



Legislation Text

File #: O-270-20, **Version:** 1

Council Members Komives, Gadus and Melden

Enacting Toledo Municipal Code section 521.12 “Face coverings required”; and declaring an emergency.

SUMMARY & BACKGROUND:

COVID-19 is a respiratory disease that can result in serious illness or death and can be easily spread from person to person. The Centers for Disease Control and Prevention (CDC) reported more than 2,784,452 cases of COVID-19 in the United States, resulting in more than 129,393 deaths as of July 4, 2020. On March 9, 2020, the Ohio Department of Health announced confirmed cases of COVID-19 in the State of Ohio, creating a dangerous condition that may affect the health, safety and welfare of the citizens of Ohio. On that same date, Governor Mike DeWine declared a state of emergency for the entire State to protect the well-being of the citizens of Ohio from the dangerous effects of COVID-19, and to assist in protecting the lives, safety, and health of the citizens of Ohio. COVID-19 endangers the lives of the citizens of Toledo, creating an emergency to life and public safety and disrupting commerce. The CDC reports that while people are at their most contagious when they are symptomatic, it is possible to spread the disease before an individual may show symptoms. On March 22, 2020, under the direction of Ohio Governor, Mike DeWine, Ohio Department of Health Director, Dr. Amy Acton, M.D. issued an order requiring all Ohioans to stay in their homes to prevent the further spread of COVID-19 until April 6, 2020 and the order was extended until May 1, 2020, and has been since amended on April 30, May 20 and May 22, 2020 to allow businesses to open with the recommendation that facial coverings be worn except in certain circumstances. As businesses have re-opened, more people are traveling throughout the state, and within the City of Toledo. A local and statewide state of emergency continues to exist with limits on mass gatherings and recommendations of social distancing.

As a result of the above described emergency there is a continuing need to protect all citizens and visitors of the City of Toledo from the risks relating to the COVID-19 pandemic. The CDC recommends wearing face coverings in public where other physical distancing measures are difficult to maintain to help prevent the spread of COVID-19 from asymptomatic or unknowing carriers to others; and the director of the Toledo-Lucas County Health Department in a letter dated July 4, 2020 (attached as Exhibit A) recommended that masks be required to slow the spread of the disease through person-to-person transmissions; and further stated that wearing a facial covering can reduce virus transmission by up to 75 percent. Requiring face coverings to be worn by any person in places of business within the City of Toledo promotes health, safety, and efforts to limit the spread of COVID-19 while enabling the continuation of essential services, businesses, and travel necessary to protect public health and safety, and for the continuity of social and commercial life during the state of emergency.

After weighing the known information about the COVID-19 virus, consulting with the Toledo-Lucas County Health Department, and considering the guidance from the Ohio Department of Health, it is hereby determined that the safety of City of Toledo citizens is best protected by implementing a requirement to wear face coverings in places of businesses as set forth herein.

NOW, THEREFORE, Be it ordained by the Council of the City of Toledo:

SECTION 1. That Toledo Municipal Code section 521.12 titled “Face coverings required” be enacted to read as follows:

521.12. Face coverings required.

(a) Definitions

As used in this section, the following words shall mean:

(1) “Face covering” means a piece of cloth, fabric, or other material that fully covers the mouth and nose and that is secured with ear straps or otherwise tied so as to prevent slipping. A face covering may be factory-made or may be handmade and improvised from household materials. Face coverings include, but are not limited to, bandanas, scarfs, medical masks, and cloth masks; and also include respirators, N95 masks or other personal protective equipment that provides a higher level of protection than a face covering defined in this Section. A face covering shall be worn so as to cover the mouth and nose in compliance with the CDC's guidance on wearing face coverings.

(2) “Place of business” means any facility, building, or structure operated by or for a business engaged in the sale or other transaction of any kind for anything of value in exchange for goods, commodities, services, or temporary lodging and that is open to the general public or by appointment, and includes, but is not limited to, grocery stores, retail stores, pharmacies, health care facilities, restaurants and bars (including outdoor seating for such facilities), hotels and motels (excluding the rented room or suite), gyms and similar facilities; “place of business” includes non-profits, community centers, and City of Toledo buildings, but excludes religious facilities.

(b) No person operating, managing or in control of any place of business shall permit any member of the public or employee to enter or remain in the place of business without a face covering when:

(1) Entering, exiting, or waiting in line to enter a place of business that is open to the public, and while inside a place of business as to the areas within the place of business that are accessible to, and are intended for the use of, the public.

(2) In any outdoor space under the control of a place of business where or when a person is unable to maintain or does not maintain physical separation of not less than six feet from others who are not members of their own household.

(c) The requirement to wear a face covering through this Ordinance shall not apply to

the following:

(1) Any individual who cannot wear a face covering because of a medical condition, mental health condition or developmental disability, or who is unable to remove the face covering without assistance, and any individual who should not wear face coverings under the CDC guidance. An individual is not required to produce medical documentation of the condition or disability, provided an employer may require such documentation from an employee in accordance with state and federal law.

(2) Individuals under 6 years old.

(3) Restaurant and bar patrons while eating or drinking. If a patron is not seated at his or her table or at the bar, a face covering is required.

(4) In settings where it is not practicable or feasible to wear a face covering such as when receiving

dental services, medical treatments, or while swimming.

(5) While actually engaged in exercising in a gym or other similar indoor facility so long as physical separation of not less than six feet is maintained and the individual wears a face covering at all times when not actually engaged in exercising.

(6) When an individual is in his or her work office, conference room, or other workspace not intended for use by the general public.

- (d) This section shall be enforced by the Chief of Police or his or her designee or the Commissioner of the Toledo-Lucas County, Health Department or his or her Designee.
- (e) Whoever violates this section shall receive a written warning for the first violation. Upon the second violation of this section at a place of business, the penalty shall be a minor misdemeanor.
- (f) This section 521.12 is effective only during the pendency of a state or locally declared state of emergency for a health related reason.

SECTION 2. It is found and determined that all formal actions of this Council concerning and relating to the passage of this Ordinance were passed in an open meeting of this Council, and that all deliberations of this Council and any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with all legal requirements including Section 121.22 of the Ohio Revised Code.

SECTION 3. That this Ordinance is declared to be an emergency measure and shall take effect and be in force immediately from and after its passage. The reason for the emergency lies in the fact that the same is necessary for the immediate preservation of the public peace, health, safety and property, and for the further reason that this legislation is needed to assist slowing the spread of the deadly Covid-19 virus.

Vote on emergency clause: yeas _____, nays _____.

Passed: _____, as an emergency measure: yeas _____, nays _____.

Attest: _____
Clerk of Council

President of Council

Approved: _____

Mayor

I hereby certify that the above is a true and correct copy of an Ordinance passed by Council _____.

Attest: _____
Clerk of Council