

# REPORT OF THE CHIEF LEGISLATIVE ANALYST

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DATE: May 11, 2020

TO: Honorable Members of the City Council

FROM: Sharon M. Tso   
Chief Legislative Analyst

Council File No. 20-0429  
Assignment No. 20-05-0493

SUBJECT: Wearing of Masks in Public

## SUMMARY

At its meeting of May 6, 2020, the Council adopted Amending Motions (Koretz – Blumenfield) to Motion (Koretz – Huizar) directing the Chief Legislative Analyst, in consultation with the Emergency Management Department (EMD), the City Attorney, and the Los Angeles County Department of Public Health (DPH), to report within one week on the following:

1. The Centers for Disease Control (CDC) COVID-19 guidelines for wearing masks in public;
2. Existing ordinances in other cities, states and countries requiring facial coverings in public;
3. Enforcement options; and,
4. The safety and efficacy of masks with one-way valves.

During the discussion, Councilmembers highlighted a variety of issues associated with implementing an ordinance that would require individuals to wear masks that cover the face and nose in public. Councilmembers noted that such an ordinance could lead to a disproportionate impact on some racial or ethnic group, as has been observed throughout the country.

## BACKGROUND

Stage Two of DPH's Roadmap to Recovery and Mayor Garcetti's Safer at Home Order began on May 8. This allowed florists, toy stores, music stores, bookstores, clothing stores, and sporting goods stores to offer online and phone orders for curbside pickup. It further allowed car dealership showrooms open for sales with adherence to distancing and cleaning and infection control protocol. Trails, trailhead parks, and golf courses will reopen on May 9. The Mayor's guidance suggests that Angelenos should wear face coverings when exiting the home and interacting with others.

The Mayor's Worker Protection Order, updated on April 16, requires that all customers and visitors of essential businesses to wear a mask or cloth face covering over the mouth and nose. On May 6, the Mayor announced that face coverings will also be mandatory at all City trails and golf courses, on City transit buses, and for all travelers at Los Angeles International Airport.

The Los Angeles Police Department (LAPD) informed this Office that their primary goal is to achieve voluntary compliance for any public health directive. At present, it is the intent of LAPD

to educate, warn, and guide individuals toward acting in accordance with health orders. LAPD noted some cases of trespassing where an unmasked individual refused to exit an essential business that had posted signs stating that service would be refused to unmasked individuals.

CDC provides information regarding mask materials, construction, cleaning, removal, and use. CDC recommends wearing cloth face coverings in public settings where other social distancing measures are difficult to maintain (e.g., grocery stores and pharmacies) especially in areas of significant community-based transmission. These recommendations are based on studies that have found that asymptomatic and pre-symptomatic infected individuals are capable of transmitting coronavirus to others. There is some evidence that wearing a face covering over the nose and mouth could prevent an infected individual from disseminating large, infectious respiratory droplets into the open. The effectiveness of masks increases as more individuals utilize them. CDC notes that it is important to continue to observe the variety of other risk-mitigating behaviors, such as washing one's hands for 20 seconds and maintaining social distance of at least six feet. Some studies have shown that individuals may be more likely to neglect these behaviors when wearing a mask.

The Amending Motion (Koretz – Blumenfield) specifically mentions mask orders in San Diego County, the City of Laredo, and the Commonwealth of Massachusetts. Generally, all of these mask orders require all persons over age two to wear a mask or face covering over the mouth and nose when in public. All of the orders provide exemptions for persons who are unable to wear a mask for medical reasons. Attachment A provides language from each of the mask orders including the content of the order, the exemptions, and the penalties for violation. Attachment A also includes information regarding Beverly Hills and Los Angeles County. Police and sheriff departments are authorized to enforce the mask orders in these jurisdictions, but the extent of enforcement for any of these orders is unclear. The Beverly Hills mask order also designates Beverly Hills code enforcement officers and park rangers with authority to enforce the order.

Laredo's ordinance exempts a person with any valid health or safety reason from wearing a mask, which could quell some concerns regarding a disproportionate impact on some racial or ethnic group. This does not, however, fully address these concerns, where the treatment of unmasked individuals may vary by racial or ethnic group. If unaddressed, individuals who remain unmasked for fear of profiling may be nonetheless subjected to enforcement of the ordinance.

The Amending Motion (Blumenfield – Koretz) notes that some masks operate with a one-way valve. Certain types of N95 and other masks feature a valve system that stay closed when the wearer inhales and opens when the wearer exhales. According to CDC, masks with an exhalation valve release unfiltered air, which would enable infected individuals to potentially spread the virus. While these masks may reduce the wearer's exposure to particles in the environment, they allow droplets out of the mask, putting others nearby at risk. Some municipalities with a mask order have noted that one-way valve masks do not comply with the order.

  
Tristan Noack  
Analyst

Attachment A

	<b>Mask Order</b>	<b>Exemptions</b>	<b>Penalty</b>
<b>County of San Diego</b>	All persons two-years old or older who are present in the county shall have possession of a face covering when they leave their home or place of residence and shall wear the face covering whenever they are in a business or within six feet of another person who is not a member of their family or household.	<ul style="list-style-type: none"> <li>• Persons with a medical or mental health condition, or developmental disability that prevents wearing a face covering.</li> <li>• Swimming in the ocean</li> <li>• Jogging on a trail</li> <li>• Driving, unless there is someone in the vehicle who is not from the same household</li> </ul>	\$1,000 fine or 6 months in jail.
<b>City of Laredo</b>	All persons two years of age and older are hereby required to wear some form of covering over their nose and mouth (such as a scarf, bandana, handkerchief, or homemade mask from cloth or similar material) at all times when outside of their place of residence.	<ul style="list-style-type: none"> <li>• Driving/riding in a personal vehicle</li> <li>• Alone in an enclosed single space</li> <li>• Outside alone on a public street or sidewalk, provided a mask is visible and readily accessible</li> <li>• Necessary for consumption purposes</li> <li>• Person who has trouble breathing, is unconscious, is incapacitated, or is otherwise unable to remove the cover without assistance</li> <li>• Person with a medical condition or for any other valid health and safety reason, reasonableness of which shall be determined solely by the City of Laredo</li> <li>• Homeless individuals</li> </ul>	Previously Class C Misdemeanor with a fine not to exceed \$1,000. On May 5, Executive Order GA-21 prohibited Texas jurisdictions from imposing civil or criminal penalties for failure to wear a face covering.
<b>Commonwealth of Massachusetts</b>	Any person over age two who is in a place open to the public in the Commonwealth, whether indoor or outdoor, and is unable to or does not maintain a distance of approximately six feet from every other person shall cover their mouth and nose with a mask or cloth face covering... All persons are required to wear masks or cloth face coverings at all times when inside grocery stores, pharmacies, and other retail stores. All persons are also required to wear masks or cloth face coverings when providing or using the services of any taxi, car, livery, ride-sharing, or similar service or any means of mass public transit, or while within an enclosed or semi-enclosed transit stop or waiting area.	<ul style="list-style-type: none"> <li>• Person is unable to wear a mask or face covering due to a medical condition (person is not required to produce documentation verifying the condition)</li> <li>• Person is otherwise exempted by Department of Public Health guidance</li> </ul>	Civil fine up to \$300.

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<p><b>City of Beverly Hills</b></p>	<p>All persons shall wear face coverings such as scarves (dense fabric, no holes), bandanas, neck gaiters, or other fabric face coverings, when they leave their homes or places of residence for essential activities such as taking a walk through their neighborhood.</p>	<ul style="list-style-type: none"> <li>• While driving, unless they must lower their windows for any purpose such as to interact with first responders, food service workers, or others who are not members of their household.</li> </ul>	<p>\$1000 fine, imprisonment, or both</p>
<p><b>County of Los Angeles</b></p>	<p>Individuals may leave their home to shop at essential businesses, provided they practice social distancing. Social distancing is, in part, defined as wearing a cloth face covering while out in public when in contact with others, not including members of a single household or living unit.</p>	<ul style="list-style-type: none"> <li>• Order does not prohibit any individual or members of a single household or living unit from engaging in outdoor activities, as an individual or household, such as jogging, walking, or biking.</li> </ul>	<p>Fine, imprisonment, or both</p>