

ORDINANCE NO. 45-2021
(As Amended)

Requiring the Wearing of Facial Coverings to Reduce and Prevent the Spread of COVID-19 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 can easily spread from person to person; and,

WHEREAS, Franklin County has been designated by the Center for Disease Control and Prevention as currently having high community transmission levels, characterized by more than 100 new cases per 100,000 persons; and,

WHEREAS, Columbus Public Health, the contracted health agency for the City of Worthington, has determined that the Delta variant is currently the most dominant strain of COVID-19 locally, has spread quickly among unvaccinated people of all ages, and has shown the ability to infect fully vaccinated individuals and be spread to others; and,

WHEREAS, central Ohio hospital systems are experiencing increasing numbers of COVID-19 cases and their staffing levels are alarmingly low, taxing the ability of the hospitals to provide COVID-19 care while tending to the community's other critical healthcare needs; and,

WHEREAS, COVID-19 cases for both 5 to 11-year-olds and 12 to 17-year-olds have increased over the past month, and slowing the spread is critical to the health and wellbeing of young people and to continuing safe, in-person learning in central Ohio; and,

WHEREAS, the CDC has issued guidance recommending wearing a mask indoors in public in most circumstances, even for fully vaccinated people; and,

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

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(As Amended)

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.

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).

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, 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) "Indoor Areas" or "Inside" means all space closed in by a roof or other overhead covering of any kind and walls or other side coverings of any kind on at least three sides with appropriate openings for ingress and egress.
- (c) "Household" means a group of individuals not necessarily related by blood, marriage, adoption, or guardianship, living together in a single dwelling unit.
- (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.

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SECTION 4. All individuals within the City of Worthington shall wear a face covering over the individual's nose and mouth in indoor areas accessible to the public and within the confines of public or private transportation regulated by the City of Worthington, unless otherwise exempted, as follows:

- (a) 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;
- (b) 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. This includes, but is not limited to, a taxi or any other vehicle for hire, even if the vehicle is privately owned; however, this provision does not apply to people traveling alone or with household members or friends in their personal vehicles. This does not apply to vehicles engaged in direct travel through the City of Worthington that do not stop in the City of Worthington;
- (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);

SECTION 5. All places of business are hereby encouraged to post clear information, in visible locations, advising those entering a facility of the mask requirement contained in this Ordinance.

SECTION 6. 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

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person in charge of a place of business who recklessly fails or refuses to comply with the requirements of this Ordinance may be found in violation of this Ordinance. Anyone who declines to wear a Face Covering for any of the reasons which constitute an exemption should not be required to produce documentation or any other proof of a condition to a place of business.

SECTION 7. The requirement to wear a face covering does not apply 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;
- (b) Individuals under 3 years old;
- (c) Individuals that are actively eating or drinking;
- (d) When 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, including but not limited to plays, musical performances, wedding officiants and wedding participants;
- (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) 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;

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- (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) When actively engaged in exercise, sport, coaching, or officiating in a training, recreational, or competitive capacity;
- (n) When inside a personal or commercial vehicle either parked or moving that is not a vehicle described in Section 4(c) of this Ordinance;
- (o) Law enforcement officers, firefighters, EMTs and other first responders, while encouraged to wear Face Coverings, are specifically exempt from this order while engaged in the exercise of their duties outside of an office or business-type setting;
- (p) Individuals complying with the directions of public safety employees or emergency responders;
- (q) Individuals inside religious facilities or other facilities used for religious ceremony, leading or actively participating in religious services, funerals or wedding ceremonies;
- (r) Facilities owned and operated by the Federal, State, or County Government are exempt from this Ordinance. However, all employees and members of the public shall comply with any social distancing or Face Covering requirements adopted by the Federal, State, or County Government when entering, exiting, or within such facilities;
- (s) When requiring the wearing of Face Coverings would violate the United States Constitution, the Ohio Constitution, or any federal or state law or regulation.

SECTION 8. Columbus Public Health shall have the authority to investigate and enforce the provisions of this Ordinance.

SECTION 9. Citations to places of business shall be written only to those places of business that recklessly fail to enforce the requirements of this Ordinance. Places of business are entitled to rely on their customers' or patrons' reasonable statements about whether or not they are exempted from the Face Covering requirements, and places of business do not violate this Ordinance if they reasonably rely upon such statements. Further, the posting of clear information, in visible locations, advising customers and patrons entering a facility of the requirements contained in this Ordinance shall be prima facie evidence of enforcement by a place of business as to customers and patrons.

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If Columbus Public Health observes a violation of this Ordinance, a civil citation may issue and the following schedule of civil penalties may be imposed upon a place of business and/or a manager, owner, or person in charge of a place of business who recklessly fails or refuses to comply with the requirements of this Ordinance:

- (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 10. If Columbus Public Health observes a violation of this Ordinance, a civil citation may issue and the following schedule of civil penalties may be imposed upon an individual who recklessly fails or refuses to comply with the requirements of this Ordinance:

- (a) For a first violation, a warning of violation shall be issued;
- (b) For a second violation, a fine of \$50.00 shall be issued;
- (c) For a third violation and for each subsequent violation, a fine of \$100.00.

SECTION 11. Individuals and places of business have the right to appeal civil penalties in accordance with Columbus City Health Code 203.08.

SECTION 12. Columbus Public Health, through its Commissioner or designee, is hereby requested to provide ongoing reports to the City Manager and to City Council, no less than every 30 days, on the current status of the COVID-19 public health emergency and the ongoing community response for so long as this Ordinance remains in effect.

SECTION 13. This Ordinance shall remain in effect until 11:59 p.m. on March 31, 2022 unless extended, modified, or earlier terminated by a majority vote of the City Council.

SECTION 14. 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.

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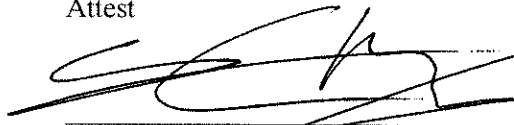
SECTION 15. That the waiver of notice of public hearing, the waiver of the waiting period, the declaration of immediate effectiveness, and the adoption of this Ordinance was passed by a six-sevenths vote of the members of Council in accordance with the Charter of the City of Worthington, Ohio.

Passed September 13, 2021



President of Council

Attest



Management Assistant

Introduced September 13, 2021
P.H. September 13, 2021
Effective September 16, 2021

