

ORDINANCE NO. 09-2021
(As Amended)

Extending the Requirement for the Wearing of Facial Coverings.

WHEREAS, COVID-19 is a respiratory disease that can result in serious illness or death, caused by the SARS-CoV-2 virus, which can easily spread from person to person; and,

WHEREAS, on July 6, 2020 Council adopted Ordinance 30-2020 enacting Chapter 767 of the Codified Ordinances to require the wearing of face coverings in the City of Worthington to slow the spread of COVID-19; and,

WHEREAS, on July 23, 2020, Ohio Department of Health Interim Director Lance Himes issued a Director's Order to require the wearing of facial coverings in the State of Ohio; and,

WHEREAS, Section 767.09 of the Worthington Codified Ordinances, as enacted by Ordinance No. 30-2020 and amended by Ordinance No. 33-2020, provided that Chapter 767 shall only 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; and,

WHEREAS, Columbus Public Health has requested that the requirements to wear face coverings originally enacted in Chapter 767 be extended until the end of the public health orders involving the pandemic; and,

WHEREAS, City Council prefers to extend the face covering requirements to a date certain instead of relying on the determination by another governmental agency and has chosen December 31, 2021; and,

WHEREAS, City Council has chosen this date as a precaution but is hopeful that it will be able to terminate the requirements at an earlier date once it is determined that facial coverings are no longer required.

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

SECTION 1. For purposes of this Ordinance, "Face covering" means 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 everyday 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, medical masks, and cloth masks; and also include face shields that cover the nose and mouth, respirators, N95 masks or other personal protective equipment that provides a higher level of protection than a face covering as defined in this Section.

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SECTION 2. For purposes of this Ordinance, “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.

SECTION 3. For purposes of this Ordinance:

- (a) "Place of business" means any office, facility, building, or structure operated by or for a for-profit business or non-profit enterprise and which is 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), banquet and catering 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) "Household" means a group of individuals not necessarily related by blood, marriage, adoption, or guardianship, living together in a single dwelling unit.
- (c) “Family” means a parent, sibling, spouse, child, grandparent, great-grandparent, grandchild, great-grandchild, aunt, uncle, cousin, nephew, niece, or legal guardian.
- (d) "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.

SECTION 4. All individuals within the City of Worthington shall wear a face covering over the individual’s nose and mouth at all time when:

- (a) In any indoor location that is not a residence;
- (b) 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 the City of Worthington that do not stop in the City of Worthington;

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- (c) In any outdoor space or outdoor place where or when a person is unable to maintain or does not maintain physical separation of at least six feet from others who are not members of their own family or household. However, this provision shall not apply if it is not reasonably possible to avoid a temporary physical separation of less than six feet, such as walking past someone on a narrow path.

SECTION 5. All places of business shall require all employees, contractors, volunteers, and any other individuals 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 this Ordinance. Any manager, owner, or person in charge of a place of business who fails or refuses to comply with This Ordinance may be found in violation of this Ordinance and subject to the penalties set forth in Section 767.06.

SECTION 6. The requirement to wear a face covering does not apply to any individuals in the following situations:

- (a) Individuals 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; however, failure to produce medical documentation of the condition or disability may result in the imposition of a civil penalty as provided in Section 8 of this Ordinance;
- (b) Individuals under 6 years old;
- (c) Individuals that are seated and actively eating or drinking. If a patron within a restaurant 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;

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- (i) When wearing a face covering is impeding visibility to operate equipment or a vehicle;
- (j) 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;
- (l) In settings where it is not practicable or feasible to wear a face covering such as when receiving dental services, medical treatments, while swimming, or while acting as an on-duty lifeguard;
- (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 family or household;
- (n) While actively 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 actively 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 that is not a vehicle described in Section 4(b) of this Ordinance;
- (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 6(q) of this Ordinance;
- (s) Individuals while acting as an officiant of a religious service;
- (t) Facilities owned and operated by the Federal, State, or County Government are exempt from this order. However, all employees and members of the public shall comply with any social distancing or face covering requirements

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adopted by the Federal, State, or County Government when entering, exiting, or within such facilities;

- (u) Individuals actively participating in athletic practice, scrimmage, or competition that is permitted under an Ohio Department of Health order;
- (v) When face coverings are prohibited by federal or state law or regulation.

SECTION 7. Columbus Public Health shall have the authority to investigate and enforce the provisions of this Ordinance.

SECTION 8. If Columbus Public Health observes violation(s) by places of businesses failing to enforce the face covering requirements of this Ordinance, 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.

SECTION 9. If Columbus Public Health observes violation(s) by individuals failing to comply with the face covering requirements of this Ordinance, 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.

SECTION 10. Individuals and places of business have the right to appeal civil penalties in accordance with Columbus City Health Code 203.08.

SECTION 11. For those individuals cited for a violation of this Ordinance who have, but who failed to produce medical documentation of, a condition or disability that would constitute an exemption as defined in Section 6(a) of this Ordinance, said individuals will be afforded the opportunity to provide documentation of the condition or disability as part of their appeal.

SECTION 12. This Ordinance shall remain in effect until 11:59 p.m. on December 31, 2021 unless earlier terminated, extended, or modified by a majority vote of the City Council.

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SECTION 13. That Ordinance No. 30-2020, Ordinance No. 33-2020, adopting and amending Chapter 767 of the Codified Ordinances of Worthington are hereby repealed in their entirety.

SECTION 14. 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. This Ordinance shall take effect and be in force from and after the earliest period allowed by law and by the Charter of the City of Worthington, Ohio.

Passed March 15, 2021

/s/ Bonnie D. Michael
President of Council

Attest:

/s/ D. Kay Thress
Clerk of Council

Introduced March 8, 2021
P.H. March 15, 2021
Effective April 7, 2021