

**CITY of ALBUQUERQUE
TWENTY FOURTH COUNCIL**

COUNCIL BILL NO. O-20-24 ENACTMENT NO. _____

SPONSORED BY: Isaac Benton & Lan Sena

1 ORDINANCE
2 REQUIRING EMPLOYERS TO PROVIDE PERSONAL PROTECTIVE EQUIPMENT
3 FOR EMPLOYEES

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

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

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

17 WHEREAS, even though this preventative measure instructs employers to
18 have their employees wear this personal protective equipment (PPE), it is not
19 instructing employers to provide their employees with PPE and at no cost; and

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

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

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

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

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

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

12 WHEREAS, the City's Environmental Health Department is the most
13 suitably equipped and charged with conducting outreach, investigation, and
14 enforcement of these requirements; 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 PPE to implement Public Health Emergency
18 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. Employers shall not
31 charge employees for the mask or face covering.

32 SECTION 2. Violations of this ordinance are subject to a civil penalty of
33 \$500 per occurrence.

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

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

16 **SECTION 5. SUNSET CLAUSE.** This ordinance shall expire upon the lifting
17 of public health orders for the State of New Mexico requiring individuals to wear
18 facemasks in public.

19 **SECTION 6. COMPILATION.** As a temporary public safety measure, this
20 ordinance shall not be permanently codified.

21 **SECTION 6. EFFECTIVE DATE.** This ordinance is passed as an emergency
22 measure and takes effect immediately upon publication by title and general
23 summary.

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