



Metropolitan Nashville and Davidson County, TN

Legislation Text

File #: BL2021-872, **Version:** 1

An ordinance to require masks be worn by all individuals in public spaces, as further described herein.

WHEREAS, the World Health Organization declared COVID-19 to be a global pandemic as of March 15, 2020; and,

WHEREAS, states of emergency have been declared by the President of the United States, the Governor of Tennessee, and the Mayor of Nashville and Davidson County, and continue to exist; and,

WHEREAS, the Metropolitan Council finds that the coronavirus remains a threat in Nashville and Davidson County; and,

WHEREAS, on July 27, 2021, the Centers for Disease Control and Prevention (CDC) updated their guidance to recommend that fully vaccinated and unvaccinated individuals to wear a mask in public indoor settings in areas of substantial or high transmission of COVID-19, in light of new evidence concerning the spread of the Delta variant of COVID-19; and

WHEREAS, Nashville and Davidson County is classified as an area of high transmission. As of August 12, 2021, there were 3,754 active cases of COVID-19, a 38% increase over the prior week; and

WHEREAS, new hospital admissions were up over 53% as of August 9, 2021, with the percentage of hospital beds used for COVID and the percentage of ICU beds used for COVID on the rise; and

WHEREAS, less than half of the people in Davidson County are fully vaccinated, putting the majority of Davidson County residents at a higher risk of contracting COVID-19, especially the highly contagious Delta variant; and

WHEREAS, while fully vaccinated people are less likely to become infected with COVID-19, and infections of COVID-19 are usually mild in those who are fully vaccinated, fully vaccinated people can still be infected with the Delta variant and can spread the virus to others; and

WHEREAS, children under the age of 12 are not currently eligible for the COVID-19 vaccine, and cases of children contracting COVID-19, along with all other age groups, are on the rise; and

WHEREAS, due to the high level of transmission of COVID-19, and in order to promote the health and safety of the residents of Nashville and Davidson County, a requirement that masks be worn in all public indoor spaces should be instituted.

NOW, THEREFORE, BE IT ENACTED BY THE COUNCIL OF THE METROPOLITAN GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY:

Section 1. All individuals within the jurisdiction of the Metropolitan Government of Nashville and Davidson County shall wear a mask as set forth in this ordinance.

Section 2.

(a) "Mask" is a cloth face covering, mask or other device to cover the nose and mouth of a person to

impede the spread of saliva or other fluids during speaking, coughing, sneezing or other intentional or involuntary action. Medical grade masks are not required; coverings may be fashioned from scarves, bandanas, or other suitable fabrics. The Mask must cover the mouth and nose of the wearer and must conform to the standards set forth by CDC guidance, as described in Subsection (d) of this Section.

- (b) Masks shall be worn at all times by members of the public except as specifically exempted herein.

- (c) Masks are not a substitute for social distancing. Even if wearing a Mask, persons should practice appropriate social distancing, stay six feet apart, clean their hands frequently, and take other everyday preventive actions.

- (d) As set forth by CDC guidance, appropriate Masks:
 - Have two or more layers of washable, breathable fabric
 - Completely cover the nose and mouth of the wearer
 - Fit snugly against the sides of the wearer's face without gaps
 - Have nose wire to prevent air from leaking out of the top of the Mask
 - If a gaiter is worn, two must be worn or it must be folded to make two layers

Section 3. A Mask is not required in the following settings and circumstances:

- (a) Within one's own residence or another's residence;

- (b) By persons younger than two years;

- (c) By persons who cannot medically tolerate wearing a Mask. No person declining to wear a Mask because of a medical condition shall be required to produce verifying medical documentation;

- (d) Within one's own or another's motor vehicle, provided the vehicle is not being used for public transportation or a vehicle for hire;

- (e) By persons working alone in separate office spaces or in non-public workplaces that have more than adequate area for social distancing based on the size of and number of people in the space (either indoors or outdoors). Such persons must be prepared to wear a Mask when interacting with others when social distancing of more than six (6) feet cannot be consistently maintained;

- (f) When wearing a Mask poses a safety risk or security risk. "Safety risk" includes, but is not limited to, where wearing a Mask may pose a risk to persons working on ladders or at height, wearing other respiratory protection, engaging in heavy physical exertion, operating heavy equipment, or operating in an environment where a Mask hinders communications. "Security risk" includes, but is not limited to, an activity or transaction where establishing the identity of the customer or employee is important. However, employers are encouraged to structure work to promote social distancing and limit close contact as much as possible within workplaces where Masks may pose such risks;

- (g) When actively eating or drinking in public at a restaurant, bar, or other food or beverage establishment;

- (h) While outdoors in public spaces. Maintaining a physical distance of six feet from persons who are not members of the same household or residence is still strongly recommended; if that is not feasible, the wearing of a Mask is strongly recommended;
- (i) While engaged in outdoor work or recreation, such as swimming, walking, hiking, bicycling, or running, unless maintaining a physical distance of six feet from persons who are not members of the same household or residence is not feasible;
- (j) While in a place of worship;
- (k) While in a building or indoor space owned, managed, or leased by the State of Tennessee or federal government.

Section 4.

- (a) Businesses or facilities open to the public shall post conspicuous signage at all public entrances stating to the effect:

“Dear Customers/Visitors,

Pursuant to Ordinance of the Metropolitan Council of the Metropolitan Government of Nashville and Davidson County, you are REQUIRED to wear a mask while in this business/facility. This will help PROTECT our EMPLOYEES and EACH OTHER.”

- (b) Except for the circumstances specified in Section 3, all businesses, facilities, commercial venues, and critical infrastructure sectors (including first responders) as outlined at <https://www.cisa.gov/identifying-critical-infrastructure-during-covid-19> shall require:
 - i. Customers and visitors to wear a Mask while inside the business, facility, or workplace, or at a worksite; and
 - ii. Employees to wear a Mask when physically interacting with the public or other employees.
- (c) Persons entering or walking through interior "Common Areas" of commercial buildings, residential apartment or condominium buildings, and residential cooperative buildings are required to wear Masks. "Common Areas" include lobby/reception areas, hallways, elevators, mailrooms, clubhouse/meeting rooms, and stairwells. The respective property managers/building managers shall be required to enforce this requirement.
- (d) Mayor John Cooper’s Executive Order No. 21, “Requirement that Face Coverings be Worn at Metropolitan Government Buildings,” issued on August 5, 2021, shall continue to apply and is incorporated herein by reference.

Section 5. Violations of this Ordinance shall be subject to a \$50 fine.

Section 6. If any provision, sentence, clause, phrase, or word of this Ordinance or any application of it to any individual, business, or circumstance is held to be invalid by a decision of a court of competent jurisdiction,

then such decision shall not affect the validity of the remaining portions or applications of this Ordinance.

Section 7. Amendments to this legislation may be approved by resolution.

Section 8. This Ordinance shall take effect from and after its passage, the welfare of The Metropolitan Government of Nashville and Davidson County requiring it.

Analysis

This ordinance requires masks to be worn by all individuals in public spaces within the jurisdiction of Metropolitan Nashville and Davidson County. Masks are defined as cloth face coverings, masks, or other devices to cover the nose and mouth of a person and must comply with the Centers for Disease Control (CDC) guidance for appropriate masks. That includes having two or more layers of breathable fabric, completely covering the nose and mouth of wearer, fitting snugly against the side of the wearers face without gaps, and having nose wire to prevent air from leaking out of the top of the mask. If a gaiter is worn, it must have two layers.

This ordinance imposes much of the same provisions as Amended and Restated Order 8 from the interim Chief Medical Director, which was in effect from April 9, 2021 until May 14, 2021. The main differences are the use of the term “mask” instead of “face covering” and the addition that masks conform to CDC guidance.

The mask requirement in this ordinance would not apply:

- Within one’s own residence or a residence of another;
- To persons under two years;
- To persons who cannot medically tolerate wearing a mask;
- Within one’s own or another’s motor vehicle, provided the vehicle is not used for public transportation or a vehicle for hire;
- To persons working alone in separate office spaces or in non-public workplaces that have more than adequate area for social distancing based on the size of and number of people in the space, provided that a mask must be worn when six feet of distance cannot be maintained;
- When wearing a Mask poses a safety risk or security risk;
- When actively eating or drinking in public at a restaurant, bar, or other food or beverage establishment;
- While outdoors in public spaces;
- While engaged in outdoor work or recreation;
- While in a place of worship;
- While in a building or indoor space owned, managed, or leased by the State of Tennessee or federal government.

Certain signage would be required to be posted in businesses or facilities open to the public reminding them of the mask requirement in effect. Violations of the ordinance would be subject to a fine of \$50.

Future amendments to this ordinance could be made by resolution.