



City of Gonzales

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PRESS RELEASE

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City of Gonzales Director of Emergency Services Executive Order Establishing a Citation Fine Process for Face Coverings Order Violations

July 29, 2020 - Today, the City of Gonzales joined with Monterey County and other local cities establishing a process for issuing citations to those who do not comply with the requirement to wear face coverings while at work, in businesses, and around other people as instituted by Order of the Governor and County Health Officer. The Executive Order, which includes a schedule of monetary fines for violations, is effective immediately.

The action was taken in order to help prevent further spread of COVID-19 in response to concerns regarding the current rate of new cases and hospitalizations. The City will continue to seek compliance primarily through public education, the issuance of warning notices in lieu of citations for first-time offenders, and the distribution of face coverings if needed. According to City Manager René Mendez: "Most of the community has responded extremely well to the changes required during this difficult time and the City is very appreciative, but we need to continue to improve since cases continue to increase." The new Order is designed to provide another tool to effectively enforce these measures with individuals who refuse to comply voluntarily in order to protect public health.

Since the pandemic began, the City has implemented an extensive number of measures involving enforcement of the County Health Officer's orders, safety of City facilities and staff, public health and education, business assistance, outreach efforts, virtual recreational programming, weekly food assistance, and public assistance.

Please refer to the City of Gonzales website at: <https://gonzalesca.gov/> and the City of Gonzales Facebook page for information and updates; the CDC website at <https://www.cdc.gov/coronavirus/2019-ncov/faq.html>; and the Monterey County Health Department website [at www.mtyhd.org/covid19](http://www.mtyhd.org/covid19).

For more information, contact René Mendez at 831-675-5000.

Gonzales will continue to be a safe, clean, family-friendly community, diverse in heritage, and committed to working collaboratively to preserve and retain its small town charm

**ORDER OF THE DIRECTOR OF EMERGENCY SERVICES
OF THE CITY OF GONZALES**

EXECUTIVE ORDER NO. 1

**ADOPTION OF THE CALIFORNIA DEPARTMENT OF PUBLIC HEALTH'S
GUIDANCE FOR THE USE OF FACE COVERINGS TO BE ENFORCEABLE BY
ADMINISTRATIVE CITATION WITHIN THE CITY OF GONZALES**

WHEREAS, on March 19, 2020, the Gonzales City Council adopted Resolution No. 2020-13 ratifying the Gonzales Director of Emergency Services' Declaration of the existence of a local emergency in order to, among other matters, provide for the protection of persons and property within the City caused by the spread of novel coronavirus SARS-CoV-2 (designated for reference purposes as COVID-19); and

WHEREAS, consistent with Government Code Section 8634 and Gonzales City Code Section 2.08.040, Resolution No. 2020-13, in declaring a local emergency, vests authority in the Director of Emergency Services (City Manager) to issue and to enforce orders and regulations to mitigate the effects of the local emergency in order to protect life and property; and

WHEREAS, on March 19, 2020, California Governor Newsom issued Executive Order N-33-20 ordering all individuals in the State to stay home or at their place of residence, except as outlined by the California Department of Public Health, during the COVID-19 pandemic for the preservation of public health and safety. Executive Order N-33-20 also requires all California residents to heed the state public health directives; and

WHEREAS, on March 17, 2020, the Monterey County Health Officer issued a shelter in place order that was amended on April 3, 2020; April 28, 2020; May 1, 2020; and May 8, 2020; and

WHEREAS, on May 26, 2020, the Monterey County Health Officer issued an Amended Order that was effective upon posting by the California Department of Public Health on its website, stating the Health Officer's Attestation for a Variance through Stage 2 of the State's Roadmap to Pandemic Resilience; and

WHEREAS, the May 26, 2020 Order suspended the May 1, 2020 and May 8, 2020 Orders of the Health Officer and left, among other matters, the April 28, 2020 (facial coverings) order in effect; and

WHEREAS, according to the Monterey County Daily Situational Report dated July 27, 2020, there are 4,082 confirmed cases of COVID-19, 255 cumulative hospitalizations, 23 fatalities, 2,463 recoveries, 10,513 contacts, and a test positivity rate of 9.30% in Monterey County, with increasing rates in South County; and

WHEREAS, on July 2, 2020, the California Department of Public Health placed Monterey County on the COVID-19 County Data Monitoring Project watch list in response to elevated disease transmission as evidenced by Monterey County exceeding the State’s 14-day case threshold of 100 cases per 100,000 residents and by exceeding the State’s threshold for percent change in three-day average COVID-19 hospitalizations; and

WHEREAS, due to Monterey County’s placement on the watch list, on July 6, 2020, Governor Newsom indicated that the state has ordered Monterey County to close bars (all operations) and indoor operations for the following sectors: restaurants, wineries, movie theaters, zoos, museums and card rooms; and

WHEREAS, on June 18, 2020, the California Department of Public Health (CDPH) released Guidance for the Use of Face Coverings (Guidance), which was updated on June 29, 2020. According to CDPH Guidance, “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”; and

WHEREAS, “The CGC, CDPH, and MCHP now believe that wearing a face covering, when combined with physical distancing of at least six (6) feet and frequent hand washing, may reduce the risk of transmitting coronavirus when in public...by reducing the spread of respiratory droplets.” (Monterey County Health Officer Order dated April 28, 2020); and

WHEREAS, under California law, the state public health officer’s orders are enforceable by local police agencies, and people who fail to comply may be charged with a misdemeanor; and

WHEREAS, the number of infected persons in Monterey County and in the City of Gonzales is rising and having a high number of people in public without wearing a face covering seriously impedes community efforts to stem the local transmission of COVID-19; and

WHEREAS, it is the intent of this Emergency Order to provide a tool, in addition to educational efforts, to compel compliance with the Guidance by authorizing enforcement of the Guidance through the issuance of administrative citations.

NOW, THEREFORE, IT IS HEREBY ORDERED:

1. The recitals set forth above are incorporated herein as if fully set forth, are true and correct, and are adopted as findings in support of this Executive Order.

2. The CDPH Guidelines and exemptions concerning the use of face coverings, attached hereto as Exhibit A, and as may be amended from time to time, are hereby expressly acknowledged and declared to be enforceable within the City of Gonzales as if directly enacted by the City pursuant to Gonzales City Code Section 2.08.040.

3. Enforcement. Any person who violates the Guidance is in violation of this Order and is subject to administrative citations pursuant to the provisions and process attached hereto as Exhibit B. The fine amount for the first violation is established by this Order at \$100, second violation to the same person at \$500, and third and all subsequent violations to the same party at \$1,000. Notwithstanding the authority to issue citations, enforcement officers shall place an emphasis on educational efforts, and shall have the discretion to issue warning notices in lieu of citations for first-time offenders.

4. This Executive Order shall be liberally construed to provide the best possible protections for the citizens of the City of Gonzales.

5. If any provision of this Executive Order or the application thereof to any person or circumstance is held to be invalid, the remainder of the Executive Order, including the application of such part or provision to other persons or circumstances shall not be affected and shall continue in full force and effect. To this end, the provisions of this Executive Order are severable.

6. This Executive Order shall become effective immediately, subject to ratification as soon as practicable by the Gonzales City Council.

Adopted this 29th day of July, 2020.

By: 
René L. Mendez, City Manager
Director of Emergency Services

ATTEST:

By: 
Mary Villegas, Deputy City Clerk

EXHIBIT A



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

June 18, 2020

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;¹
- 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;²
- 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;

¹ Unless exempted by state guidelines for specific public settings (e.g., school or childcare center)

² 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 age two years or under. 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

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EXHIBIT B

Orders of the Director of Emergency Services Administrative Citation Process and Penalties for Violations

Section 1. Purpose: It is the purpose and intent of these provisions to provide an alternative method of the enforcement of violations of orders issued by the City of Gonzales Director of Emergency Services (“DES”). The provisions are cumulative and in addition to any other remedies available under state or local law. Use of these provisions is at the sole discretion of the City.

Section 2. Definitions: For the purposes of the citation process set forth herein, certain words and phrases are defined as follows:

“Administrative citation” means the notice of violation issued by an enforcement official that imposes an administrative fine for a violation of any rule or regulation set forth in any order of the DES.

“Administrative fine” means the amount of a fine imposed by an administrative citation for a violation of any rule or regulation contained in an order of the DES that incorporates the citation process set forth herein.

“Enforcement official” means any officer, code official, agent or designee of the DES with the authority to enforce DES orders.

“Person” means any natural person, business, company or entity, including the parent or legal guardian of any person under the age of eighteen years old.

Section 3. Enforcement Authority: Any person violating any provision of any order of the DES, which by reference incorporates the process set forth herein for enforcement purposes, may be issued an administrative citation as provided herein.

Section 4. Scope: The procedures established herein shall supplement and be in addition to any criminal, civil or other remedy established by law or under the provisions of any code which may be pursued to address violations of any order of the DES.

Section 5. Administrative Citation.

A. Issuance of Administrative Citation. Whenever an enforcement official discovers that a violation of any rule or regulation contained in a DES order that has incorporated this enforcement process has occurred, the enforcement official shall have the authority to issue an administrative citation to the person responsible for the violation via personal service.

B. Administrative Citation Contents. To the extent the following information is reasonably available to the enforcement official or officer, an administrative citation shall be provided on a form approved by the DES and shall contain the following information

1. Date and time the citation is issued.
2. The name of the person responsible for the violation.
3. Reference to the order establishing the relevant rule or regulation and description of violation.
4. Amount and due date of fine imposed for violation.
5. Notice of right to contest the citation.

6. Warning that failure to pay the fine may result in additional penalties.

Section 6. Administrative fine:

A. Fines for violations are set as follows:

First violation-	\$100
Second Violation (repeat violation)-	\$500
Third and all Subsequent Violations (repeat violations)-	\$1,000

B. The person responsible for the violation shall pay the fine within the time and in the amount designated on the administrative citation.

Section 7. Administrative Hearing:

A. It is the purpose and intent of the City to afford due process of law to any person who is issued an administrative citation.

B. Any person to whom an administrative citation is issued may contest the citation no later than fifteen (15) calendar days from the date of service of the citation by requesting a hearing in writing with the City and depositing the administrative fine with the City.

C. At least fifteen (15) calendar days prior to the date of the administrative hearing, the City shall give notice to the person requesting the hearing of the time, date and location of the hearing. No hearing to contest an administrative citation shall be held unless and until a request for hearing has been completed and filed with the City and the fine has been paid in advance.

D. Notwithstanding the foregoing subsections, any person who intends to request a hearing to contest an administrative citation and who is financially unable to make the advance deposit of the penalty may submit a request for an advance deposit hardship waiver. The request must be filed within fifteen (15) calendar days of the date of the administrative hearing. The request must be accompanied by a sworn affidavit, together with any supporting documents or materials, demonstrating to the satisfaction of the DES the person's actual financial inability to deposit with the City the full amount of the penalty in advance of the hearing. Any denial of the request shall be in writing and state the reasons for the denial. In the event of a denial of an advance deposit hardship waiver, the full amount of the applicable administrative fine must be paid.

Section 8. Hearing Officer Appointment and Duties: The DES shall designate an administrative hearing officer for administrative order hearings. The hearing officer may not be the enforcement officer that issued the involved administrative citation. The hearing officer will have the authority to set, notice and conduct public hearings required or allowed pursuant to this procedure to contest the grounds for the citation and fees. The officer shall have the powers and duties necessary to conduct all administrative hearings and appeals authorized by this process.

Section 9: Administrative Hearing Procedures

A. The hearing officer shall establish a date for all hearings. A hearing shall be set not less than fifteen (15) calendar days and not more than sixty (60) calendar days from the date that the request for hearing is filed.

B. Administrative hearings are informal, and formal rules of evidence and discovery do not apply. Each party shall have the opportunity to present evidence in support of his or her case and to cross examine witnesses. The City bears the burden of proof at an administrative hearing to establish a violation. The administrative citation and any additional reports submitted by the enforcement official shall constitute evidence which would be sufficient to prove particular facts

contained in those documents. The recipient of the administrative citation shall be provided with copies of any additional reports and other documents submitted or to be relied upon by the enforcement official five (5) calendar days in advance of the hearing. The administrative hearing officer must use a preponderance of evidence as the standard in deciding the issues.

C. The hearing officer may continue the hearing and request additional information from the enforcement officer or the recipient of the citation prior to issuing a written decision.

D. If the recipient of the citation fails to appear at the hearing, it shall constitute a waiver of the right to a hearing. Failure to appear at the hearing shall be presumed an admission of guilt to the cited violation as indicated in the administrative citation. Upon a showing of good cause, as determined in the discretion of the hearing officer, the hearing officer may excuse the recipient of the violation for failure to appear at the hearing and reschedule the hearing. No hearing may be rescheduled more than once for failure to appear.

Section 10. Administrative Order:

A. Within thirty (30) calendar days of the hearing's conclusion, the hearing officer shall provide the recipient of the citation with a decision in writing to uphold, cancel, or modify the administrative citation.

B. If the hearing officer upholds the administrative citation, the City shall retain the fine deposited by the responsible person. In instances in which the fine has not been deposited due to hardship waiver, the administrative order shall specify the date for the payment of the fine.

C. If the administrative hearing officer cancels the administrative citation, any fine deposited with the City shall be promptly refunded.

Section 11. Judicial Review: An person aggrieved by an administrative order of the administrative hearing officer imposing a penalty or fine may seek judicial review of the administrative order pursuant to Government Code Section 53069.4 by filing an appeal in the Monterey County Superior Court, subject to the time limits set forth in Section 53069.4.

Section 12. Failure to Comply: The City may collect the assessed administrative fine, if it has not been deposited in advance, by use of any and all available legal means, including by reference of the matter to small claims court.