

County of Santa Clara

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Health Order Requiring Use of Face Coverings in Higher-Risk Settings; and Rescission of Prior Health Orders

DATE OF ORDER: September 12, 2022

UNDER THE AUTHORITY OF CALIFORNIA HEALTH AND SAFETY CODE SECTIONS 101040, 101085, 120175, AND SANTA CLARA COUNTY ORDINANCE CODE SECTION A18-33, THE HEALTH OFFICER OF THE COUNTY OF SANTA CLARA (“HEALTH OFFICER”) ORDERS:

- 1. Background and Purpose.** The Health Officer makes this Order in light of the current state of the COVID-19 pandemic emergency. Specifically, at this stage and time of the pandemic, including consideration of the widespread availability of testing and vaccinations and the high level of community vaccination in Santa Clara County (the “County”), the necessity for mandatory orders related to vaccination and access to testing has diminished. However, the risk of COVID-19 in Higher-Risk Settings remains significant, and so it continues to be important for Face Coverings to be used in Higher-Risk Settings. This Order therefore rescinds prior Health Orders, as described in Section 2 below, while maintaining existing Face Covering requirements in Higher-Risk Settings, as set forth in Section 3 below. This Order also sets forth a number of important

recommendations by the Health Officer in response to the continued risks posed by COVID-19 in our community.

2. Rescission of Prior Health Orders. The March 7, 2022 Health Officer Order Requiring Up-To-Date COVID-19 Vaccination of Personnel in Higher-Risk Settings is hereby rescinded. The January 31, 2022 Health Officer Order Requiring Certain Healthcare Facilities Within the County to Provide COVID-19 Diagnostic Testing is hereby rescinded. The September 4, 2020 Health Officer Order Mandating that All Health Care Facilities in Santa Clara County Require Healthcare Workers Receive an Annual Influenza Vaccination is hereby rescinded. For clarity, other than the mandatory requirement to wear Face Coverings in Higher-Risk Settings as provided in this Order, all other mandatory COVID-19-related countywide Health Officer Orders that are currently still in effect are hereby rescinded.

3. Mandatory Requirement to Wear Face Coverings in Higher-Risk Settings.

- a. Regardless of vaccination status, all persons in Higher-Risk Settings must wear Face Coverings, except in those circumstances or for those persons exempted pursuant to the “Guidance on the Use of Face Masks” issued on April 20, 2022 by the California Department of Public Health (CDPH) and in effect as of September 12, 2022 at: <https://www.cdph.ca.gov/Programs/CID/DCDC/Pages/COVID-19/guidance-for-face-coverings.aspx>, and included in this Order as Appendix A. For clarity, this provision does not incorporate any changes to the Guidance made by the CDPH after the Effective Date of this Order.
- b. All businesses and governmental entities with Higher-Risk Settings must enforce this face covering requirement for all personnel and for all customers or members of the public entering Higher-Risk Settings, regardless of vaccination status. All such businesses and governmental entities must post clearly visible and easy-to-read signage at all entry points for indoor settings to communicate the Face Covering requirements to all persons entering the facility. In addition, those responsible for indoor public settings are strongly encouraged to provide Face Coverings at no cost to individuals who do not have one upon entry.

4. Definitions.

- a. “Business” includes any for-profit, non-profit, or educational entity, whether a corporate entity, organization, partnership, or sole proprietorship, and regardless of the nature of the service, the function it performs, or its corporate or entity structure. For clarity, “business” also includes a for-profit, non-profit, or educational entity performing services or functions under contract with a governmental entity.
- b. “Face Covering” means a face covering that is well-fitted to an individual and covers the nose and mouth especially while talking, consistent with the guidance of the CDPH at <https://www.cdph.ca.gov/Programs/CID/DCDC/Pages/COVID-19/guidance-for-face-coverings.aspx>. A face covering does not include a scarf, ski mask, balaclava, bandana, turtleneck, collar, or single layer of fabric or any mask that has an unfiltered one-way exhaust valve. Individuals are strongly urged to wear KN95, KF94, N95, or similarly protective face coverings.
- c. “Higher-Risk Settings” are settings that involve working indoors in shared air space or proximity to people who are at higher risk of severe illness, hospitalization, or death from COVID-19 because of age or underlying medical condition, as well as congregate settings where outbreaks are likely to occur. For the purposes of this Order, Higher-Risk Settings are those portions of the following facilities where there is shared indoor air space or proximity to patients, clients, or vulnerable populations:
 - i. skilled nursing facilities, long-term care facilities, adult day care facilities, and memory care facilities;
 - ii. healthcare delivery facilities (such as hospitals, clinics, medical offices, dialysis centers, etc.) where patient care is provided, as well as medical first responders while providing medical response;
 - iii. jails and other correctional facilities; and
 - iv. congregate shelters.
 - v. “Personnel” means any of the following individuals who perform onsite functions: employees; contractors and sub-contractors (such as those who deliver goods or perform services onsite); independent contractors; vendors;

volunteers and interns; and any other individuals who routinely are onsite at the request of the business or governmental entity.

5. Recommendations from the Health Officer. The Health Officer urges all businesses and governmental entities and individuals to follow the recommendations set forth below:

- a. All eligible persons are strongly urged to get vaccinated and remain up to date with the latest recommended booster against COVID-19 as soon as possible, including receiving the most recent bivalent COVID-19 booster.
- b. Businesses and governmental entities should continue to implement mandatory vaccination requirements for all personnel, subject only to the limited exemptions required by law. Business and governmental entities are encouraged to continue to set forth more stringent standards for those working in Higher-Risk Settings or similar settings that may pose a greater risk to personnel, clients, or the public.
- c. Any person, vaccinated or unvaccinated, who has any symptoms consistent with COVID-19 should get tested immediately and avoid contact with others pending test results.

6. Strong Recommendation to Continue Universal Use of Face Coverings Indoors. The Health Officer continues to strongly recommend that all persons continue to wear Face Coverings when in indoor settings with shared air space with persons outside their household, consistent with the provisions of the Health Officer's prior August 2, 2021 Face Covering Order. The Health Officer further recommends that all businesses and governmental entities likewise continue to require use of Face Coverings in all indoor settings with shared airspace.

7. Applicability. All individuals, businesses, and other entities in the County are ordered to comply with the applicable provisions of this Order. For clarity, individuals who do not currently reside in the County must comply with all applicable requirements of the Order when they are in the County. Governmental entities must follow the requirements of this Order applicable to businesses, unless otherwise specifically directed by the Health Officer.

8. Obligation to Follow Stricter Order. Where a conflict exists between this Order and any order issued by the State Public Health Officer, the Governor, or a State agency (such as

the California Division of Occupational Safety and Health (Cal/OSHA)) related to the COVID-19 pandemic, the most restrictive mandatory provision controls. For clarity, all individuals and entities must comply with the State Order, any mandatory guidance issued by the California Department of Public Health, any mandatory orders of the Governor or a State agency, or any other mandatory provision of State law to the extent it is stricter than any provision of this Order. Consistent with California Health and Safety Code section 131080 and the Health Officer Practice Guide for Communicable Disease Control in California, except if the State Health Officer issues an order expressly directed at this Order and based on a finding that a provision of this Order constitutes a menace to public health, any more restrictive measures in this Order continue to apply and control in this County. In addition, to the extent any federal guidelines are inconsistent with this Order, this Order is controlling.

9. **Obligation to Follow State Orders and Regulations.** For clarity, all individuals and entities must continue to comply with the orders of the State Health Officer, any mandatory guidance issued by the California Department of Public Health, any mandatory orders of the Governor or a State agency (such as Cal/OSHA), or any other mandatory provision of State law.
10. **Enforcement.** Pursuant to Government Code sections 26602 and 41601, Health and Safety Code section 101029, and Santa Clara County Ordinance Code section A1-34 et seq., the Health Officer requests that the Sheriff, all chiefs of police in the County, and all enforcement officers ensure compliance with and enforce this Order. The violation of any provision of this Order constitutes an imminent threat and menace to public health, constitutes a public nuisance, and is punishable by fine, imprisonment, or both. This Order is also subject to the civil enforcement authority established by Urgency Ordinance No. NS-9.291.
11. **Effective Date.** This Order is effective at 12:01 am on September 13, 2022. This Order shall continue to be in effect until it is rescinded, superseded, or amended in writing by the Health Officer.
12. **Copies.** Copies of this Order shall promptly be: (1) made available at the County Government Center at 70 W. Hedding Street, San José, California; (2) posted on the County Public Health Department's COVID-19 website (covid19.sccgov.org); and (3) provided to any member of the public requesting a copy of this Order.

13. **Severability.** If any provision of this Order or its application to any person or circumstance is held to be invalid, the remainder of the 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 Order are severable.