



Legislation Text

File #: O-20-24, Version: 3

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

ORDINANCE

F/S Requiring Employers To Provide And Require Face Masks For Employees; Requiring Notice That Employees, Customers And Third Parties Must Wear Face Masks (Benton, Sena, Borrego)
REQUIRING EMPLOYERS TO PROVIDE AND REQUIRE FACE MASKS FOR EMPLOYEES;
REQUIRING NOTICE THAT EMPLOYEES, CUSTOMERS AND THIRD PARTIES MUST WEAR FACE MASKS.

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

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

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

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

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

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

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

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

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

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

WHEREAS, the City Council adopted Resolution R-20-64 on June 15, 2020 which adjusted City of Albuquerque Fiscal Year 2020 Appropriations to provide small businesses with face coverings to implement Public Health Emergency Guidelines Related to the COVID-19; and

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

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

SECTION 1. For so long as the State of New Mexico Public Health Order, as most recently stated on June 1, 2020, requiring individuals to wear facemasks in public remains in effect, each employer, as that term is defined by ROA 1994 § 13-12-2, shall provide each employee performing work that involves interaction with the public or co-workers with a mask or multilayer cloth face covering satisfying guidelines by the Center for Disease Control for non-medical use. Employers shall not charge employees for the mask or face covering. Employers shall also post notices of the public health orders requiring face coverings for all persons, including employers, employees, customers and third parties entering common areas or publicly accessible areas of the workplace or business.

SECTION 2. Violations of this ordinance are subject to a civil penalty of \$50 per occurrence.

SECTION 3. The City Administration shall establish procedures to help ensure compliance with the requirements of this ordinance, including a process for accepting of complaints and enforcement of penalties. Prior to the assessment of any penalties under this Ordinance, the City Administration shall work with local business leaders to establish standardized guidelines for employers to distribute face coverings to their employees as well as provide reasonable assistance to employers in order to help employers avoid penalties under this ordinance. The enforcement procedures established pursuant to this section shall include a process for the issuance of at least one warning before the assessment of any penalty.

SECTION 4. That that the amount of \$1,000,000 is hereby unreserved from the Operating Reserve Fund for the City of Albuquerque for Fiscal Year 2021, and the following amounts are hereby adjusted to the General Fund in Fiscal Year 2021; to supplement funding to provide personal protection and other required COVID-19 screening equipment to small local businesses, with 50 employees or less.

General Fund (110)

Economic Development Department

Economic Development	1,000,000
----------------------	-----------

SECTION 5. SEVERABILITY CLAUSE. If any section, paragraph, sentence, clause, word or phrase of this ordinance is for any reason held to be invalid or unenforceable by any court of competent jurisdiction, such decision shall not affect the validity of the remaining provisions of this ordinance. The Council hereby declares that it would have passed this ordinance and each section, paragraph, sentence, clause, word or phrase thereof irrespective of any provision being declared unconstitutional or otherwise invalid.

SECTION 6. SUNSET CLAUSE. This ordinance shall expire upon the lifting of public health orders for the State of New Mexico and the City of Albuquerque requiring individuals to wear facemasks in public.

SECTION 7. COMPILATION. As a temporary public safety measure, this ordinance shall not be permanently codified.

SECTION 8. EFFECTIVE DATE. This ordinance is passed as an emergency measure and takes effect immediately upon publication by title and general summary.

X:\CL\SHARE\CL-Staff\Legislative Staff\Legislation\24 Council\O-24FSfinal.docx