



Allegheny County Council

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Legislation Details (With Text)

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Title: An Ordinance of the County of Allegheny, Commonwealth of Pennsylvania, establishing a uniform Countywide system of mask requirements and exemptions for public and private gatherings.
Sponsors: Olivia Bennett, Bethany Hallam
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Date	Ver.	Action By	Action	Result
9/14/2021	1	County Council	Defeated	Fail

An Ordinance of the County of Allegheny, Commonwealth of Pennsylvania, establishing a uniform Countywide system of mask requirements and exemptions for public and private gatherings.

WHEREAS, the Centers for Disease Control (CDC) clearly and eloquently summarized many of the benefits of masking in their publication The Science of Masking to Control COVID-19, CDC, 11/16/20 (attached); and

WHEREAS, among the findings made by the CDC are the following:

- Infection is spread primarily through exposure to respiratory droplets exhaled by infected people when they breathe, talk, cough, sneeze, or sing.
 - a. Most of these droplets are <10 µm, often referred to as aerosols.
 - b. The amount of these fine droplets and particles increases with volume of speech (e.g., loud talking, shouting) and respiratory exertion (e.g., exercise).
- 40-45% of infected people are estimated to never develop symptoms, and among people who do develop symptomatic illness:
 - a. Transmission risk peaks in the days just before symptom onset (presymptomatic infection) and for a few days thereafter.
 - b. Accordingly, the number of infections transmitted peaks when virus levels peak.
- Most SARS-CoV-2 infections are spread by people without symptoms.
 - a. CDC and others estimate that more than 50% of all infections are transmitted from people who

are not exhibiting symptoms.

- b. This means, at least half of new infections come from people likely unaware they are infectious to others.
- Cloth masks provide source control, by containing exhaled droplets.
 - a. Cloth masks block most large ($>20\text{-}30\ \mu\text{m}$) exhaled respiratory droplets.
 - b. Multi-layer cloth masks substantially block respiratory droplets $<1\text{-}10\ \mu\text{m}$ - Comprise the greatest fraction of exhaled respiratory droplets.
 - c. Reductions in exhaled aerosols overall when cloth masks are used are as high as 50-70%.
 - d. Some cloth masks perform on par with surgical masks for exhaled aerosols.
- Cloth masks also filter inhaled droplets. Although their performance filtering inhaled small droplets is not as good as their performance blocking exhaled small droplets, improvements possible with more layers and/or multiple materials.
- Source control is substantial, but there is also measurable and meaningful personal protection with the use of cloth masks.
 - a. Masking reduces the wearers' viral exposure.
 - b. Cloth masks are comparable to surgical masks when used together for community control (i.e., when combined for both source control and personal protection).
- Epidemiologic studies tend to indicate that masking does have a positive effect, and those studies that do not indicate a positive effect do not appear to be valid in the COVID-19 context.
- Statistics indicate jurisdictional declines in new diagnoses associated with organizational/political leadership directives for universal masking.
 - a. Seven published reports examined changes in new diagnoses or deaths with mask mandates: (1) Massachusetts General Brigham (MGB) Integrated Health Care System, (2) Jena city, Germany, (3) Arizona state, United States, (4&5) 15 states and District of Columbia, United States (two analyses), (6) Canada, national, and (7) United States, national.
 - b. All observed reductions in new COVID-19 diagnoses or deaths following recommendations for universal masking.
 - c. Masking mandates in 15 states led to 2% decline in rate of new diagnoses by 21 days, and the

rate of decline steadily increased with time after mandate, doubling by 21 days.

- d. Mandatory masking prevented both infections and deaths, and could avert more lockdowns.
 - e. With a 15% increase in masking, estimated potential GDP savings of \$1 trillion (or 5% of the U.S. GDP).
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- At the country level, declines in deaths were associated with the timing of universal masking adoption or mandates. From date of first diagnosis to the date on which masking was mandated or otherwise universally adopted in 200 countries (including the U.S.) through May 9, 2020, during each week without masks, mortality increased by 59%.
 - Cloth masks reduce community exposure to SARS-CoV-2.
 - Cloth masks offer both source control and personal protection. This relationship is likely complementary and possibly synergistic. Community benefits derive from the combination of these effects, and individual benefits increases with increasing community mask use.
 - Both infected and uninfected individuals wearing masks provides the most protection.
 - Universal masking policies can help avert the need for shutdowns, especially if combined with other non-pharmaceutical interventions such as social distancing, hand hygiene, and adequate ventilation; and

WHEREAS, it is the judgment of Council that, despite the health impacts summarized above, due to the extensive politicization of the issues surrounding COVID-19 - and in particular with regard to masking - decisions about masking for individuals and businesses within Allegheny County are increasingly being made based upon concerns about how mask policies will impact patronage/sales, or how opting to wear (or not wear) a mask will impact individuals socially and/or subject them to unfavorable treatment; and

WHEREAS, this conclusion is reinforced by published reports regarding recent events such as student protests of the Commonwealth's school masking policy, in which students and parents largely discussed the social and/or political implications of masking, rather than its effectiveness from a health perspective, *see, e.g.*, Himler, Peirce and Signorini, Students, parents protest state school mask mandate, Pittsburgh Tribune Review, September 7, 2021 ("Children held signs with messages such as, 'This is a free country,' 'Communism is more contagious than covid,' and, 'Can we pretend my classroom is a music concert?"); and

WHEREAS, it is further the judgment of Council that, in this setting, decisions about whether to wear a mask and/or how to wear a mask are no longer solely or primarily based on health considerations, but rather are solely or primarily being based on social, political, philosophical, and/or economic considerations; and

WHEREAS, the temporary nature of the masking controversy renders the creation of a rule and/or regulation - which would be codified and exist in perpetuity unless repealed by subsequent legislative enactment (*see, e.g.* “Proposed additions to Allegheny County Health Department Rules and Regulations, Article XXIV, Paid Sick Days” within Bill No. 11988-21, and existing Health Department Rules and Regulations, Articles 1, 2, 3, 5, 6, 8, 9, 10, 11, 12, 14, 16, 19, 21 and 23) - both unnecessary and inappropriate; and

WHEREAS, the creation of a rule and/or regulation would also be inappropriate as a practical matter, as prompt, consistent and equitable enforcement of any form of Countywide masking standard would be impossible for the Allegheny County Health Department (as the only entity empowered to enforce such a regulation under the terms of the Local Health Administration Law, 16 P.S. §12010(f)), given current Departmental staffing levels, budgeting, and the Department’s other regulatory responsibilities; and

WHEREAS, it is accordingly the desire of Council to situate individuals and businesses within Allegheny County uniformly in order to promote public safety, individual peace of mind, and equitable business opportunity;

The Council of the County of Allegheny hereby enacts as follows:

SECTION 1.

The preamble to this Ordinance is hereby incorporated by reference herein.

SECTION 2. Definitions.

For the purposes of this Ordinance, the following words and phrases shall have the meanings established herein, unless context clearly indicates to the contrary:

Enclosed Public Location shall mean any building, room, structure, or other area having four walls and a roof, but shall not include any Single Family Residence.

Indoor Public Gathering shall mean any gathering of individuals in an Enclosed Public Location.

Outdoor Public Gathering shall mean any gathering of two-hundred and fifty (250) or more individuals in an Outdoor Public Location.

Outdoor Public Location shall mean any area not having four walls and a roof, but shall not include any parcel of property upon which one Single Family Residence is constructed. Parcels upon which multiple Single Family Residences are constructed shall be considered Outdoor Public Locations for the purposes of this Ordinance.

Single Family Residence shall mean any house, townhouse, apartment, condominium, or other similar permanent structure suitable for the purpose of housing or actually occupied by a single family. Common areas

of apartment, condominium, or similar structures, including (but not limited to) recreation rooms, exercise facilities, and indoor swimming pools shall not be deemed Single Family Residences under any circumstances.

SECTION 3. Prohibition and Enforcement.

Any individual not wearing at least a single layer cloth mask that fully covers both the individual's nose and mouth at any Indoor Public Gathering or Outdoor Public Gathering as defined within this Ordinance shall commit a summary offense and, upon conviction, shall be sentenced to pay a fine of not greater than \$100. For the purposes of this Section, each Indoor Public Gathering or Outdoor Public Gathering attended without wearing a mask as required under the terms of this Ordinance shall constitute a separate offense. Any law enforcement agency with jurisdiction in a given location shall be empowered to issue citations for violations of the terms of this Ordinance.

SECTION 4. Effective Dates.

The provisions of this Ordinance shall become effective immediately upon the date of final enactment, and shall remain in effect through April 30, 2022 unless amended via subsequent legislative enactment.

SECTION 5. Severability. If any provision of this Ordinance shall be determined to be unlawful, invalid, void or unenforceable, then that provision shall be considered severable from the remaining provisions of this Ordinance which shall be in full force and effect.

SECTION 6. Repealer. Any Resolution or Ordinance or part thereof conflicting with the provisions of this Ordinance is hereby repealed so far as the same affects this Ordinance.