RESOLUTION NO. 2020-45

BY: Bullock, Kepple, Neff, O'Malley, Rader, Shachner

A RESOLUTION, to take effect immediately provided it receives the vote of at least two thirds of the members of Council, or otherwise to take effect at the earliest period allowed by law, requiring the use of face coverings within the City of Lakewood and restricting Businesses and operations which have the onsite consumption of food, beer, wine and liquor, expiring upon lifting of the state-wide State of Emergency.

WHEREAS, COVID-19 is a respiratory disease that can result in serious illness or death and can be easily spread from person to person; and

WHEREAS, the Centers for Disease Control and Prevention (CDC) reported over 2,545,250 cases of COVID-19 in the United States, resulting in over 126,369 deaths; and

WHEREAS, on March 9, 2020, the Ohio Department of Health announced confirmed cases of COVID-19 in the State of Ohio, creating a dangerous condition that may affect the health, safety and welfare of the citizens of Ohio; and

WHEREAS, on that same date, Governor Mike DeWine declared a state of emergency for the entire State to protect the well-being of the citizens of Ohio from the dangerous effects of COVID-19, and to assist in protecting the lives, safety, and health of the citizens of Ohio; and

WHEREAS, COVID-19 endangers the lives of the citizens of Lakewood, creating an emergency to life and public safety and disrupting commerce; and

WHEREAS, the CDC reports that people are most contagious when they are most symptomatic (the sickest) however some spread is possible before an individual may show symptoms; and

WHEREAS, on March 22, 2020, under the direction of Ohio Governor, Mike DeWine, Ohio Department of Health Director, Amy Acton, M.D. issued an order requiring all Ohioans to stay in their homes to prevent the further spread of COVID-19; and

WHEREAS, on May 22, 2020 the stay at home order expired allowing businesses to begin to open with the recommendation that facial coverings be worn except in certain circumstance; and

WHEREAS, as businesses have re-opened, more people are traveling throughout the state, and within Lakewood; and

WHEREAS, a local and statewide state of emergency continues to exist with limits on mass gatherings and recommendations of social distancing; and

WHEREAS, as a result of the above described emergency there is a continuing need to protect all citizens and guests of Lakewood from the risks relating to the COVID-19 pandemic; and
WHEREAS, the CDC recommends wearing face coverings in public where other physical distancing measures are difficult to maintain, to help prevent the spread of COVID-19 from asymptomatic or unknowing carriers to others; and

WHEREAS, as of this date, Cuyahoga County has been designated by the State of Ohio Public Health Advisory System Risk Level as Level 3 for COVID-19, characterized by very high exposure and spread with a recommendation to limit activities as much as possible; and

WHEREAS, as of this date, The State Health Director has issued a Statewide mandate to wear face coverings in public places indoors or outdoors in areas where people are unable to socially distancing; and

WHEREAS, requiring face coverings to be worn by any person in a public place within Lakewood best promotes health and safety, and efforts to limit the spread of COVID-19 while enabling the continuation of essential services, businesses, and travel necessary to protect public health and safety, and for the continuity of social and commercial life during the state of emergency; and

WHEREAS, after weighing the known information about the COVID-19 virus and considering the guidance from the Ohio Department of Health and the Cuyahoga County Board of Health, this Council concludes that the safety of Lakewood citizens is best protected by implementing a requirement to wear face coverings in public places as set forth herein; and

WHEREAS, as set forth in Section 2.12 of the Third Amended Charter of the City of Lakewood, this Council by a vote of at least two thirds of its members determines that this resolution is an emergency measure and that it shall take effect immediately, and that it is necessary for the immediate preservation of the public property, health, and of the citizens of Lakewood and those visiting Lakewood; now, therefore,

BE IT RESOLVED BY THE CITY OF LAKEWOOD, OHIO:

Section 1. In an effort to reduce the spread of COVID-19, all persons are required to wear a face covering when within the jurisdictional limits of the City of Lakewood including, without limitation:

a) in any indoor location that is not a residence including common areas of apartment buildings and condominiums;
b) when outdoors and unable to consistently maintain a distance of six feet or more from individuals who are not members of their household; or
c) waiting for, riding, driving, or operating public transportation, a taxi, a private car service, or a ride sharing vehicle. This does not apply to private or rental vehicles where members of a family are sharing a vehicle. This does not apply to vehicles engaged in direct travel through Lakewood that do not stop in Lakewood.
d) The requirement to wear a face covering shall continue as long as the State of Ohio Mandate to wear face coverings is in effect pursuant the Order of the Health Director. For purposes of this Resolution, “face covering” includes any material covering an individual’s nose, mouth and chin.
Section 2. The requirement to wear a face covering does not apply when:
   a) the individual is under the age of 10;
   b) a medical condition, including those with respiratory conditions that restrict breathing, mental health conditions, or disability contraindicates the wearing of a facial covering;
   c) the individual is communicating or seeking to communicate with someone who is hearing-impaired or has another disability, where the ability to see the mouth is essential for communication;
   d) the individual is alone or in an enclosed space, such as an office, and which space is not intended for use or access to the public;
   e) the individual is actively engaged in exercise in a gym or indoor facility so long as six or more feet of separation between individuals exists;
   f) the individual is actively participating in athletic practice, scrimmage, or competition that is permitted under an Ohio Department of Health Order;
   g) the individual is actively engaged in a public safety activity, inducing but not limited to law enforcement, firefighters or emergency medical personnel;
   h) the individual is seated and actively consuming food or beverages in a restaurant or bar;
   i) facial coverings are prohibited by law or regulation;
   j) facial coverings are in violation of documented industry standards;
   k) facial coverings are in violation of a businesses documented safety policies;
   l) individual is actively participating in broadcast communications;
   m) the individual is an officiant of a religious service.

Schools that offer kindergarten through grade twelve instruction should follow the guidelines set forth by the Ohio Department of Education and the Ohio Department of Health.

Section 3. Nothing in this resolution is intended to interfere with the separation of powers under the Ohio Constitution. This resolution is not intended to supersede, supplant or preempt any order or law of a local jurisdiction that is more restrictive than this resolution.

Section 4. Businesses and operations which have the onsite consumption of food, beer, wine and liquor must have their customers seated, with tables limited to no more than 10 persons and must maintain six foot social distancing for both employees and members of the public at all times or utilize barriers where possible, including but not limited to when customers are standing in line, following the orders of the Director of Health as applicable to that individual business. Restrictions on businesses and operations shall not apply to religious gatherings or health care facilities including but not limited to medical offices, emergency departments, and nursing homes.

Section 5. A violation of this Resolution by an individual is a civil infraction. The Chief of Police and Lakewood Police Officers are hereby authorized to issue civil citations for a violation of this Resolution. Any person found in violation of this Resolution shall be subject to a civil penalty of $50.00 for each violation.
Section 6. For purposes of Lakewood Codified Ordinances Chapter 510, Nuisance Abatement, a violation of any order of the Governor of the State of Ohio or the Director of the Ohio Department of Health, or failure to enforce same, within a business establishment shall be defined as a Nuisance Activity and subject the property owner of the business establishment to the procedures and fees that are enumerated in that Chapter.

Section 7. An individual who receives civil citation or a property owner of a business affected by a Nuisance Declaration under Chapter 510 of the Lakewood Codified Ordinances may follow the procedures in Lakewood Codified Ordinance 510.01(e) Reconsideration Request and (f) Appeal to the Board of Nuisance Abatement Appeals within 30 days from the date of issuance of a civil citation or declaration of nuisance.

Section 8. This Resolution shall expire upon the state-wide COVID-19 related State of Emergency being lifted.

Section 9. It is found and determined that all formal actions of this council concerning and relating to the passage of this resolution were adopted in an open meeting of this Council, and that all such deliberations of this Council and of any of its committees that resulted in such formal action were in meetings open to the public in compliance with all legal requirements.

Section 10. This Resolution is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, property, health, safety and welfare in the City and for the usual daily operation of the City for the reasons set forth and defined in the preamble to this Resolution, and provided it receives the affirmative vote of at least two thirds of the members of Council this Resolution shall take effect and be in force immediately upon its adoption by the Council and approval by the Mayor, or otherwise it shall take effect and be in force after the earliest period allowed by law.

Adopted: 8/3/2020
President

Approved: 8/6/2020
Mayor