

## **ORDINANCE NO. 21 - 2115**

### **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CARSON, CALIFORNIA, AMENDING SECTION 3708.1 (FACE MASKS AND COVERINGS RELATED TO COVID-19) OF CHAPTER 7 (EMERGENCY ORGANIZATION) OF ARTICLE III (PUBLIC SAFETY) OF THE CARSON MUNICIPAL CODE REGARDING MANDATING FACE MASKS AND COVERINGS WITHIN CITY OF CARSON GEOGRAPHICAL BOUNDARIES DURING COVID-19 EMERGENCY PERIOD**

**WHEREAS**, on March 17, 2020, the Carson City Council through Resolution No. 20-053 proclaimed the existence of a local emergency in response to COVID-19, a respiratory disease that is easily transmissible from person to person and that has resulted in millions of cases of serious illness or death worldwide, having rapidly spread throughout California, the County of Los Angeles, and the City of Carson ("City"), necessitating stringent public health emergency orders as well as guidance from federal, state and local authorities; and

**WHEREAS**, the Governor, the State Public Health Officer, the Los Angeles County Emergency Services Director, the Los Angeles County Board of Supervisors, and the Los Angeles County Health Officer have promulgated and issued, and will reasonably continue to promulgate and issue, various orders, rules and regulations concerning the COVID-19 state of emergency that are applicable within the jurisdiction of the City of Carson, pursuant to State and County law, including but not limited to the California Emergency Services Act (Gov. Code §§ 8550 *et seq.*) and the California Public Health & Safety Code §§ 101029, 120155, 120275, 120295; and

**WHEREAS**, the health, safety and welfare of City residents, businesses, visitors and staff are of utmost importance to the City; and

**WHEREAS**, Government Code § 8634 provides in part: "During a local emergency the governing body of a political subdivision, or officials designated thereby, may promulgate orders and regulations necessary to provide for the protection of life and property, including orders or regulations imposing a curfew within designated boundaries where necessary to preserve the public order and safety. Such orders and regulations and amendments and rescissions thereof shall be in writing and shall be given widespread publicity and notice"; and

**WHEREAS**, Carson Municipal Code § 3703 provides, in relevant part: "It shall be the duty of the Carson Disaster Council, and it is hereby empowered, to develop and recommend for adoption by the City Council, emergency and mutual aid plans and agreements and such ordinances and resolutions and rules and regulations as are necessary to implement such plans and agreements"; and

**WHEREAS**, on April 2, 2020, after consideration of all facts reasonably available, the Carson Disaster Council issued an order to expressly mandate the use of face masks or coverings by residents and those who visit within the jurisdiction of the City, make the same enforceable within City jurisdiction, and impose a \$1,000 fine for each violation ("Disaster Council 2000 Order"); and

**WHEREAS**, at the City Council meeting of April 7, 2020, the City Council reviewed the

Disaster Council 2000 Order and entertained comments on the same from interested stakeholders, and as a consequence of such review, through Resolution No. 20-067, the City Council ratified in part, amended in part, and rescinded in part, the aforementioned Disaster Council 2000 Order. Specifically, without limitation, the City Council approved an amended version of the Disaster Council's mandate for the use of face masks or coverings by residents and those who visit within the jurisdiction of the City, and rescinded the part of the Disaster Council 2000 Order pertaining to imposition of a \$1,000 fine for violation of the face masks or coverings mandate; and

**WHEREAS**, on or about October 20, 2020, and based on the foregoing and in order to protect public health and safety, the City Council adopted Ordinance 20-2017 to codify the face masks or coverings mandate that it approved through Resolution No. 20-067 and, in connection therewith, to also codify that violations of said mandate shall constitute infractions subject to fines in accordance with Section 1200(b) of the Carson Municipal Code; and

**WHEREAS**, the United States Food and Drug Administration has approved COVID-19 vaccines manufactured by Moderna, Pfizer, and Johnson & Johnson on an emergency use authorization basis. After widespread injections of such vaccines into millions of people over the course of several months, the rate of COVID-19 transmissions nationally, statewide, within the County, and within the City has decreased considerably. In light of such decreased rate of transmission, the County of Los Angeles Department of Public Health ("County Health Department") issued an order effective May 14, 2021, which contains mask mandates and restrictions that are significantly less stringent than those set out in Resolution No. 20-067 and Ordinance 20-2017, and it is expected that the County Health Department will continue to issue modified orders that further relax mandates so long as the rate of COVID-19 transmissions continues to decline, which result is the widespread expectation as more people build immunity either through receipt of vaccinations or natural immunity for those who contract COVID-19; and

**WHEREAS**, on May 13, 2021, the Disaster Council rescinded, subject to confirmation by the City Council, parts of the Disaster Council 2000 Order with respect to face masks or coverings mandates for outdoors, public areas and certain indoor spaces such as grocery stores ("Disaster Council Second Order") to ensure that the City's face masks or coverings mandate would be consistent with State and County health orders without having to repeatedly update the Disaster Council 2000 Order as the State and County health orders continue to get updated and become more relaxed. No formal written order to reflect such action was prepared and adopted; and

**WHEREAS**, on May 18, 2021, upon considering the Disaster Council Second Order, the City Council requested the Disaster Council to consider further action to make the COVID-19 face masks or coverings regulations within the City follow and completely align with, and continue to be completely aligned with, State and County health orders; and

**WHEREAS**, after consideration of all facts reasonably available, on May 27, 2021, the Disaster Council issued an order ("Disaster Council 2021 Order"), to further relax the City's face masks or coverings mandate that it issued through the Disaster Council 2000 Order as modified through the Disaster Council Second Order, by following and completely aligning with, and continuing to be

completely aligned with, the regulations and guidelines of the State or County Health Department, whichever is more restrictive; and

**WHEREAS**, during the City Council’s meeting of June 1, 2021, the City Council reviewed the Disaster Council 2021 Order and entertained comments on the same from interested stakeholders; and

**WHEREAS**, as a consequence of such review the City Council adopted Resolution No. 21-071 to ratify and confirm, in part, and amend, in part, the Disaster Council 2021 Order. The amendments to the Disaster Council 2021 Order were intended only for the purpose of providing a more detailed list of persons who are subject to the Disaster Council 2021 Order without intention of expanding the applicability of the Disaster Council 2021 Order.

**WHEREAS**, the Disaster Council 2021 Order also requested that Section 3708.1(b) of the Carson Municipal Code shall be modified so that the regulations allow for some flexibility and discretion as to whether or not fines shall be imposed for violations of the City’s mask mandate; and

**WHEREAS**, now, based on the foregoing and in order to protect public health and safety, the City Council now sees fit to amend Section 3708.1 of the Carson Municipal Code to codify that any City fines for violations of face masks and coverings mandates be tied to violations of State and County health orders, whichever is more restrictive, and so that the regulations will allow for some flexibility and discretion as to whether or not fines shall be imposed for violations of the City’s mask mandate.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF CARSON, CALIFORNIA DOES ORDAIN AS FOLLOWS:**

**SECTION 1. RECITALS.** The foregoing recitals are true and correct, and are incorporated herein as findings of fact.

**SECTION 2. AMENDMENT.** Section 3708.1 (Face Masks and Coverings Related to Covid-19) of Chapter 7 (Emergency Organization) of Article III (Public Safety) of the Carson Municipal Code is hereby amended to read in its entirety as follows:

**“3708.1 (Face Masks and Coverings Related to Covid-19).**

(a) The City Council hereby declares and deems to be an infraction under this Code any violation of the face mask or face coverings mandate approved by the Council during its June 1, 2021 ~~April 7, 2020~~ meeting through Resolution No. 21-07120-067, ~~20-067~~, **which provides that with respect to wearing a face mask or covering which shall be of sufficient size to cover the nose and mouth of the wearer so as to assure the inhale or exhale of oxygen through the mask or covering, all persons within the City of Carson jurisdictional boundaries must comply with all State of California or Los Angeles County Health Department regulations and guidelines, whichever is more restrictive, as such regulations and guidelines may be modified from time to time**, until such time that Resolution No. 20-053, which proclaimed the existence of a local emergency in response to COVID-19, is rescinded and the local emergency in response to COVID-19 no longer exists. Upon such rescission, this Section 3708.1 shall sunset automatically and without any Council or other actions taken. The

Council mandate provisions regarding face masks and coverings as adopted under Resolution No. 21-07120-067, are set forth below:

**"With respect to wearing a face mask or covering which shall be of sufficient size to cover the nose and mouth of the wearer so as to assure the inhale or exhale of oxygen through the mask or covering, all persons within the City of Carson jurisdictional boundaries, including, without limitation, the following individuals, must comply with all State of California or Los Angeles County Health Department regulations and guidelines, whichever is more restrictive, as such regulations and guidelines may be modified from time to time:**

All customers and visitors of grocery stores, water retailers, farm and produce stands, supermarkets, convenience stores, warehouse stores, food banks, certified farmers' markets, laundromats, dry cleaners, and laundry service providers, restaurants and retail food facilities that prepare and offer food to customers, hotels, motels and shared rental units, churches or places of worship, ~~or visiting within the geographic boundaries of the City of Carson~~ must wear face coverings which shall be of sufficient size to cover the nose and mouth of the wearer. Such face coverings need not be medical-grade masks or N95 respirators, but can be fabric coverings, such as scarves and bandanas. All reusable face coverings must be washed frequently (at least daily). Single use face coverings must be properly discarded into trash receptacles.

All persons who work at businesses or perform services ~~within the geographic boundaries of the City of Carson~~ must wear face coverings which shall be of sufficient size to cover the nose and mouth of the wearer while performing their work. Such face coverings need not be medical-grade masks or N95 respirators, but can be fabric coverings, such as scarves and bandanas. All reusable face coverings must be washed frequently (at least daily). Single use face coverings must be properly discarded into trash receptacles.

**All residents of, or visitors to, the City of Carson shall, upon either entering** ~~Each resident of, or visitor within, the geographic boundaries of the City of Carson shall, upon either entering the geographic boundaries of the City or upon leaving their domicile or place of residence and continuing until their return to the place of domicile or residence or the exiting the geographic boundaries of the City, shall wear a face mask or covering which shall be of sufficient size to cover the nose and mouth of the wearer. Such face coverings need not be medical-grade masks or N95 respirators, but can be fabric coverings, such as scarves and bandanas. All reusable face coverings must be washed frequently (at least daily). Single use face coverings must be properly discarded into trash receptacles.~~

**Such face masks or coverings need not be medical-grade masks or N95 respirators, but can be fabric coverings, such as scarves and bandanas. All reusable face coverings must be washed frequently (at least daily). Single-use face coverings must be properly discarded into trash receptacles."**

(b) Notwithstanding Section 3709 of this Code, each and every violation of Subsection (a) constitutes an infraction and a separate and distinct offense, and fines may ~~shall~~ be imposed, in the City's sole discretion, in accordance with Section 1200(b) of this Code, the amounts for which are set

forth below:

- (i) A fine not exceeding \$100.00 for a first violation;
- (ii) A fine not exceeding \$200.00 for a second violation within one (1) year from the date of the first violation; and
- (iii) A fine not exceeding \$500.00 for each additional violation within one (1) year from the date of the first violation.”

**SECTION 3. SEVERABILITY.** If any section, subsection, sentence, clause, phrase, or portion of this ordinance is, for any reason, held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have adopted this ordinance and each section, subsection, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases, or portions thereof may be declared invalid or unconstitutional.

**SECTION 4. EFFECTIVE DATE.** This ordinance shall be in full force and effect thirty (30) days after its adoption.

**SECTION 5. CERTIFICATION.** The City Clerk shall certify to the adoption of this ordinance, and shall cause the same to be posted and codified in the manner required by law.

[SIGNATURES OF FOLLOWING PAGE]

**PASSED, APPROVED and ADOPTED** at a regular meeting of the City Council on this \_\_\_\_ day of June, 2021.

\_\_\_\_\_  
Lula Davis-Holmes, Mayor

ATTEST:

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Joy Simarago, Deputy City Clerk

APPROVED AS TO FORM:

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Sunny K. Soltani, City Attorney