

ORDINANCE NO. 30-2020

To Enact New Chapter 767 “Face Coverings” of the Codified Ordinances of the City of Worthington to Require the Wearing of Face Coverings during the COVID-19 Public Health Emergency and Declaring an Emergency.

WHEREAS, COVID-19 is a respiratory disease that can result in serious illness or death, caused by the SARS-CoV-2 virus, which is a new strain of coronavirus that had not been previously identified in humans and can easily spread from person to person. The virus is spread between individuals who are in close contact with each other (within about six feet) through respiratory droplets. It may be possible that individuals can get COVID-19 by touching a surface or object that has the virus on it and then touching their own mouth, nose or eyes; and,

WHEREAS, on March 9, 2020, Governor Mike DeWine signed an Executive Order declaring a State of Emergency for the entire State of Ohio in relation to COVID-19 pursuant to the Governor’s authority vested in him by the Constitution, the laws of the State of Ohio and in accordance with Revised Code section 5502.22; and,

WHEREAS, the Governor’s Executive Order declaring a State of Emergency for the entire State of Ohio urged all citizens to heed to the advice of the Department of Health and other emergency officials regarding COVID-19 in order to protect their health and safety; and,

WHEREAS, on March 11, 2020 the World Health Organization officially characterized the COVID-19 outbreak as a pandemic; and,

WHEREAS, on March 13, 2020, President Donald J. Trump declared a National Emergency, invoking the Stafford Act and allowing the Federal Emergency Management Agency to coordinate disaster response and aid state and local governments in addressing the COVID-19 pandemic; and,

WHEREAS, the City of Worthington has contracted with the Columbus Board of Health to provide public health services to the City of Worthington and its residents; and,

WHEREAS, on March 13, 2020 the Columbus Board of Health declared a public health emergency in the City of Columbus and the City of Worthington due to the imminent threat of an acutely hazardous disease, posing a high probability of widespread exposure to an infectious agent that poses a significant risk of substantial harm to a large number of people, a large number of serious or long-term disabilities, or a large number of deaths; and,

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

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WHEREAS, on March 22, 2020, under 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 until April 6, 2020 and the order was extended until May 1, 2020 and was amended on April 30, May 20 and May 22, 2020 to allow businesses to open with the requirement that face coverings be worn by all employees except in certain circumstances; and,

WHEREAS, in the City of Worthington and across Franklin County there is a current and ongoing threat of an acutely hazardous disease, illness, or health condition; specifically, COVID-19, that is believed to be caused by the appearance of a novel infectious agent and Franklin County has been designated by the state Public Health Advisory System Risk Levels as Level 3, characterized by very high exposure and spread with a recommendation to limit activities as much as possible and to follow all current health orders; and,

WHEREAS, face coverings can decrease the spread of respiratory droplets from people, and there is increasing evidence, as shown in recent studies, that the use of face coverings decreases the spread of COVID-19 within populations; and,

WHEREAS, the Cities of Bexley, Columbus, Dublin, Grandview Heights, and Westerville have either adopted or are planning to adopt ordinances or proclamations that require the wearing of face coverings; and,

WHEREAS, after weighing the available information about the COVID-19 virus, consulting with Columbus Public Health, considering the guidance from Orders issued by the Ohio Department of Health and Governor DeWine, Council concludes that the health, safety, and welfare of the citizens of Worthington is best protected by implementing a face covering requirement; and,

WHEREAS, City Council has determined that due to the immediate need to slow the spread of COVID-19 that it is in the best interest of the City of Worthington to waive notice of public hearing, to waive the twenty-one day waiting period, and to declare an emergency;

NOW, THEREFORE, BE IT ORDAINED by the Council of the Municipality of Worthington, County of Franklin, State of Ohio:

SECTION 1. That Part Seven of the Codified Ordinances of the City of Worthington, "Business Regulation Code," be and the same is hereby amended to add new Chapter 767 "Face Coverings" to read as follows:

CHAPTER 767
Face Coverings

767.01 Face Covering defined. For the purposes of Chapter 767, "face covering" means

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a piece of cloth, fabric, or other material that fully covers the mouth and nose and that is secured with ear straps or otherwise tied so as to prevent slipping. A face covering may be factory-made, sewn by hand, or improvised from household materials and can be made of a variety of synthetic and natural fabrics, including cotton, silk, or linen. Ideally, a face covering has two (2) or more layers. Face coverings include, but are not limited to, bandanas, scarfs, face shields, medical masks, and cloth masks; and also include respirators, N95 masks or other personal protective equipment that provides a higher level of protection than a face covering as defined in this Section.

767.02 Surgical Mask defined. For purposes of Chapter 767, “surgical mask” means American Society for Testing and Materials (ASTM) Level 1, 2, or 3 approved procedural and surgical masks, to include an N95 respirator approved by the National Institute for Occupational Safety and Health (NIOSH) or a respirator from another country allowed by the Occupational Safety & Health Administration (OSHA), the Food & Drug Administration (FDA), or the Centers for Disease Control (CDC). A N95 respirator is not recommended for general public use or use in public settings as it should be reserved for healthcare providers and other medical first responders in a health care setting.

767.03 Face Covering requirement for individuals. All individuals within the City of Worthington shall wear a face covering over the individual’s nose and mouth in accordance with the following:

a. When entering, exiting, or waiting in line to enter a place of business that is open to the public, and while inside a place of business as to the areas within the place of business that are accessible to, and are intended for the use of, the public. For purposes of Chapter 767, "place of business" means any facility, building, or structure operated by or for a business engaged in the sale or other transaction of any kind for anything of value in exchange for goods, commodities, services, or temporary lodging and that is open to the general public or by appointment, and includes, but is not limited to, grocery stores, retail stores, pharmacies, health care facilities, restaurants and bars (including outdoor seating for such facilities), personal care, grooming, and tattoo facilities, child care, day camp, and overnight camp facilities, hotels and motels (excluding a rented room or suite), gyms and similar facilities; but excluding religious facilities;

b. When entering, exiting, or waiting in line to enter a City of Worthington operated building or facility that is open to the public, and while inside a City of Worthington operated building or facility as to the areas within such facility that are accessible to, and are intended for the use of, the public;

c. In any public transportation such as a bus or other public transit vehicle regulated by the City of Worthington, as well as all Worthington bus stops. This includes but is not limited to a taxi or ridesharing vehicle or any other vehicle for hire, even if the vehicle is privately owned; however, this provision does not apply to people travelling alone or with household members or friends in their personal vehicles;

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d. In certain high-density occupational settings where social distancing is difficult, such as manufacturing, construction, and agriculture and to include businesses or operations within North American Industry Classification System (NAICS) sectors 311 to 339 (manufacturing), 236 to 238 (construction), and 111, 112, 1151, and 1152 (agriculture);

e. Workers in long term care facilities (LTC), including skilled nursing facilities (SNF), adult care homes (ACH), family care homes (FCH), mental health group homes, and intermediate care facilities for individuals with intellectual disabilities (ICF-IID) shall wear a surgical mask;

f. Health care facilities other than LTC facilities must follow the face covering requirements in the CDC Infection Control Guidance for Healthcare Professionals about Coronavirus (COVID-19);

g. In any outdoor space or outdoor place where or when a person is unable to maintain or does not maintain physical separation of not less than six feet from others who are not members of their own household.

h. A face covering shall be worn so as to cover the mouth and nose in compliance with the CDC's guidance on wearing face coverings.

767.04 Face Covering requirements for places of business. All places of business shall require all employees, independent contractors, workers, and volunteers that interact with the public to wear a face covering and all places of business shall only sell or otherwise enter into any transaction of any kind for anything of value in exchange for goods, commodities, services, or provide temporary lodging to those who comply with Chapter 767. Any manager, owner, or person in charge of a place of business who fails or refuses to comply with Chapter 767 may be found in violation of Chapter 767 and subject to the penalties set forth in Section 767.06.

767.05 Exceptions. The requirement to wear a face covering does not apply in the following situations:

a. Any individual who cannot wear a face covering because of a medical condition, mental health condition or developmental disability, or who is unable to remove the face covering without assistance, and any individual who should not wear face coverings under the CDC guidance. An individual is not required to produce medical documentation of the condition or disability, provided an employer may require such documentation from an employee in accordance with state and federal law;

b. Individuals under 6 years old;

c. An individual that is actively eating or drinking. If a patron within a restaurant

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or bar is not seated at a table or at a bar, a face covering is required;

d. Seeking to communicate with someone who is hearing-impaired in a way that requires the mouth to be visible;

e. When giving a speech for a broadcast or to an audience;

f. Working at home or while in a personal vehicle;

g. When temporarily removing a face covering to secure government or medical services or for identification purposes;

h. Individuals who would be at risk from wearing a face covering at work, as determined by local, state, or federal regulations or workplace safety guidelines;

i. When wearing a face covering is impeding visibility to operate equipment or a vehicle;

j. Is a child whose parent, guardian, or responsible person has been unable to place the face covering safely on the child's face;

k. School individuals (including students, administrators, and teachers) on or in school or school district facilities, so that schools and school districts may follow the regulations and guidelines promulgated by their governing bodies and the Ohio Department of Education. For Chapter 767, "school or school districts" means any public, private, or charter school or institution that provides education for any or all of the following grades or education: kindergarten through twelfth grade; or a university, college, or similar post-secondary institution;

l. In settings where it is not practicable or feasible to wear a face covering such as when receiving dental services, medical treatments, or while swimming;

m. Walking or exercising outdoors so long as physical separation of not less than six feet is maintained, or while walking or exercising outdoors with other members of the same household;

n. While actually engaged in exercising in a gym or other similar indoor facility so long as physical separation of not less than six feet is maintained and the individual wears a face covering at all times when not actually engaged in exercising;

o. When an individual is in his or her work office, conference room, or other workspace not intended for use by the general public, so long as physical separation of not less than six feet is maintained;

p. When inside a personal or commercial vehicle either parked or moving

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that is not a vehicle described in Section 767.03(c);

q. Individuals while acting in their official capacity as a public safety employee or emergency responder when wearing a face covering would interfere with or limit their ability to carry out their official duties or functions. These include police officers, firefighters and other public safety or emergency medical personnel that support public safety functions;

r. Individuals complying with the directions of public safety employees or emergency responders as described in Section 767.03(k);

s. Individuals inside religious facilities;

t. Facilities owned and operated by the Federal, State, or County Government are exempt from this order.

Anyone who declines to wear a face covering for any of the reasons which constitute an exception shall not be required to produce documentation or any other proof of a condition.

767.05 Enforcement. Columbus Public Health shall have the authority to investigate and enforce the provisions of Chapter 767.

767.06 Violation by place of business. If Columbus Public Health observes violation(s) by places of businesses failing to enforce the face covering requirements of Chapter 767, the following schedule of civil penalties shall be imposed on a place of business:

- a. For a first violation, a warning of violation shall be issued;
- b. For a second violation, a fine of \$500.00 shall be issued;
- c. For a third violation and for each subsequent violation, a fine of \$1,000.00 shall be issued.

767.07 Violation by individual. If Columbus Public Health observes violation(s) by individuals failing to comply with the face covering requirements of Chapter 767, the following schedule of civil penalties shall be imposed on individuals:

- a. For a first violation, a warning of violation shall be issued;
- b. For a second violation and for each subsequent violation, a fine of \$25.00 shall be issued.

767.08 Appeal. Individuals and places of business have the right to appeal civil penalties in accordance with Columbus City Health Code 203.08.

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767.09 Duration. Chapter 767 shall remain in effect until 11:59 p.m. on December 31, 2020 unless extended, modified, or earlier terminated by a majority vote of the City Council.

SECTION 2. That the provisions of Chapter 767 as enacted by this Ordinance shall become effective at 8:00 a.m. on Tuesday, July 7, 2020. However, Columbus Public Health shall not impose any fines for violations of Chapter 767 that occur on or before July 14, 2020.

SECTION 3. That this Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public health, safety and welfare of the Municipality due to the need to immediately slow the spread of COVID-19 and to be effective immediately upon its passage and publication. That notice of passage of this Ordinance shall be posted in the Municipal Administration Building, the Worthington Library, the Griswold Center and the Worthington Community Center and shall set forth the title and effective date of the Ordinance and a statement that the Ordinance is on file in the office of the Clerk of Council.

SECTION 4. That the waiver of notice of public hearing, the waiver of the waiting period, the declaration of immediate effectiveness, and the adoption of this Ordinance was passed by a six-sevenths vote of the members of Council in accordance with the Charter of the City of Worthington, Ohio.

Passed July 6, 2020

/s/ Bonnie D. Michael
President of Council

Attest:

D. Kay Thress
Clerk of Council

Introduced July 6, 2020
P.H. July 6, 2020
Effective July 7, 2020