

EMERGENCY

City of Cincinnati

CMZ

178/11

An Ordinance No. 141

- 2020

ESTABLISHING that employers may not retaliate against covered employees for obeying appropriate orders or instructions to stay at home as a result of the COVID-19 pandemic or for staying at home to care for a member of their household who has COVID-19 or has been ordered or instructed to stay at home.

WHEREAS, on March 13, 2020, the President of the United States declared a national emergency to allow the government to marshal additional resources to combat the virus; and

WHEREAS, on March 9, 2020, the Governor of the State of Ohio declared a State of Emergency in Executive Order 2020-01D; and

WHEREAS, on March 11, 2020, Mayor of the City of Cincinnati, John Cranley, declared a state of emergency in response to the spread of COVID-19; and

WHEREAS, effective March 15, 2020, the Governor and the Ohio Department of Health issued an order closing all bars and restaurants to onsite food and beverage service and limiting restaurants to providing only carry-out and delivery service; and

WHEREAS, on March 22, 2020, after multiple instances of community spread of the virus that causes COVID-19, the Ohio Department of Health issued a Director's Order prohibiting gatherings of more than 10 individuals, closing non-essential businesses, and ordering all persons to stay in their residences unless on essential business; and

WHEREAS, on April 2, 2020, the Ohio Department of Health issued a Director's Order to extend the March 22, 2020 order due to the rapid spread of COVID-19 in the region; and

WHEREAS, on April 30, 2020, the Ohio Department of Health issued a Director's Order allowing limited businesses to reopen subject to compliance with social distancing and safety measures and otherwise extending the March 22, 2020 order's prohibition on social gathering and stay-at-home requirements; and

WHEREAS, on March 18, 2020, Congress passed the Families First Coronavirus Relief Act ("FFCRA") that provided some protections for employees and their families who developed COVID-19 or had the symptoms of COVID-19 and therefore could not go to work to protect their own health, the health of members of their households, and the public's health; and

WHEREAS, while the FFCRA provides some protections to employees by requiring certain employers to provide some limited paid sick leave to an employee unable to work due to, among other things, a federal, state, or local quarantine or isolation order related to COVID-19; due to instructions to self-quarantine; and by prohibiting employers from discharging employees

who take the paid sick leave, it does not provide comprehensive job protections to all employees who may be affected by COVID-19 and therefore cannot work; and

WHEREAS, employee protections as set forth in this ordinance will increase the likelihood that employees will self-quarantine as required by state and local orders without fear of employment reprisals, resulting in more sick individuals staying home thereby decreasing the spread of the virus; and

WHEREAS, Council finds that it is necessary and appropriate pursuant to the authority granted the City by Article XVIII, Section 3 of the Ohio Constitution to provide additional employment protections to employees affected by COVID-19 for the reasons provided herein so that employees do not have to face losing employment while battling COVID-19 and staying home to protect the public health; now, therefore,

BE IT ORDAINED by the Council of the City of Cincinnati, State of Ohio:

Section 1. For the purposes of this Ordinance, the following definitions shall apply:

- “Employer” means any individual, partnership, association, corporation, limited liability company, or any person or group of persons that employs at least one Covered Employee.
- “Covered Employee” means any employee who is employed by an Employer.

Section 2. That an Employer shall not demote, terminate, or take adverse employment action against a Covered Employee for obeying an order issued by the Mayor, the Governor of Ohio, the Ohio Department of Health, or the Cincinnati Health Commissioner or the Cincinnati Board of Health, or in the case of subsections (a) or (b) below, a treating healthcare provider, requiring the Covered Employee to:

- (a) Remain at home while experiencing COVID-19 symptoms or sick with COVID-19. In the case of a Covered Employee experiencing COVID-19 symptoms, the protections provided herein are only applicable if the Covered Employee is directed by a treating healthcare provider to remain home;
- (b) Obey a quarantine order issued to the Covered Employee;

- (c) Obey an isolation order issued to the Covered Employee, including without limitation an order issued as a result of contact tracing.

An Employer shall not demote, terminate, or take adverse employment action against a Covered Employee for caring for an individual who is the Covered Employee's dependent and subject to the requirements set forth in subsections (a) and (b).

Section 3. If an Employer demotes or terminates a Covered Employee in violation of Section 2 of this Ordinance, it shall be considered retaliatory action by the Employer, and the Covered Employee may recover any or all of the following in a civil action:

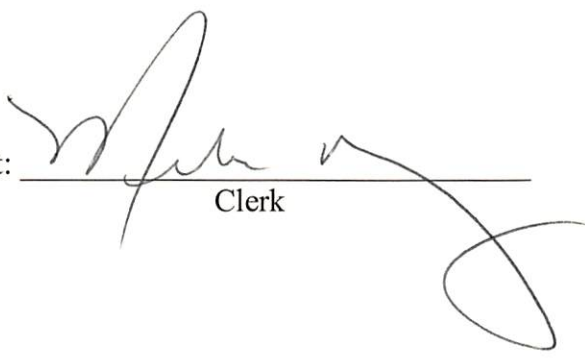
- (a) reinstatement of the Covered Employee to either the same position held before the retaliatory action or to an equivalent position;
- (b) damages equal to three times the full amount of wages that the Covered Employee would have been paid had the retaliatory action not occurred;
- (c) any other actual damages directly caused by the retaliatory action;
- (d) costs and such reasonable attorney's fees as a court allows.

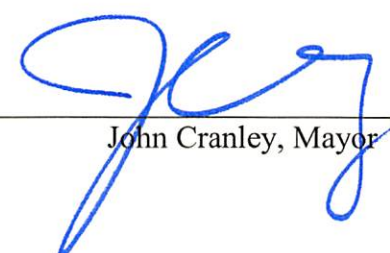
Section 4. That it shall be an affirmative defense to a violation of this Ordinance that an Employer relied on a reasonable interpretation of an order and, upon learning of the violation of this Ordinance, cured the violation within 30 days.

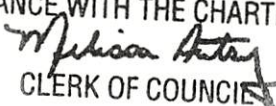
Section 5. That this ordinance shall be an emergency measure necessary for the preservation of the public peace, health, safety, and general welfare and shall, subject to the terms of Article II, Section 6 of the Charter, be effective immediately. The reason for the emergency is the immediate need for the City to protect employees from being terminated or demoted as a result of not being able to come to work due to obeying appropriate orders or instructions to stay at home

as a result of the COVID-19 pandemic or being required to stay home to care for an individual who has COVID-19 or has been ordered or instructed to stay at home.

Passed: May 13, 2020

Attest: 
Clerk


John Cranley, Mayor

I HEREBY CERTIFY THAT ORDINANCE NO 141-2020
WAS PUBLISHED IN THE CITY BULLETIN
IN ACCORDANCE WITH THE CHARTER ON 5-26-2020

CLERK OF COUNCIL