

CITY OF MONTCLAIR
EMERGENCY ORDER NO. 04-18-20-1

Issue Date: April 18, 2020

SUBJECT: EMERGENCY ORDER MANDATING THE FOLLOWING:

- 1. WEARING OF FACE COVERINGS**
- 2. ESSENTIAL WORKER PROTECTIONS**

PLEASE READ THIS ORDER CAREFULLY. VIOLATION OF, OR FAILURE TO COMPLY WITH, THIS ORDER IS PUNISHABLE BY FINE, IMPRISONMENT, OR BOTH. (§120295 of the California Health and Safety Code; and Chapter 1.04, *et seq.*, Chapter 1.12, *et seq.* and § 6.08.100.B of Chapter 6.08 of the Montclair Municipal Code)

On March 16, 2020, the Montclair City Council adopted Resolution No. 20-3263 declaring a local public health emergency in the City of Montclair in relation to the Novel Coronavirus (COVID-19).

In declaring a local public health emergency, the City Council invoked § 6.080.060 of Chapter 6.08 of Title 6 of the Montclair Municipal Code providing that the City Manager, as Director of Emergency Services, is empowered to "*make and issue rules and regulations on matters reasonably related to the protection of life and property as affected by such emergency.*"

On April 5, 2020, Montclair Community Guidance 04-05-20-1 was issued directing businesses and residents of the City of Montclair to comply with the non-medical [Cloth Face Coverings Guidance](#) issued by the California Department of Public Health on April 1, 2020, and as issued by the San Bernardino County Public Health Department [Guidance](#) issued on April 2, 2020, as [updated](#) on April 7, 2020, and as [superseded](#) by Order of the Health Officer of the County of San Bernardino on April 17, 2020.

The State and County Guidance, as well as Guidance from the Centers for Disease Control and Prevention (CDC), encourage non-medical workers to wear non-medical grade face coverings while at their place of employment, and encourage each resident of California to wear non-medical grade face coverings outside their home, including when performing essential tasks such as grocery shopping and picking up prescriptions.

California is experiencing a shortage of medical-grade facemasks such as surgical masks, N95 respirators, and other personal protective equipment (PPE) — equipment that is vital for the protection of medical workers and first responders when administering health care services.

Since the issuance of Montclair Community Guidance 04-05-20-1, additional efforts are necessary to protect the PPE supply line, and ensure the protection of Essential workers, as well as members of the public, by mandating the wearing of non-medical grade face coverings. Accordingly, and by virtue of the authority vested in me as Director of Emergency Services pursuant to provisions of § 6.080.060 of the Montclair Municipal Code to make and issue rules and regulations on matters related to the protection of persons, property and the environment as affected by such emergency, I hereby declare the following orders to be necessary for the protection of life and property, and hereby order the following:

1. Emergency Order No. 04-18-20-1 supersedes and replaces Montclair Community Guidance 04-05-20-1 and, by reference, incorporates the [April 17, 2020 Order of the Health Officer of the County of San Bernardino for the Control of COVID-19](#). In the event of conflict or disagreement in language or directive between the April 17, 2020 Order of the Health Officer of the County of San Bernardino For the Control of COVID-19 and City of Montclair Emergency Order No. 04-18-20-1, City of Montclair Emergency Order No. 04-18-20-1 prevails.
2. In order to preserve the PPE supply line, reduce the spread of the novel coronavirus by cough, sneeze and the projection of droplets, and to protect medical and non-medical workers from risk of infection by exposure to other employees and members of the public that fail to wear, or properly wear, face coverings, the following is Ordered:
 - a. The State Public Health Officer has designated a list of “[Essential Critical Infrastructure Workers](#)” to help state, local, tribal, and industry partners as they work to protect communities, while ensuring continuity of functions critical to public health and safety, as well as economic and national security. In order to protect the health and safety of medical and non-medical Essential workers, Essential Montclair businesses, as defined by the [Essential Critical Infrastructure Workers](#) list, that are open for business in compliance with the Stay at Home Orders issued on March 19 by Governor Newsom ([Executive Order N-33-20](#)) and the State Health Officer ([Order of the State Public Health Officer](#)) must comply with the following:
 - i. An owner or operator of an Essential business subject to this Order shall require employees to wear non-medical grade face coverings in compliance with this Order.
 - ii. An owner or operator of an Essential business subject to this Order must provide, at the employer's expense, non-medical grade face coverings for their employees.
 - iii. An owner or operator of an Essential business subject to this Order shall refuse admission or service to any individual, customer, client or visitor

who fails to wear, or properly wear, a non-medical grade face covering as required by this Order.

- iv. Employers subject to this Order must permit their employees to wash their hands at least every 30 minutes, and use hand sanitizer with minimum 60% alcohol content, as conditions require and at the discretion of the employee.
 - v. Employers subject to this Order must ensure that their employees have access to clean, sanitary restrooms, stocked with all necessary hand cleaning products or sanitizing agents required to observe hand sanitation protocols recommended by the CDC, provided at the employer's expense.
 - vi. Employers subject to this Order must ensure that work places are regularly sanitized, including the regular disinfection of high-touch surfaces, and disinfection of all payment portals, pens, and styluses after each use.
 - vii. Retail businesses subject to this Order shall provide for special, early shopping hours for vulnerable members of the community including, but not limited to, senior citizens 65 years of age or older.
 - viii. Employers subject to this Order must implement and maintain social/physical distancing measures for customers, visitors and employees that limit the number of people who enter into the facility at any one time to ensure that people in the facility can easily maintain, at all times, a minimum 6-foot physical buffer from others, to the extent practicable, between individuals that are not family members or household contacts. Retail businesses subject to this Order may achieve social/physical distancing by requiring customers in interior and exterior lines to be in control of a shopping cart that is placed before each customer, or individuals from the same household, to separate them from the customer ahead of them in line.
- b. For purposes of this Order, all Essential workers who work at businesses or perform services that are exempt under § 1) of Governor Newsom's March 19 [Executive Order N-33-20](#) shall include, but not be limited to, Essential workers identified in Exhibit 1 attached and incorporated into this Emergency Order, and as identified under the State of California's [Essential Critical Infrastructure Workers](#) list.
 - c. For purpose of this Order, all non-essential businesses (those businesses and their workers not identified on the State of California's [Essential Critical Infrastructure Workers](#) list) are required to be closed and remain closed pursuant to Governor Newsom's March 19 [Executive Order N-33-20](#). Furthermore, non-essential businesses shall remain closed until such time that

Governor Newsom and/or the State Public Health Officer, in cooperation with the Health Officer of the County of San Bernardino, rescinds, modifies, extends, or otherwise alters [Executive Order N-33-20](#) and the [Order of the State Public Health Officer](#), and all non-essential workers shall comply and continue to comply with [Executive Order N-33-20](#).

- d. All individuals in Montclair shall wear non-medical grade face coverings over their nose and mouth when in public and/or when working in Essential non-medical businesses.
 - i. A non-medical grade face covering is not required for a driver traveling alone or with members of their household, unless a window in the vehicle must be lowered to interact with first responders, food service workers, or others who are not members of their household. When an occupied vehicle is at rest, for any reason, and any window is open and members of the public are within 6-feet of the vehicle, each occupant of the vehicle shall wear a non-medical grade face covering.
 - ii. A non-medical grade face covering is not required for solitary outdoor exercise/activity or for members of the same household engaging together in outdoor exercise/activity; however, if other non-household members are present and within 6-feet, including approaching individuals, whether known or unknown to each other, a non-medical grade face covering must be worn by each individual.
 - iii. A non-medical grade face covering may be made of cotton, silk, linen or other material that covers the nose and mouth, and is secured to the head with ties or straps or simply wrapped around the lower face. A non-medical grade face covering may be factory- or home-made, and can be improvised from household items such as scarves (dense and without holes), bandanas, neck gaiters, T-shirts, sweatshirts, and towels.
 - 1) For individual health, safety and hygiene, face coverings should be washed frequently, ideally after each use, or at least daily, with detergent and hot water.
 - 2) If a face covering must be worn multiple times between washings, the wearer of the face covering should wash his/her hands each time the face covering is removed and put back on.
 - 3) Face coverings should be discarded if they no longer cover the nose and mouth, have holes or tears, or have damaged straps.
- e. All individuals, including non-medical members of the Essential workforce, are discouraged from using PPE, such a N95-type facemasks, for non-medical reasons.

3. This Order is promulgated for the following reasons:
 - a. A non-medical grade face covering worn by a person infected with COVID-19 could act as a physical barrier to prevent dangerous droplets from being transmitted to others or falling on surfaces, and prevent transmission by a person who lacks symptoms and does not know they have a novel coronavirus infection.
 - b. Wearing a non-medical grade face covering could substantially reduce the chance of a healthy person inhaling the COVID-19 virus from someone who is infected.
 - c. Non-medical grade face coverings serve as physical reminders that people should not touch their eyes, nose, or mouth.
 - d. Non-medical grade face coverings serve a social cue, reminding others that we are living through a dangerous pandemic and that we should keep our distance from each other.
 - e. Non-medical grade face coverings do not guarantee protection from infection, but they may provide protection by filtering the air breathed in and out.
 - f. Emerging medical data support that the novel coronavirus could spread as an aerosol while people are speaking, coughing or sneezing, and use of a non-medical grade face covering can minimize the aerosol effect.
 - g. Emerging medical data suggest the spread of the novel coronavirus declines when a majority of the population wear non-medical grade face coverings.
4. This Order is based on provisions of the non-medical [Cloth Face Coverings Guidance](#) issued by the California Department of Public Health on Wednesday, April 1, 2020 and the [April 17, 2020 Order of the Health Officer of the County of San Bernardino for the Control of COVID-19](#).
5. This Order is not a substitute for existing Guidance, including the following:
 - a. Social/Physical Distancing. On March 20, and until further notice, the San Bernardino County Public Health Department issued a County Guidance encouraging all residents to stay at home as much as possible, and participate only in essential activities such as critical work functions, doctor appointments, and shopping for necessities. Proper social distancing requires a 6-foot separation between persons other than family members. This County Guidance complies with Governor Newsom's March 19 [Emergency Order N-33-20 Stay at Home Order](#).
 - b. Gathering Guidance. On March 17, and until further notice, the San Bernardino County Public Health Department ordered the cancellation, outside of the

home, of all gatherings of two or more people within the County. Within the home, only members of the household are permitted to gather.

- c. Handwashing. The CDC encourages frequent (at least every 30 minutes) and vigorous handwashing for at least 20 seconds, using soap and warm water to destroy the fatty layer that encases each novel coronavirus molecule. Handwashing should occur each time after using the restroom; before and after eating; after blowing the nose, coughing or sneezing; after removing or putting on a face covering; and before and after touching the face, nose or eye area. If soap and water are not available, a hand sanitizer with at least 60% alcohol should be used to cleanse hands.
- d. Sanitize. The CDC recommends cleaning and disinfecting frequently touched objects and surfaces, using regular household cleaning spray or wipes.
- e. Avoid sick people. The CDC recommends that unless an individual is a health care provider or first responder on a medical emergency call, avoid direct contact with people who are sick. An individual exposed to a person suspected of having COVID-19 or who is diagnosed with COVID-19, should self-quarantine for 14 days and seek the advice and assistance of a health care provider.

6. Exclusions to this Order:

- a. This Order is not intended to encourage, recommend, or suggest the purchase or wearing of personal protective equipment (PPE), such as surgical masks, N95-type facemasks, or other medical-grade facemasks, masks, shields or face coverings that are intended for use by health care workers and first responders.
- b. This Order is not intended to discourage the wearing of surgical masks or N95-type facemasks if such masks are already in the person's possession and/or is the only type of face covering available to the person at the time of its use.
- c. This Order is not intended to encourage the wearing of a non-medical grade face covering when the wearing of such device represents a potential danger to the person or to others.

This Order and each of its provisions shall be effective immediately, and shall remain in effect until rescinded by the City of Montclair Director of Emergency Services.

EMERGENCY DIRECTIVE

Dated: April 17, 2020

As Director of Emergency Services for the City of Montclair, I am authorized to promulgate directives, orders, guidance and regulations for the protection of life and property pursuant to Government Code Section 8634 and Montclair Municipal Code

Section 6.080.060. This Order shall be in effect for the duration of the local Public Health Emergency adopted pursuant to Montclair City Council Resolution No. 20-3263, which is incorporated in its entirety by reference.

This Order is promulgated as a regulation for the protection of life and property.

Any person who violates or who refuses or willfully neglects to obey this Order is subject to fine, imprisonment, or both pursuant to Montclair Municipal Code section 1.12.010, which provides, in pertinent part:

- A. Any person, firm, corporation, or other responsible entity who violates...any rule or regulation promulgated pursuant [to this Code] shall be guilty of a misdemeanor...
- B. Penalties.
 - a. Misdemeanor. Any person, firm, corporation, or responsible entity convicted of a misdemeanor under the provisions of this Code...shall be punishable by a fine not to exceed One Thousand (1,000) Dollars, or by imprisonment in the City or County Jail for a period not to exceed six months, or by both such fine and imprisonment.

Each violation of this Order shall be a separate violation, and each day of violation shall be a separate violation. This Order is enforceable by Law Enforcement and Code Enforcement personnel of the City of Montclair, as well as any other person designated in writing by the Director of Emergency Services to enforce this Order.

BY ORDER OF



Edward C. Starr
Director/City Manager
Office of Emergency Services