

ORDINANCE NO. 33-2020
(As Amended)

To Amend Chapter 767 “Face Coverings” of the Codified Ordinances of the City of Worthington 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, 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 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, on July 6, 2020 Council adopted Ordinance 30-2020 to enact new Chapter 767 of the Codified Ordinances of the City of Worthington to require the wearing of face coverings to slow the spread of COVID-19; and,

WHEREAS, on July 8, 2020, Ohio Department of Health Interim Director Lance Himes issued a Director’s Order establishing requirements for the wearing of facial coverings in Franklin County and certain other counties based on a Risk Level 3; and,

WHEREAS, staff has recommended amendments to Chapter 767 after reviewing the Director’s Order, the final ordinance adopted by the City of Columbus, and comments from the public; 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 Chapter 767 “Face Coverings” of the Worthington Codified Ordinances is hereby amended to read as follows:

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CHAPTER 767

Face Coverings

767.01 Face Covering defined.

For purposes of Chapter 767, "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.

767.02 Additional Definitions.

For purposes of Chapter 767:

- (a) "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.
- (b) "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.
- (c) "Household" means a group of individuals not necessarily related by blood, marriage, adoption, or guardianship, living together in a single dwelling unit.
- (d) "Family" means a parent, sibling, spouse, child, grandparent, great-grandparent, grandchild, great-grandchild, aunt, uncle, cousin, nephew, niece, or legal guardian.

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- (e) "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.

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 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;
- (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.

767.04 Face Covering requirements for places of business. 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 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 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 767.07;
- (b) Individuals under 6 years old;

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- (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;
- (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;

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- (p) When inside a personal or commercial vehicle either parked or moving 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(q);
- (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 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.

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

767.07 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.

767.08 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.

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767.09 Appeal.

- (a) Individuals and places of business have the right to appeal civil penalties in accordance with Columbus City Health Code 203.08.
- (b) For those individuals cited for a violation of Chapter 767 who have, but who failed to produce medical documentation of, a condition or disability that would constitute an exemption as defined in Section 767.04(a), said individuals will be afforded the opportunity to provide documentation of the condition or disability as part of their appeal.

767.10 Duration.

- (a) The facial covering requirements of Chapter 767 will be suspended at such time that Franklin County achieves a COVID-19 Risk Level 1 (yellow) in accordance with the Ohio Public Health Advisory System established by the Ohio Department of Health. The requirements will resume and remain in effect at any time that Franklin County is at COVID-19 Risk Level 2 (orange), Level 3(red), or Level 4 (purple).
- (b) Regardless of the COVID-19 Risk Level, 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.

SECTION 2. That the amendments to Chapter 767 as enacted by this Ordinance shall become effective at 8:00 a.m. on Monday, July 27, 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 20, 2020

/s/ Bonnie D. Michael
President of Council

Attest:

/s/ D. Kay Thress
Clerk of Council

Introduced July 20, 2020
P.H. July 20, 2020
Effective July 23, 2020