



## CITY OF MILPITAS AGENDA REPORT (AR)

<b>Item Title:</b>	<b>Adopt a Resolution to Confirm the Order of the Director of Emergency Services to Rescind the Order Imposing Regulations to Protect Essential Workers and Consumers Through the Use of Face Coverings</b>
<b>Category:</b>	Leadership and Support Services
<b>Meeting Date:</b>	6/21/2021
<b>Staff Contact:</b>	<b>Christopher J. Diaz, City Attorney (408) 586-3040</b>
<b>Recommendation:</b>	Adopt a Resolution to Confirm the Order of the Director of Emergency Services to Rescind the Order Imposing Regulations to Protect Essential Workers and Consumers Through the Use of Face Coverings

### **Background:**

On April 22, 2020, the City Manager, acting as the Director of Emergency Services, and pursuant to his authority under Milpitas Municipal Code section V-1-4.03, issued an Order Imposing Regulations to Protect Essential Workers and Consumers Through the Use of Face Coverings to Prevent the Spread of the Novel Coronavirus (COVID-19), which took effect on April 24, 2020 (the "Face Covering Order"). The Face Covering Order requires that individuals who work at or perform services at certain essential businesses wear face coverings; employers provide face coverings for their employees; customers and visitors of the essential businesses wear face coverings; and provides that business owners and operators may refuse admission or service to those who fail to wear face coverings. On May 5, 2020, the City Council confirmed the order of the Director of Emergency Services imposing regulations to protect essential workers and consumers through the use of face coverings.

As a result of the effective actions taken by California, as well as the successful and ongoing distribution of COVID-19 vaccines, the Governor and the State Department of Public Health have announced a plan for moving Beyond the Blueprint for a Safer Economy as of June 15, 2021. Effective June 15, 2021, the State amended its face covering requirement to align with guidelines from the Centers for Disease Control and Prevention (CDC), which provide guidance about higher risk settings where face coverings are required or recommended. In workplaces, employers are subject to the Cal/OSHA COVID-19 Emergency Temporary Standards (ETS), or in some workplaces the CalOSHA Aerosol Transmissible Diseases Standard.

### **Analysis:**

In light of the current state of the COVID-19 pandemic in the State, County of Santa Clara, and City of Milpitas, and changing face covering guidance issued by the CDC and the State Department of Public Health, the City's Director of Emergency Services has issued an order to rescind the previously issued Face Covering Order because it either duplicates or could be construed as imposing greater restrictions than those imposed by current State orders and guidance, which are not warranted by health conditions in the City at this time. The Face Covering Order indicates that the order is to remain in effect for the duration of the local emergency proclaimed in response to the COVID-19 crisis; however, based on current pandemic metrics and the State's modified face covering guidance, it is appropriate to rescind the Face Covering Order to align with the aforementioned authorities and guidelines on face coverings.

Staff is therefore requesting that the City Council, in accordance with Milpitas Municipal Code section V-1-4.03, confirm the order of the Director of Emergency Services to rescind the Face Covering Order.

**Policy Alternatives:**

**Alternative 1:** Do not adopt the resolution confirming the order of the Director of Emergency Services to Rescind the Order Imposing Regulations to Protect Essential Workers and Consumers Through the Use of Face Coverings, or seek changes to the order.

Pros: None.

Cons: The order will remain valid despite loosening COVID-19-related restrictions and modified face covering guidance issued by the State.

Reason not recommended: Not confirming the order could result in inconsistencies or conflicts with the State's modified face covering guidelines based on recent updated guidance issued by the CDC.

**Fiscal Impact:**

None at this time.

**California Environmental Quality Act:**

Under Title 14 of the California Code of Regulations, Section 15061(b)(3) and Section 15378(b), each as a separate and independent basis, the City Council's adoption of the resolution confirming the order is exempt from the requirements of the California Environmental Quality Act (CEQA) in that it is not a Project which has the potential for causing a significant effect on the environment.

**Recommendation:**

Adopt a resolution to confirm the Order of the Director of Emergency Services to Rescind the Order Imposing Regulations to Protect Essential Workers and Consumers Through the Use of Face Coverings.

**Attachments:**

Resolution and Exhibit A (Order Rescinding Order Imposing Regulations to Protect Essential Workers and Consumers Through the Use of Face Coverings)