

February 3 2022 (Agenda)

Local Agency Formation Commission 105
East Anapamu Street
Santa Barbara CA 93101

Assembly Bill 361 Determination

Dear Members of the Commission:

RECOMMENDATION:

It is recommended that the Commission adopt pursuant to Government Code § 54953(e)(l), consider determination that 1) local health officials recommend social distancing to reduce transmission of COVID-19 and 2) as a result of the declared pandemic emergency, requiring in-person attendance at Commission hearings presents an imminent risk to the health and safety of attendees and, therefore, Commission meetings may be held via teleconferencing pursuant to Government Code § 54953(e)(2).

DISCUSSION:

The Commission should adopt the attached Resolution affirming its previous determinations that the circumstances set forth in Government Code section 54953(1)(A) and (C) have been met and that Commission hearings, including any committee meetings subject to the Brown Act, may be held pursuant to the teleconferencing requirements of Assembly Bill 361.

Attachments:

Attachment A: Resolution for AB 361 Determination February 3, 2022

Please contact the LAFCO office if you have any questions.

Sincerely,



Mike Prater
Executive Officer

LAFCO RESOLUTION XX - 2022

Determination pursuant to Government Code)
§ 54953(e)(1) that Commission meetings may)
be held via teleconferencing pursuant to Assembly)
Bill 361, Government Code § 54953(e)(2.))
_____)

WHEREAS, on September 16, 2021, Governor Newsom signed Assembly Bill 361 amending the Brown Act, Government Code section 54953, to allow more liberal use of teleconferencing at local agency public meetings during a proclaimed state of emergency. As urgency legislation, this bill took effect immediately.

WHEREAS, on October 7, 2021, the Commission determined pursuant to Government Code section 54953(e)(1) that two grounds exist to authorize the Commission to hold hearings pursuant to the more liberal teleconference requirements of Government Code § 54953(e)(2). (“SB 361.”)

WHEREAS, on November 4, 2021, the Commission adopted Resolution No. 21-16 determining that both grounds continue to exist for the Commission to hold meetings pursuant to the teleconference requirements of Section 54953(e)(2) and this determination was affirmed by the Commission at its regular meeting[s] on December 9, 2021, and January 6, 2022.

NOW, THEREFORE, BE IT RESOLVED, DETERMINED AND ORDERED by the Local Agency Formation Commission of Santa Barbara County as follows:

(1) The Commission affirms its previous determinations that the circumstances set forth in Government Code section 54953(1)(A) and (C) have been met and that Commission hearings, including any committee meetings subject to the Brown Act, may be held pursuant to the teleconferencing requirements of Assembly Bill 361.

(2) Pursuant to Section 54953(e)(3)(B), the Commission has reconsidered the circumstances under which the original determinations were made and hereby determines as follows:

(a) Evidence cited in County Health Orders show that the declared state of emergency for Covid-19 continues to directly impact the ability of the members of the public and public officials to safely attend Commission hearings in person.

(b) County Health Officer continues to recommend measures to promote social distancing at indoor activities.

This resolution is adopted on February 3, 2022 and is effective on the date signed by the Chair.

AYES:

NOES:

ABSTAIN:

Santa Barbara County Local Agency
Formation Commission

By: _____
Chair

Print name:

Date: _____

ATTEST:

Natasha Carbajal, Clerk Office
Santa Barbara County
Local Agency Formation Commission

**HEALTH OFFICER ORDER NO. 2021-10.8
COUNTY OF SANTA BARBARA**

**FOR THE CONTROL OF COVID-19
FACE COVERINGS
WITHIN SANTA BARBARA COUNTY**

**Health Officer Order No. 2021-10.8 Supersedes and Replaces Health Officer Order
No. 2021-10.7**

Effective Date: January 2, 2022, 5:00pm PT

(Changes are underlined.)

Please read this Order carefully. Violation of or failure to comply with this Order may constitute a misdemeanor punishable by fine of up to \$1,000, imprisonment, or both, or result in administrative fines. (Health and Safety Code §§ 101029, 120295 et seq.; County Ord. No. 5120.) Violators are also subject to civil enforcement actions including fines or civil penalties per violation per day, injunctive relief, and attorneys' fees and costs.

This Health Officer Order No. 2021-10.8 supersedes and replaces Health Officer Order No. 2021-10.7 that was effective December 3, 2021. Nothing in this Health Officer Order supersedes State Executive Orders or State Health Officer Orders or guidance provided by the California Department of Public Health available at:

<https://www.cdph.ca.gov/Programs/CID/DCDC/Pages/Guidance.aspx#>

Summary: As of December 20, 2021, the community transmission level of COVID-19 in Santa Barbara County is categorized as “High” based on the US Centers for Disease Control and Prevention’s (CDC) Indicators. The significantly more transmissible SARS-CoV-2 B.1.617.2 (Delta) variant of COVID-19 is the predominant strain in Santa Barbara County, while SARS-CoV-2 B.1.1.529 (Omicron) is emerging as the predominant strain in the US. To control the spread of COVID-19, this Health Officer Order orders all individuals in the County of Santa Barbara – whether vaccinated or unvaccinated – to wear a Face Covering at all times in all Indoor Public Settings, and while inside any Business, with limited exemptions, and recommends that Businesses make face coverings available to individuals entering the Business.

WHEREAS, on March 4, 2020, Governor Newsom declared a state of emergency for conditions caused by a novel coronavirus, COVID-19, and on March 11, 2020, the World Health Organization declared COVID-19 a global pandemic, and on March 12, 2020, the County of Santa Barbara declared a local emergency and a local health emergency in relation COVID-19 in the community; and

WHEREAS, in the County of Santa Barbara (“County”) as well as throughout California and the nation, there are insufficient quantities of critical healthcare infrastructure, including hospital beds, ventilators and workers, capable of adequately treating mass numbers of patients at a single time – should the virus spread unchecked; and

WHEREAS, in direct response to the lack of healthcare infrastructure, governments across

the nation are taking actions to slow the spread of COVID-19 in order to “flatten the curve” of infection and reduce the numbers of individuals infected at any one time by minimizing situations where the virus can spread; and

WHEREAS, the CDC categorizes COVID-19 community transmission in four categories: Low, Moderate, Substantial, and High; and

WHEREAS, per the CDC “for people infected with the Delta variant, similar amounts of viral genetic material have been found among both unvaccinated and fully vaccinated people”; and

WHEREAS, since April 2021, the Delta variant has been circulating in the County. This variant is highly transmissible in indoor settings and requires multicomponent prevention strategies to reduce spread. Despite high vaccination rates, the County is experiencing substantial levels of community transmission due to the Delta variant. While the risk for COVID-19 infection is highest among unvaccinated persons, the incidence of infection among fully vaccinated persons may also occur. Hospitalizations remain elevated from levels prior to the implementation of this Order, primarily among unvaccinated persons; and

WHEREAS, the COVID-19 vaccines authorized in the United States are highly safe and effective. These vaccines provide protection to individuals and communities, particularly against severe COVID-19 disease, hospitalization, and death, and are recommended by the CDC for all populations authorized to receive them by the U.S. Food and Drug Administration. The Health Officer strongly recommends that all eligible persons in the County be vaccinated. Vaccines are available for all persons over 5 years of age. Information on obtaining a COVID19 vaccine in the County of Santa Barbara is available here: <https://publichealthsb.org/vaccine>; and

WHEREAS, since July 19, 2021, the Health Officer has recommended that fully vaccinated persons wear masks in public indoor settings, considering the apparent increased transmissibility of the Delta variant; and

WHEREAS, since July 28, 2021 the California Department of Public Health has required face coverings in specific indoor public settings regardless of vaccination status; and

WHEREAS, as of August 13, 2021 and updated October 25, 2021, the CDC recommends those not fully vaccinated and aged 2 or older should (1) wear a face covering in indoor public places; and (2) in areas with high numbers of COVID-19 cases, consider wearing a mask in crowded outdoor settings and for activities with close contact with others who are not fully vaccinated (<https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/about-face-coverings.html>); and

WHEREAS, as of September 1, 2021 and updated October 15, 2021, the CDC recommends fully vaccinated individuals wear a face covering in public indoor settings in areas with Substantial or High community transmission rates (<https://www.cdc.gov/coronavirus/2019-ncov/vaccines/fully-vaccinated-guidance.html>); and

WHEREAS, as of August 4, 2021 and updated November 5, 2021, the CDC recommends “universal indoor masking for all students, staff, teachers, and visitors to K-12 schools,

regardless of vaccination status.” When community transmission is “Substantial” the CDC recommends screening testing for participants of high-risk sports and high-risk extracurricular activities, especially when conducted indoors, twice per week for participants that are not fully vaccinated. When community transmission is “Moderate” the CDC recommends screening testing for participants of high-risk sports and high-risk extracurricular activities, especially when conducted indoors, at least once per week for participants that are not fully vaccinated. (<https://www.cdc.gov/coronavirus/2019-ncov/community/schools-childcare/k-12-guidance.html>); and

WHEREAS, as of November 24, 2021, the CDPH updated its COVID-19 Public Health Guidance for K-12 Schools in California, 2021-22 School Year, requiring face coverings for indoor School-Based Extracurricular Activities and recommending weekly testing for activities when masks (Face Coverings) or “bell covers” are not practicable (<https://www.cdph.ca.gov/Programs/CID/DCDC/Pages/COVID-19/K-12-Guidance-2021-22-School-Year.aspx>); and

WHEREAS, as of December 13, 2021, the CDPH requires face coverings in indoor public settings regardless of vaccination status, for the period of December 15, 2021 through January 15, 2022 (<https://www.cdph.ca.gov/Programs/CID/DCDC/Pages/COVID-19/guidance-for-face-coverings.aspx>); and

WHEREAS, as of December 4, 2021, according to the CDC, COVID-19 community transmission level is categorized as “High” in California and Santa Barbara County. As of December 16, 2021, the County has a case rate of 12.9 per 100,000 and a test positivity of 3.3%; and

WHEREAS, the CDC and the CDPH find the use of face coverings may reduce asymptomatic transmission of COVID-19 and reinforce physical distancing, and that wearing a face covering combined with physical distancing of at least six feet, and frequent hand washing, will lessen the risk of COVID-19 transmission by limiting the spread of respiratory droplets; and

WHEREAS, universal indoor use of face coverings, also known as masking, is the least disruptive and most immediately impactful additional measure to take to limit the spread of COVID-19. This Order is part of a strategy to support the continued operations of Businesses, activities, and schools; and

WHEREAS, the County Health Officer finds (1) a significant portion of individuals with COVID-19 are asymptomatic and can transmit the virus to others; (2) those who may develop symptoms can transmit the virus to others before showing symptoms; (3) the incidence of infection among fully vaccinated persons continues to occur; (4) scientific evidence shows COVID-19 is easily spread and public activities can result in transmission of the virus; (5) face coverings are necessary because COVID-19 is highly contagious and is spread through respiratory droplets that are produced when an infected person coughs, sneezes, or talks. These droplets may land on other people or be inhaled into their lungs, may land on and attach to surfaces where they remain for days, and may remain viable in the air for up to three hours, even after the infected person is no longer present; (6) indoor School-Based Extracurricular Activities lead to increased exhalation and respiratory droplet production; (7) Face Coverings cannot be practicably worn during some indoor School-

Based Extracurricular Activities; (8) when worn properly, face coverings have the potential to slow the spread of the virus by limiting the spread of respiratory droplets; and (9) distinctions made in this Order are to minimize the spread of COVID-19 that could occur through proximity and duration of contact between individuals; and

WHEREAS, the intent of this Order is to temporarily require the use of Face Coverings to slow the spread of COVID-19 in Santa Barbara County to the maximum extent possible. All provisions of this Order should be interpreted to effectuate this intent.

ACCORDINGLY, UNDER THE AUTHORITY OF CALIFORNIA HEALTH AND SAFETY CODE SECTIONS 101040, 101085, AND 120175, TITLE 17 CALIFORNIA CODE OF REGULATIONS SECTION 2501, THE HEALTH OFFICER OF THE COUNTY OF SANTA BARBARA ORDERS:

1. This Order 2021-10.7 is effective 5:00 p.m. (PT) January 2, 2022 and continuing until 5:00 p.m. (PT), on February 1, 2022 or until it is extended, rescinded, superseded, or amended in writing by the County of Santa Barbara Health Officer (“Health Officer”). This Order applies in the incorporated and unincorporated areas of Santa Barbara County (“County”).
2. This Order orders that in the County Face Coverings must be worn over the mouth and nose – regardless of vaccination status – in all Indoor Public Settings, and while inside any Business, as defined below, including but not limited to: offices, retail stores, restaurants and bars, theaters, family entertainment centers, conference and event centers, State and local government offices serving the public, educational entities, and schools K-12.
3. Individuals, Businesses, venue operators, hosts, and others responsible for the operation of Indoor Public Settings must:
 - a. Require all individuals to wear Face Coverings regardless of vaccination status while indoors; and
 - b. Post clearly visible and easy-to-read signage at all entry points to communicate the Face Covering requirements.
4. Exemptions. Individuals are not required to wear Face Coverings in the following circumstances:
 - a. While working alone in a closed office or room;
 - b. While actively eating and/or drinking;
 - c. While swimming or showering;
 - d. While obtaining a medical or cosmetic service involving the head or face for which temporary removal of the Face Covering is necessary to perform the service;
 - e. Performers at indoor live events such as theater, opera, symphony, religious choirs, and professional sports may remove Face Coverings while actively performing or practicing, though such individuals should maximize physical distancing as much as practicable. These individuals shall undergo COVID-19

testing either once weekly with an FDA-approved PCR testing, or twice weekly with an FDA-approved antigen testing. Face Coverings are required at all other times not actively performing or practicing;

- f. Individuals in indoor religious or cultural gatherings may remove Face Coverings when necessary to participate in religious or cultural rituals;
 - g. Individuals actively engaged in water-based sports (e.g., swimming, swim lessons, diving, water polo) and other sports where masks create imminent risk to health (e.g., wrestling, judo). These individuals shall undergo COVID-19 testing either once weekly with an FDA-approved PCR testing, or twice weekly with an FDA-approved antigen testing. Face Coverings are required at all other times not in the water or actively engaged in the sport. All other indoor recreational sports, gyms, and yoga studios shall comply with this Order;
 - h. Students actively participating in School-Based Extracurricular Activities (as defined below), when practicing, conditioning, or competing in indoor sports or exercise, where due to heavy exertion, Face Coverings are not practicable, so long as those participating students undergo COVID-19 testing either once weekly with an FDA-approved PCR testing, or twice weekly with an FDA-approved antigen testing. Face Coverings are required at all other times including when not actively practicing, conditioning, competing, or on the sidelines, in team meetings, within locker rooms, or in weight rooms;
 - i. Students actively participating in School-Based Extracurricular Activities (as defined below), using instruments indoors that cannot be played with a Face Coverings (e.g., wind instruments) may perform without a Face Covering if bell coverings are used AND a minimum of 3 feet of physical distancing is maintained between participants. If bell covers are not used, then participating students shall undergo COVID-19 testing either once weekly with an FDA-approved PCR testing, or twice weekly with an FDA-approved antigen testing. Face Coverings are required at all other times when not actively practicing or performing;
 - j. Persons younger than two years old must not wear a Face Covering because of the risk of suffocation;
 - k. 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;
 - l. Persons who are hearing impaired, or communicating with a person who is hearing impaired, when the ability to see the mouth is essential for communication; and
 - m. 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.
5. Persons exempted from wearing a Face Covering due to a medical condition, mental health condition, disability, or who are hearing impaired or communicating with a person who is hearing impaired, must wear a non-restrictive alternative, such as a

face shield with a drape on the bottom edge.

6. Workplaces subject to the Cal/OSHA COVID-19 Emergency Temporary Standards (ETS) and/or the Cal/OSHA Aerosol Transmissible Diseases Standards should consult the applicable regulations for additional requirements. The ETS allows local health jurisdictions to mandate more protective measures. (8 CCR § 3205(a)(2).) This Order, which requires Face Coverings for all individuals in Indoor Public Settings, and while inside any Business, regardless of vaccination status, takes precedence over the more permissive ETS regarding employee face coverings.
7. “Business” or “Businesses” for the purpose of this Health Officer Order is defined to mean any institution, establishment, public or private agency, for-profit, non-profit, or educational entity, whether an organization, corporate entity, partnership, or sole proprietorship. Business does not include a place when used exclusively by one or more individuals for a private gathering or other personal purpose.
8. “Face Covering” means a covering made of a variety of materials such as cloth, fabric, cotton, silk, linen, or other permeable materials, that fully covers the tip of a person’s nose and mouth, without holes, including cloth face masks, surgical masks, towels, scarves, and/or bandanas. This Order does not require the public to wear medical-grade masks, including masks rated N95, KN95, and their equivalent or better.

A face covering with a one-way valve (typically a raised plastic cylinder about the size of a quarter on the front or side of the mask) that provides a preferential path of escape for exhaled breath shall not be used as a face covering under this Order because the valve permits respiratory droplets to easily escape which places others at risk.

9. “Indoor Public Setting” or “Indoor Public Settings” for the purpose of this Health Officer Order is defined to mean an enclosed area whether privately or publicly owned, to which the public have access by right or by invitation, expressed or implied, whether by payment of money or not, but not a place when used exclusively by one or more individuals for a private gathering or other personal purpose.
10. “School-Based Extracurricular Activities” for the purpose of this Health Officer Order is defined to mean all extracurricular activities that are operated or supervised by public or private schools K-12 and involve singing, shouting, band, or exercise at a school site, whether or not the activity occurs during school hours.
11. Except as otherwise set forth herein, the December 13, 2021 Guidance for the Use of Face Coverings issued by the CDPH (<https://www.cdph.ca.gov/Programs/CID/DCDC/Pages/COVID-19/guidance-for-face-coverings.aspx>) as may be amended from time to time, continues to apply throughout the County of Santa Barbara.
12. The Health Officer strongly encourages that individuals, Businesses, venue operators, hosts, and others responsible for the operation of Indoor Public Settings to provide Face Coverings at no cost to individuals required to wear them.

13. If you cannot afford a face covering one will be provided to you free-of-charge at the following locations:
- a. Santa Barbara County Administration building lobby, 105 E Anapamu St, Santa Barbara
 - b. Santa Barbara Health Care Center, 345 Camino del Remedio, Santa Barbara
 - c. Santa Maria Health Care Center, 2115 Centerpointe Parkway, Santa Maria
 - d. The Health Officer requests cities within the County of Santa Barbara provide face coverings free-of-charge to those cannot afford them.

This Order is issued as a result of the worldwide pandemic of COVID-19 which has infected at least 276,154,718 individuals worldwide, in 222 countries and territories, including 47,188 cases, and 557 deaths in the County, and is implicated in over 5,380,932 worldwide deaths.

This Order is issued based on evidence of increasing transmission of COVID-19 both within the County and worldwide, scientific evidence regarding the most effective approach to slow transmission of communicable diseases generally and COVID-19 specifically, as well as best practices as currently known and available to protect the public from the risk of spread of or exposure to COVID-19.

This Order is issued because of the propensity of the virus to spread person to person and also because the virus physically is causing property loss or damage due to its proclivity to attach to surfaces for prolonged periods of time.

This Order is intended to reduce the likelihood of exposure to COVID-19, thereby slowing the spread of COVID-19 in communities worldwide. As the presence of individuals increases, the difficulty and magnitude of tracing individuals who may have been exposed to a case rises exponentially.

This Order may be rescinded when the County's Case Rate per 100,000 in population is 7 or less for 21 consecutive days, and hospitalizations are low and stable (20% or more staffed ICU beds are available) for 3 consecutive days.

This Order is issued in accordance with, and incorporates by reference: the March 4, 2020 Proclamation of a State Emergency issued by Governor Gavin Newsom; the March 12, 2020 Declaration of Local Health Emergency and Proclamation of Emergency based on an imminent and proximate threat to public health from the introduction of novel COVID-19 in the County; the March 17, 2020 Resolution of the Board of Supervisors ratifying the County Declaration of Local Health Emergency and Proclamation of Emergency regarding COVID-19; the March 13, 2020 Presidential Declaration of a National Emergency due to the national impacts of COVID-19; the March 22, 2020, Presidential Declaration of a Major Disaster in California beginning on January 20, 2020 under Federal Emergency Management Agency (FEMA) Incident DR-4482-CA; CDPH / Cal-OSHA Interim Guidance for Ventilation, Filtration, and Air Quality in Indoor Environments issued February 26, 2021; the State Public Health Order issued June 11, 2021; Governor Gavin Newsom's Executive Order N-07-21 of June 11, 2021; Governor Gavin Newsom's Executive Order N-08-21 of June 11, 2021; the State Public Health Order issued July 26, 2021; the July 28, 2021 California Department of Public Health Guidance for the Use of Face Coverings; the October 15, 2021 guidance issued by the Centers for Disease Control and Prevention titled Interim Public Health

Recommendations for Fully Vaccinated People; and the October 25, 2021 guidance issued by the Centers for Disease Control and Prevention titled Your Guide to Masks; the November 5, 2021 guidance issued by the Centers for Disease Control and Prevention titled Guidance for COVID-19 Prevention in K-12 Schools; the November 24, 2021 California Department of Public Health Guidance for K-12 Schools in California, 2021-22 School Year; and the December 13, 2021 California Department of Public Health Guidance for the Use of Face Coverings.

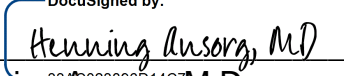
This Order is made in accordance with all applicable State and Federal laws, including but not limited to: Health and Safety Code sections 101040 and 120175; Health and Safety Code sections 101030 et seq., 120100 et seq.; and Title 17 of the California Code of Regulations section 2501.

If any provision of this Order or the application thereof to any person or circumstance is held to be invalid by a court of competent jurisdiction, 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.

The violation of any provision of this Order constitutes a threat to public health. Pursuant to Government Code sections 26602 and 41601 and Health and Safety Code sections 101029 and 120295, the Health Officer requests that the Sheriff and all chiefs of police in the County ensure compliance with and enforce this Order. Per Health and Safety Code section 101029, “the sheriff of each county, or city and county, may enforce within the county, or the city and county, all orders of the local health officer issued for the purpose of preventing the spread of any contagious, infectious, or communicable disease. Every peace officer of every political subdivision of the county, or city and county, may enforce within the area subject to his or her jurisdiction all orders of the local health officer issued for the purpose of preventing the spread of any contagious, infectious, or communicable disease. This section is not a limitation on the authority of peace officers or public officers to enforce orders of the local health officer. When deciding whether to request this assistance in enforcement of its orders, the local health officer may consider whether it would be necessary to advise the enforcement agency of any measures that should be taken to prevent infection of the enforcement officers.”

Copies of this Order shall promptly be: (1) made available at the County Public Health Department; (2) posted on the County Public Health Department’s website (publichealthsb.org); and (3) provided to any member of the public requesting a copy of this Order.

IT IS SO ORDERED:

DocuSigned by:


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Henning Ansorg, M.D.
Health Officer
Santa Barbara County Public Health Department