



Legislation Text

File #: 210628, **Version:** 2

210628
SUBSTITUTE 2

ALD. ZAMARRIPA, DIMITRIJEVIC, AND PEREZ

A substitute ordinance relating to a requirement that face coverings be worn in certain indoor environments under certain conditions.

62-8-1 am

62-8-4-c am

62-8-4-f rc

62-8-5 rc

This ordinance requires any person over 3 years old who enters a building open to the public to wear a face covering. The ordinance further specifies that the indoor face covering requirement shall be in effect until March 1, 2022.

In addition, the ordinance removes exceptions for persons present in government facilities closed to the public, institutions of higher education, public and private K through 12 schools, and childcare or youth facilities that have a mitigation strategy approved by the commissioner of health. The ordinance also provides an exemption for performers during rehearsals or performances and individuals engaged in athletic activities. The ordinance also states that after receiving a first complaint about an owner or operator failing to enforce the face covering mandate, the health department may first contact the owner or operator of a building open to the public with a letter explaining his or her responsibilities as an owner or operator. If the health department receives an additional complaint after one week of the initial notification, the health department may follow up with the owner or operator with additional contact either in person, over the phone or virtually to discuss his or her responsibilities and develop strategies for implementation.

Finally, if the health department receives an additional complaint after the second contact with the owner or operator, the health department may conduct an onsite visit of the building open to the public and, if a violation is found, the health department may submit a written statement attesting to the violation to the license division, which will be added to the owner or operator's license renewal application.

Whereas, In July, 2020, the common council passed file number 200426, creating The Face Covering Requirements During the COVID-19 Pandemic; and

Whereas, This ordinance created a mandate for indoor face coverings in buildings accessible to the public; and

Whereas, The face covering ordinance contained a number of exceptions, including:

1. Persons who fall into the centers for disease control and prevention's guidance for those who should not wear face coverings due to a medical condition, mental health condition, developmental disability, or for whom no other accommodation can be offered under the Americans with disabilities act.
2. Persons who have upper-respiratory chronic conditions, silent or invisible disabilities, or are communicating with an individual who is deaf or hard of hearing and communication cannot be achieved through other means.
3. Persons in settings where it is not practical or feasible to wear face coverings when obtaining or rendering goods or services to the extent necessary to obtain or render such goods or services, including but not limited to, the receipt of dental services or medical treatments or consuming food or beverages.
4. Whenever federal, state, or local law otherwise prohibits wearing a face mask or where it is necessary to evaluate or verify an individual's identity.
5. Persons whose religious beliefs prevent them from wearing a face covering.

; and

Whereas, The face covering ordinance specified that the mask requirement was applicable only for the duration of the "Moving Milwaukee Forward" health and safety orders issued by the health department; and

Whereas, The "Moving Milwaukee Forward" health and safety order expired on June 1, 2021; and

Whereas, The rise of the Omicron variant of the COVID-19 virus has led to a dramatic rise in the number of COVID-19 cases and hospitalizations; and

Whereas, This unprecedented public health crisis requires that the indoor face covering ordinance be reactivated without the need for the "Moving Milwaukee Forward" health and public safety orders; and

Whereas, Without the guidelines established by the "Moving Milwaukee Forward" public safety and health orders new, scientifically-based standards are needed to determine when an indoor face covering mandate is appropriate; and

Whereas, Enforcement of any indoor face covering mandate should lean heavily towards education and collaboration, rather than penalizing; now, therefore

The Mayor and Common Council of the City of Milwaukee do ordain as follows:

Part 1. Section 62-8-1 of the code is amended to read:

62-8. Face Covering Requirements During the COVID-19 Pandemic.

1. MASK REQUIRED INDOORS. ~~[[For the duration of the 'Moving Milwaukee Forward' health and safety orders, any]]~~ >>Any<< person 3 years old or older who is present in the city of Milwaukee shall have possession of a face covering when the person leaves home or other place of residence and shall wear the face covering whenever the person is in a building open to the public.
>>a. The face covering requirement under 62-8-1 shall be in effect until March 1, 2022.<<

Part 2. Section 62-8-4-c of the code is amended to read:

4. EXCEPTIONS.

c. Persons in settings where it is not practical or feasible to wear face coverings when obtaining or rendering goods or services to the extent necessary to obtain or render such goods or services including but not limited to >>performers during rehearsals or performances, individuals receiving dental services or medical treatments or individuals consuming food or beverages.<< ~~[[the receipt of dental services or medical treatments or consuming food or beverages.]]~~

Part 3. Section 62-8-4-f of the code is repealed and recreated to read:

f. Persons engaged in athletic activities or cleansing related to athletic activities.

Part 4. Section 62-8-5 of the code is repealed and recreated to read:

5. PENALTY AND ENFORCEMENT. The health department may enforce this section.

- a. The owner or operator of any building open to the public shall ensure all persons present in his or her building open to the public comply with sub. 1. The owner or operator of any building open to the public has the right to refuse entry or service to any person for failure to comply with sub. 1.
- b. If the health department receives a complaint that any owner or operator of a building open to the public that permits a person to violate sub. 1 in his or her building open to the public, the health department may first send a letter to the owner or operator explaining the face covering mandate and his or her responsibilities as owners and operators of a building open to the public. If the health department receives an additional complaint at least one week after the initial letter being sent to the owner or operator of a building open to the public, the health department may attempt to follow up with such owner or operator with additional outreach either in person, over the phone or virtually with such owner or operator to discuss such owner or operator's responsibilities hereunder and develop strategies for compliance.
- c. If the health department receives a third complaint that any owner or operator of a building open to the public permits a person to violate sub. 1 in his or her building open to the public after the health department has performed all outreach under par. b, the health department may conduct an onsite visit of the building open to the public. If a violation of sub. 1 is observed during such visit, the health department may submit a written statement attesting to the observed violation to the license division of the city clerk's office. The attestation shall be added to the owner or operator's license renewal application.
- d. The health department may handle any complaints subsequent to the third in accordance with par. c.

APPROVED AS TO FORM

Legislative Reference Bureau

Date: _____

IT IS OUR OPINION THAT THE ORDINANCE
IS LEGAL AND ENFOCEABLE

Office of the City Attorney

Date: _____

LRB 177174-3

Christopher Hillard

1/18/2022