

By: **Ms. Whaley**.....

No **31821-20**.....

**AN ORDINANCE**

Requiring Face Coverings in Any Public Space to Limit the Spread of COVID-19, and Declaring an Emergency.

**WHEREAS**, COVID-19 is a respiratory disease that can result in serious illness or death and can be easily spread from person to person; and

**WHEREAS**, The Centers for Disease Control and Prevention (CDC) reported over 2,545,250 cases of COVID-19 in the United States, resulting in over 126,369 deaths; and

**WHEREAS**, On March 9, 2020, the Ohio Department of Health announced confirmed cases of COVID-19 in the State of Ohio, creating a dangerous condition that may affect the health, safety and welfare of the citizens of Ohio; and

**WHEREAS**, On that same date, Governor Mike DeWine declared a state of emergency for the entire State to protect the well-being of the citizens of Ohio from the dangerous effects of COVID-19, and to assist in protecting the lives, safety, and health of the citizens of Ohio; and

**WHEREAS**, COVID-19 endangers the lives of the citizens of Dayton, creating an emergency to life and public safety and disrupting commerce; and

**WHEREAS**, The CDC reports that people are most contagious when they are most symptomatic (the sickest) however some spread is possible before an individual may show symptoms; and

**WHEREAS**, On March 22, 2020, under the 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 has been since amended on April 30, May 20 and May 22, 2020 to allow businesses to open with the recommendation that facial coverings be worn except in certain circumstances; and

**WHEREAS**, On March 12, 2020, the City of Dayton declared a local emergency due to the COVID-19 pandemic; and

**WHEREAS**, As businesses have re-opened, more people are traveling throughout the state, and within the City of Dayton; and

**WHEREAS**, A local and statewide state of emergency continues to exist with limits on mass gatherings and recommendations of social distancing; and

**WHEREAS**, As a result of the above described emergency there is a continuing need to protect all citizens and guests of the City of Dayton from the risks relating to the COVID-19 pandemic; and

**WHEREAS**, The CDC recommends wearing face coverings in public where other physical distancing measures are difficult to maintain to help prevent the spread of COVID-19 from asymptomatic or unknowing carriers to others; and

**WHEREAS**, Public Health Dayton and Montgomery County Health (PHDMC) Commissioner and Medical Director advised the Commission in a letter on July 1, 2020 that there is a surge in new COVID-19 cases through person-to-person transmission and stated that wearing a facial covering can reduce virus transmission by up to 75% and is an effective way to prevent the spread of the virus from an infected person; PHDMC's letter is attached and incorporated into this Ordinance as Exhibit A; and

**WHEREAS**, Public Health Dayton and Montgomery County supports this Ordinance as best practice intervention to attempt to control the spread of COVID-19; and

**WHEREAS**, Requiring face coverings to be worn by any person in a public place within the City of Dayton best promotes health, safety, and efforts to limit the spread of COVID-19 while enabling the continuation of essential services, businesses, and travel necessary to protect public health and safety, and for the continuity of social and commercial life during the state of emergency; and

**WHEREAS**, After weighing the known information about the COVID-19 virus, consulting with Public Health-Dayton Montgomery County, and considering the guidance from the Ohio Department of Health, City Commission concludes that the safety of City of Dayton citizens is best protected by implementing a requirement to wear face coverings in public places as set forth herein; and

**WHEREAS**, That for the reasons stated in the preamble hereof, this Ordinance is declared to be an emergency measure and shall take effect at 8:00 a.m. on Friday, July 3, 2020; now, therefore,

**BE IT ORDAINED BY THE COMMISSION OF THE CITY OF DAYTON:**

**Section 1.** All individuals within the City of Dayton 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:

i. For purposes of this Ordinance, "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), hotels and motels (excluding the 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 Dayton operated building or facility that is open to the public, and while inside a City of Dayton operated building or facility as to the areas within such City of Dayton 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, a taxi or ridesharing vehicle or any other vehicle for hire, or at a transit stop or waiting area for any public transportation.

d. 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.

**Section 2.** The requirement to wear a face covering through this Ordinance 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. Restaurant and bar patrons while eating or drinking. If a patron is not seated at his or her table or at the bar, a face covering is required.
- d. 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 this Ordinance, "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.
- e. 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.
- f. 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.
- g. 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.
- h. When an individual is in his or her work office, conference room, or other workspace not intended for use by the general public.
- i. When inside a personal or commercial vehicle either parked or moving that is not a vehicle described in Section 1(c).
- j. 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 peace officers, firefighters, and other public safety or emergency medical personnel that support public safety operations.
- k. Individuals complying with the directions of public safety employees or emergency responders as described in 2(j).

**Section 3.** For the 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 or may be handmade and improvised from household materials. Face coverings include, but are not limited to, bandanas, scarfs, 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

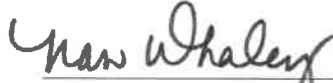
face covering defined in this Section. A face covering shall be worn so as to cover the mouth and nose in compliance with the CDC's guidance on wearing face coverings.

**Section 4.** Whoever violates this Ordinance is subject to a civil penalty in the amount of \$85.

**Section 5.** For the reasons set forth in the preamble hereof, the Commission declares this Ordinance to be an emergency measure which shall take effect at 8 a.m. on Friday, July 3, 2020 and shall remain in effect during the pendency of State of Ohio Executive Order 2020-01D.

PASSED BY THE COMMISSION...**July 1**....., 2020

SIGNED BY THE MAYOR...**July 1**..... 2020

  
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Mayor of the City of Dayton, Ohio

Attest:

  
\_\_\_\_\_

Clerk of the Commission

Approved as to form:

  
\_\_\_\_\_

City Attorney



## Public Health - Dayton & Montgomery County

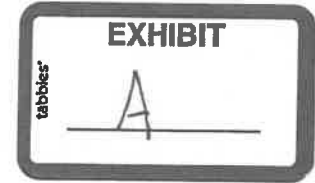
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July 1, 2020

Nan Whaley, Mayor  
City of Dayton  
City Hall  
101 West Third Street  
Dayton, OH 45402



Mayor Whaley,

Following the statewide implementation of Responsible RestartOhio, Public Health – Dayton & Montgomery County has observed increased community spread of the SARS-CoV-2 virus which causes COVID-19 disease, an increase in infected individuals seeking medical care and outbreaks in businesses and congregate care / living facilities in Montgomery County. Clusters of COVID-19 cases are occurring related to people gathering at work, at church and in public spaces.

Despite the mandatory sector-specific operating requirements developed by the Ohio Department of Health, the phased lifting of restrictions has resulted in a surge of new cases due to increased person-to-person transmission. This surge is occurring because most individuals are not complying with Public Health recommendations on wearing face coverings and social distancing in public spaces.

Physical distancing of six feet and wearing a facial covering such as a cloth mask continue to be important to stop virus transmission. Recent analyses indicate that wearing a facial covering can reduce virus transmission by up to 75%. A facial covering such as a cloth mask is an effective way to prevent the spread of the virus from an infected person.

Public Health – Dayton & Montgomery County supports the City of Dayton's resolution requiring individuals to wear face coverings in public spaces to limit the spread of the virus. We applaud the City of Dayton's leadership in adopting this best-practice intervention to support Public Health's efforts to control the spread of the SARS-CoV-2 virus within Montgomery County and the surrounding region.

Jeffrey A. Cooper  
Health Commissioner

Mickey Dohn  
Medical Director