

# CITY of ALBUQUERQUE

## TWENTY FOURTH COUNCIL

COUNCIL BILL NO. F/S O-20-24 ENACTMENT NO. \_\_\_\_\_

SPONSORED BY: Isaac Benton, Lan Sena, and Cynthia Borrego

1 **ORDINANCE**

2 **REQUIRING EMPLOYERS TO PROVIDE AND REQUIRE FACE MASKS FOR**  
3 **EMPLOYEES; REQUIRING NOTICE THAT EMPLOYEES, CUSTOMERS AND THIRD**  
4 **PARTIES MUST WEAR FACE MASKS**

5 **WHEREAS, on March 11, 2020, Governor Michelle Lujan Grisham issued**  
6 **Executive Order 2020-004, Order Declaring a State of Public Health Emergency**  
7 **relating to the spread of COVID-19; and**

8 **WHEREAS, the latest amendments to the COVID-19 Public Health Order**  
9 **issued by Governor Lujan Grisham allow certain businesses to open at partial**  
10 **capacity, while following the social distancing and preventative measures**  
11 **summarized in the publication “All Together New Mexico, COVID-safe Practices**  
12 **for Individuals and Employers”;** and

13 **WHEREAS, one of the preventative measures identified in the most recent**  
14 **public health order of June 1, 2020, states that “[u]nless a healthcare provider**  
15 **instructs otherwise, all individuals shall wear a mask or multilayer cloth face**  
16 **covering in public settings except when eating, drinking, or exercising” which**  
17 **requirement extends to employees performing services for their employers; and**

18 **WHEREAS, even though this preventative measure instructs employers to**  
19 **have their employees wear face coverings, it does not instruct employers to**  
20 **provide their employees with face coverings and at no cost, or to post notice to**  
21 **the public; and**

22 **WHEREAS, the gap in these instructions and their enforcement leaves**  
23 **employees at risk of not having the supplies necessary to safely perform their**  
24 **duties in compliance with public health orders; and**

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1 WHEREAS, the spread of COVID-19 endangers life and property to such  
2 extent that extraordinary measures must be taken to protect the public health,  
3 safety, and welfare; and

4 WHEREAS, the City of Albuquerque faces the continuing threat of the  
5 spread of COVID-19 and damage caused by COVID-19 until the pandemic  
6 subsides and unless the City takes proactive measures to prevent or control the  
7 spread of the virus; and

8 WHEREAS, the City of Albuquerque faces the continuing threat of untold  
9 damage to public health thereby perpetuating an uncertain financial burden; and

10 WHEREAS, the health and safety of the public are only possible during the  
11 COVID-19 pandemic because employees continue to work in difficult situations;  
12 and

13 WHEREAS, this requirement would apply to all employers located within  
14 City limits with employees not telecommuting; and

15 WHEREAS, the City Council is currently considering Resolution R-20-64  
16 which proposes to adjust City of Albuquerque Fiscal Year 2020 Appropriations to  
17 provide small businesses with face coverings to implement Public Health  
18 Emergency Guidelines Related to the COVID-19; and

19 WHEREAS, enacting this Resolution would complement the City's Fiscal  
20 Year 2020 Appropriations Adjustment and ensure the proper implementation of  
21 both bills in a way that contributes to the health, safety, and general welfare of  
22 employers, employees, and customers of the City of Albuquerque.

23 BE IT ORDAINED BY THE COUNCIL, THE GOVERNING BODY OF THE CITY OF  
24 ALBUQUERQUE:

25 “[SECTION 1. For so long as the State of New Mexico Public Health Order,  
26 as most recently stated on June 1, 2020, requiring individuals to wear facemasks  
27 in public remains in effect, each employer, as that term is defined by ROA 1994 §  
28 13-12-2, shall provide each employee performing work that involves interaction  
29 with the public or co-workers with a mask or multilayer cloth face covering  
30 satisfying guidelines by the Center for Disease Control for non-medical use.  
31 Employers shall not charge employees for the mask or face covering. Employers  
32 shall also post notices of the public health orders requiring face coverings for all

1 persons, including employers, employees, customers and third parties entering  
2 common areas or publicly accessible areas of the workplace or business.

3 SECTION 2. Violations of this ordinance are subject to a civil penalty of  
4 \$200 per occurrence.

5 SECTION 3. The City Administration shall establish procedures to help  
6 ensure compliance with the requirements of this ordinance, including a process  
7 for accepting of complaints and enforcement of penalties. Prior to the  
8 assessment of any penalties under this Ordinance, the City Administration shall  
9 work with local business leaders to establish standardized guidelines for  
10 employers to distribute face coverings to their employees as well as provide  
11 reasonable assistance to employers in order to help employers avoid penalties  
12 under this ordinance.]”

13 SECTION 4. SEVERABILITY CLAUSE. If any section, paragraph, sentence,  
14 clause, word or phrase of this ordinance is for any reason held to be invalid or  
15 unenforceable by any court of competent jurisdiction, such decision shall not  
16 affect the validity of the remaining provisions of this ordinance. The Council  
17 hereby declares that it would have passed this ordinance and each section,  
18 paragraph, sentence, clause, word or phrase thereof irrespective of any provision  
19 being declared unconstitutional or otherwise invalid.

20 SECTION 5. SUNSET CLAUSE. This ordinance shall expire upon the lifting  
21 of public health orders for the State of New Mexico and the City of Albuquerque  
22 requiring individuals to wear facemasks in public.

23 SECTION 6. COMPILATION. As a temporary public safety measure, this  
24 ordinance shall not be permanently codified.

25 SECTION 6. EFFECTIVE DATE. This ordinance is passed as an emergency  
26 measure and takes effect immediately upon publication by title and general  
27 summary.