

COMMITTEE SUBSTITUTE FOR ORDINANCE NO. 210903

Rescinding Ordinance No. 210853; requiring face coverings or masks at indoor places of public accommodation with certain exceptions; appropriating \$1,000.00 from the Unappropriated Fund Balance of the Health Levy Fund; designating requisitioning authority; and recognizing this ordinance as having an accelerated effective date.

WHEREAS, on March 12, 2020, a proclamation of a state of emergency was issued to allow the City of Kansas City to take measures to reduce the possibility of exposure to COVID-19 and promote the health and safety of Kansas City residents; and

WHEREAS, COVID-19 spreads between people who are in contact with one another or present in shared spaces and a gathering of individuals without necessary mitigation for the spread of infection will pose a risk of the spread of infectious disease; and

WHEREAS, the share of COVID-19 cases in Kansas City of those under 12 years old rose from just 4% of all cases in January 2021 to 15% in September 2021, and those 18 and under now comprise 25% of all new COVID-19 cases. Children under 12 years old cannot be vaccinated. In the absence of vaccines, the best method left to protect the children of Kansas City in public is by requiring the wearing of face coverings and masks; and

WHEREAS, FDA vaccination approval for those five to eleven years old is expected later this fall, providing protection for elementary and all middle school age children who are vaccinated; and

WHEREAS, Kansas City Mayor Quinton Lucas signed Order 21-01 on July 30, 2021, requiring face coverings or masks at indoor places of public accommodations in Kansas City with certain exceptions, effective at 12:01 a.m. on Monday, August 2, 2021, and expiring Saturday, August 28, 2021, at 12:01 a.m. unless rescinded, extended, modified or amended pursuant to applicable law; and

WHEREAS, on September 24, 2021, the Kansas City Health Department confirmed 53,170 total cases of COVID-19 in Kansas City, with over 2800 deaths from COVID-19 in Kansas City metro-wide. In addition, the Centers for Disease Control (CDC) confirmed 232,476,147 total cases and 4,759,355 deaths world-wide; and

WHEREAS, on September 27, 2021, approximately 46% of all Kansas Citians were fully vaccinated for COVID-19 and approximately 53% have had at least one vaccine dose; and

WHEREAS, the number of COVID-19 cases and hospitalizations in Kansas City decreased by approximately 1% for the week ending September 26, 2021; and

WHEREAS, on July 30, 2021, Kansas City Interim Director of Health Frank Thompson, pursuant to RSMo. Section 67.265, submitted a report to City Council, attached hereto as Exhibit A, outlining and recommending a need for Order 21-01; and

WHEREAS, on August 18, 2021, Kansas City Interim Director of Health Frank Thompson, pursuant to RSMo. Section 67.265, submitted an updated report to City Council, attached hereto as Exhibit B, outlining and recommending a need for continued mask requirements; and

WHEREAS, on August 19, 2021, the Kansas City Council passed Committee Substitute for Ordinance 210694, attached hereto as Exhibit C, rescinding Order 21-01 and requiring masks in indoor locations in Kansas City with specific exceptions until September 23, 2021; and

WHEREAS, on September 16, 2021, Kansas City Interim Director of Health Frank Thompson, pursuant to RSMo. Section 67.265, submitted an updated report to City Council, attached hereto as Exhibit D, outlining and recommending a need for continued mask requirements; and

WHEREAS, on September 23, 2021, the Kansas City Council passed Ordinance No. 210853, attached hereto as Exhibit E, requiring masks in indoor locations in Kansas City with specific exceptions until October 7, 2021; and

WHEREAS, pursuant to RSMo. Section 67.265, on September 28, 2021, Kansas City Interim Director of Health Frank Thompson submitted a COVID update report, attached hereto as Exhibit F, and on October 5, 2021, submitted an updated report, attached hereto as Exhibit G, to City Council containing information supporting the need for continued mask requirements; NOW, THEREFORE,

BE IT ORDAINED BY THE COUNCIL OF KANSAS CITY:

Section 1. That Ordinance No. 210853 is hereby rescinded.

Section 2. Community Health Guidance

- A. All persons are encouraged to limit exposure by obtaining a federally-approved vaccine and properly wearing a face covering or mask when applicable and maintaining social distancing when indoors at a place of public accommodation. The use of face coverings or masks is recommended in indoor private settings and crowded outdoor settings where there is close contact with other people who may not be fully vaccinated.
- B. As used herein, the terms below shall have the following meanings:
 - 1. A “face covering or mask” means a uniform piece of cloth, fabric, or other material that securely covers a person’s nose and mouth. It is properly worn when it remains affixed in place without the use of one’s hands.
 - 2. A “place of public accommodation” means any place or business offering or holding out to the general public goods, services, privileges, facilities, advantages or accommodations for the peace, comfort, health, welfare, and

safety of the general public. Public accommodation shall include schools. Public accommodation shall not include a private club or a place of public accommodation owned or operated on behalf of a religious corporation, association, or society.

3. "Social distancing" is maintaining at least six-feet of distance from others.

Section 3. Indoor Places of Public Accommodations

- A. Individuals in an indoor place of public accommodation must properly wear a face covering or mask while performing an activity involving close contact or proximity to others or in public where six feet of separation is not feasible. These spaces include, but are not limited to, grocery and retail stores, special events, and public transit, but do not include private dwellings or private transportation vehicles.
- B. Exceptions to the face covering or mask requirement include:
 1. Persons under the age of 5.
 2. Persons who have disabilities where face coverings or masks constitute a substantial impairment to their health and well-being based upon medical, behavioral, or legal direction; and
 3. Persons in a restaurant or tavern consuming food or drink; and
 4. Persons obtaining a service involving the nose or face when temporary removal of the face covering or mask is necessary to perform the service; and
 5. Persons who are alone in a separate room or office; and
 6. Any interaction or gathering, per CDC guidance, where parties have knowledge all persons present are fully vaccinated by federally-approved vaccine(s).

Section 4. Violation of any provision of this ordinance constitutes an imminent threat and immediate menace to public health. It shall be unlawful for any person to fail, neglect or refuse to comply with this ordinance, or for any person to otherwise violate or in any manner aid, assist, encourage, or support the commission or perpetration of a violation of this ordinance, and upon conviction thereof any such person shall be punished by a fine of not less than \$25.00 and not more than \$500.00, or by imprisonment in the municipal penal correctional institution for a period of time not less than one day and not more than six months. All remedies prescribed by this ordinance or otherwise available under applicable law shall be cumulative and the use of one or more remedies by the City shall not bar the use of any other remedy to enforce this ordinance.

Section 5. The Interim Director of Health, the Director of Regulated Industries, the Chief of the Kansas City Police Department, and the Chief of the Kansas City Fire Department, or their designees (“Directors”) are, under the Constitutions of the United States and Missouri, the Kansas City Charter and this ordinance, subject to applicable law, authorized to enter all property necessary to enforce laws relating to public health and to provide for the avoidance, suppression or mitigation of disease, and abatement of nuisances and other unhealthy conditions. Upon complaint, or whenever the Directors deem an action carried on or engaged in by any person in the City detrimental to the public health, the Directors shall notify that person to show cause to the City at a time and place to be specified in the notice, why the trade or profession should not be discontinued or removed. The notice shall be served before the time specified therein as provided by law.

Section 6. Violation of any provision of this ordinance may result in the suspension or revocation of the Certificate of Occupancy and/or any license or permit issued by the City in accordance with Sections 18-23 and 40-28 of the City’s Code of Ordinances.

Section 7. If any provision of this ordinance or the application thereof to any person, entity, or circumstance is determined to be invalid by a court of competent jurisdiction, such determination shall not affect or impair the validity of the other provisions of this ordinance or its application to other persons, entities, and circumstances.

Section 8. That the sum of \$1,000.00 is hereby appropriated from the Unappropriated Fund Balance of the Health Levy Fund to the following account:

22-2330-502400-B	Communicable Disease Prevention	\$1,000.00
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Section 9. That the Interim Director of the Department of Health is designated as requisitioning authority for Account No. 22-2330-502400 and is hereby authorized to expend the sum of \$1,000.00 in funds heretofore appropriated to the account.

Section 10. That this ordinance, appropriating money, is recognized as an ordinance with an accelerated effective date as provided by Section 503(a)(3)(C) of the City Charter and shall take effect in accordance with Section 503 of the City Charter.

Section 11. That this ordinance shall expire on November 4, 2021, at 12:59 p.m. unless rescinded, extended, modified or amended pursuant to applicable law.

I hereby certify that there is a balance, otherwise unencumbered, to the credit of the appropriation to which the foregoing expenditure is to be charged, and a cash balance, otherwise unencumbered, in the treasury, to the credit of the fund from which payment is to be made, each sufficient to meet the obligation hereby incurred.

Tammy Queen

Tammy L. Queen
Director of Finance

Approved as to form and legality:

Eduard Alegre

Eduard Alegre
Assistant City Attorney



Authenticated as Passed

Quinton Lucas
Quinton Lucas, Mayor

Marilyn Sanders
Marilyn Sanders, City Clerk

OCT 07 2021
Date Passed