended” or held in abeyance, pending compliance with the court’s orders on the requested injunctive relief (see “The Tuck Box” in Monterey County)
 - Violation of a Civil Court Orders are also punishable as “contempt of court,” which subjects a violator to jail time and additional fines

The Most Common Process

Education, Outreach, and Cure



Administrative Action



Judicial Intervention (Civil)

Code Enforcement & COVID-19 Urgency Ordinance

- Education, Outreach, and Opportunity to Cure
 - Code Enforcement staff make contact, share information and resources, encourage compliance, and allow correction of violation
 - Collaborate with state agencies
 - Formal notice
- Administrative Action
 - Individual Violations subject to administrative citation
 - 1st violation \$100, 2nd Violation \$250, 3rd and subsequent violations \$500
 - Commercial Violations subject to administrative citation
 - 1st violation \$1000, 2nd violation \$2500, third violation \$5000, 4th and subsequent violations \$10,000
- Last Resort – Judicial Intervention
 - Determined on a case-by-case basis, depending on a multitude of factors

Current Legal Framework: Regional Stay at Home Order

- **Regional Stay at Home Order in Effect When Region Falls below 15% ICU bed capacity.**
- **San Joaquin Valley:** Calaveras, Fresno, Kern, Kings, Madera, Mariposa, Merced, San Benito, San Joaquin, Stanislaus, Tulare, Tuolumne
- Counties with 10% ICU availability or less, in regions with 0% ICU availability, are directed to prioritize services to those who are sickest and cancel or reschedule elective surgeries.
- Once triggered, these orders will remain in effect for at least 3 weeks. After that period, they will be lifted when a region's projected ICU capacity meets or exceeds 15%. This will be assessed on a weekly basis after the initial 3 week period.

Current Legal Framework

The following sectors will have additional modifications in addition to 100% masking and physical distancing:

- **Outdoor recreational facilities:** Allow outdoor operation only for the purpose of facilitating physically distanced personal health and wellness through outdoor exercise, without any food, drink or alcohol sales. Additionally, overnight stays at campgrounds will not be permitted.
- **Retail:** Allow indoor operation at 20% capacity, and 35% of capacity for standalone grocery stores, with entrance metering and no eating or drinking in the stores. Additionally, special hours should be instituted for seniors and others with chronic conditions or compromised immune systems.
- **Shopping centers:** Allow indoor access at 20% capacity with entrance metering and no eating or drinking in the stores. Additionally, special hours should be instituted for seniors and others with chronic conditions or compromised immune systems.
- **Hotels and lodging:** Allow for COVID-19 mitigation and containment measures, treatment measures, provide accommodation for essential workers, or providing housing solutions, including measures to protect homeless populations.
- **Restaurants:** Allow only for take out or delivery.
- **Offices:** Allow remote only except for critical infrastructure sectors where remote working is not possible.
- **Places of worship and political expression:** Allow outdoor activities only.
- **Entertainment production:** Industries, studios, and other related establishments such as establishments that provide content for professional broadcast can operate without live audiences.

Code Enforcement & COVID-19 Urgency Ordinance

In any region that triggers a Regional Stay Home Order because it drops below 15% ICU capacity all operations in the following sectors must be closed (except to the extent that their operations fall within critical infrastructure):

- Hair salons and barbershops
- Personal care services
- Museums, zoos, and aquariums
- Movie theaters (except drive-in)
- Wineries, bars, breweries, and distilleries (with exception for production, manufacturing, distribution, and retail sale for off-site consumption)
- Family entertainment centers
- Cardrooms and satellite wagering
- Limited services
- Live audience sports
- Amusement parks

FACE COVERINGS

(November 16, 2020)

How well do face coverings prevent spread of COVID-19?

Multi-layer cloth masks can both block up to 50-70% of fine droplets and particles, and limit the forward spread of those that are not captured. Their primary role is to reduce the release of infectious particles into the air when someone coughs, sneezes, sings, talks, or breathes. Cloth masks can also reduce your exposure to infectious droplets through filtration. Face coverings are not a substitute for physical distancing, washing hands, and staying home when ill, but complements them.

covid19.ca.gov/search/?q=face%20covering#gsc.tab=0&gsc.q=face%20covering&gsc.page=1

For example, according to Dr. Robert R. Redfield, Director of the Centers for Disease Control and Prevention (CDC), “[c]loth face coverings are one of the most powerful weapons we have to slow and stop the spread of the virus — particularly when used universally within a community setting.”

medicalnewstoday.com/articles/what-is-the-protective-value-of-different-face-masks#Exposure-chamber

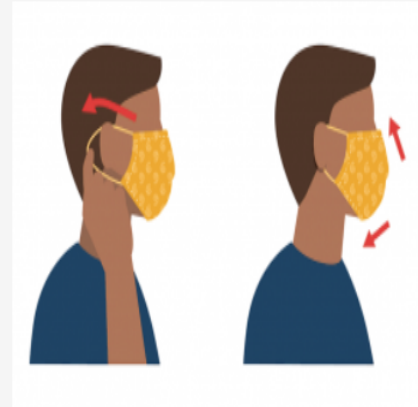
FACE COVERINGS

(November 16,
2020)

Masks are a critical step to help prevent people from getting and spreading COVID-19. A cloth mask offers some [protection to you as well as protecting those around you](#). Wear a mask and [take every day preventive actions](#) in public settings and mass transportation, at events and gatherings, and anywhere you will be around other people.

Wear your Mask Correctly

- [Wash your hands](#) or use hand sanitizer before putting on your mask.
- Put the mask over your nose and mouth and secure it under your chin.
- Fit the mask snugly against the sides of your face, slipping the loops over your ears or tying the strings behind your head.
- If you have to continually adjust your mask, it doesn't fit properly, and you might need to find a different mask type or brand.
- Make sure you can breathe easily.



FACE COVERINGS

(November 16,
2020)

Guidance

People in California must wear face coverings when they are outside of the home, unless one of the exemptions below applies.

Individuals are exempt from wearing face coverings in the following specific settings:

- Persons in a car alone or solely with members of their own household.
- Persons who are working in an office or in a room alone.
- Persons who are actively 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 outdoors and maintaining at least 6 feet of social distancing from others not in their household. Such persons must have a face covering with them at all times and must put it on if they are within 6 feet of others who are not in their household.
- 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.
- Workers who are required to wear respiratory protection.
- Persons who are specifically exempted from wearing face coverings by other CDPH guidance.



FACE COVERINGS

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The following individuals are exempt from wearing face coverings at all times:

- 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. Such conditions are rare.
- 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.

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

ADA: Masks Can Be Required

<https://www.disabilityrightsca.org/post/covid-19-face-masks-and-people-with-disabilities>

This does not mean that a business must admit any person who cannot wear a mask due to disability. During the pandemic, a business covered by the ADA is typically trying to accommodate a customer base that includes many disabled individuals who are at high-risk of a serious or life-threatening outcome from COVID-19 infection and a few disabled individuals who are unable to wear a mask. A business is also trying to protect its employees from COVID-19. Given this context, in most cases businesses may lawfully decline to admit customers who cannot wear masks due to disability.^{[13](#)}

However, businesses must still accommodate these customers – as well as other disabled customers who can wear masks but who avoid entering stores due to their medical vulnerability – by offering curbside service.^{[14](#)}

The business may not impose an extra charge on a disabled person for providing curbside service as an accommodation.^{[15](#)}

When curbside service is not possible, the business should consider other accommodations to serve all of its disabled customers, such as offering a scheduled time slot for visiting, expanding physical distancing, and extending plexiglass and other physical barriers.

Miscellaneous

- Code Enforcement Hearings will be open to the public (through Zoom)
- Code Enforcement Officers, if not uniformed, will have valid County/City issued identification.

Cases Have Increased Since Posting of the Agenda



Questions?