

**CITY OF WEST ALLIS
ORDINANCE O-2021-0030**

ORDINANCE TO REQUIRE FACE COVERINGS IN PUBLIC PLACES

CREATING SECTION 7.20

WHEREAS, on March 17, 2020, the City of West Allis declared a state of emergency exists due to the COVID-19 pandemic; and

WHEREAS, the COVID-19 pandemic continues to spread among the citizens of Wisconsin and the City of West Allis, sustaining the health emergency that underlay the City's March 17, 2020 declaration of emergency; and

WHEREAS, as of March 31, 2021, the Wisconsin Department of Health Services indicated that 577,195 people in Wisconsin have tested positive for COVID-19, including 100,722 people in Milwaukee County; and

WHEREAS, experience to date has demonstrated that social distancing, personal protective equipment, limiting time of exposure, and sanitation are the most effective tools for mitigating the spread of COVID-19 among the population; and

WHEREAS, many individuals with COVID-19 may be asymptomatic or may experience a delayed onset of symptoms, during which time such individuals may transfer the virus to others; and

WHEREAS, wearing a cloth face covering over both the nose and mouth greatly reduces the risk of continued community spread of COVID-19; and

WHEREAS, as of June 28, 2020, the Centers for Disease Control and Prevention's (CDC) information on the use of cloth face coverings to prevent the spread of COVID-19 includes 1) the CDC recommends that all people 2 years of age and older wear a cloth face covering in public settings and when around people who do not live in their household, especially when other social distancing measures are difficult to maintain, 2) studies have shown that wearing a cloth face covering can prevent the spread of COVID-19, 3) cloth face coverings are most likely to reduce the spread of COVID-19 when they are widely used by most people in public settings, and 4) cloth face coverings should not be worn by children under the age of 2 years old or by anyone who has trouble breathing, or is unconscious, incapacitated, or otherwise unable to remove their own face covering without assistance

WHEREAS, the City of West Allis has an interest in protecting the public health, safety, and welfare of the citizens of West Allis from the continued spread of COVID-19 throughout the community; and

WHEREAS, an ordinance requiring face coverings to be worn by any person in a public place within the city of West Allis directly serves that interest by avoiding and/or reducing the further spread of COVID-19 and minimizing the strain on health care resources, while enabling the continuation of essential services, businesses, and social and commercial life during the state of emergency; and

WHEREAS, the City of West Allis intends to gain voluntary compliance from all individuals with the recommendations from the CDC and local healthcare providers concerning the wearing of face coverings, but recognizes that penalties are necessary to ensure such compliance; and

WHEREAS, on October 6, 2020, the common council adopted R-2020-0602 in support of the use of face coverings to prevent and slow the spread of COVID-19; and

WHEREAS, the state face covering mandate is no longer applicable because the Wisconsin Supreme Court invalidated Executive Order #105 on March 31, 2021, and precluded any future orders; and

WHEREAS, Wisconsin state law provides broad authority and power for local governments to provide for health, safety, and welfare pursuant to sections 323.11 and 323.14 (4) of the Wisconsin Statutes, including the general authority to order, by ordinance or resolution, whatever is necessary and expedient for the health, safety, protection, and welfare of persons and property within the local unit of government in the emergency;

NOW THEREFORE, the common council of the City of West Allis do ordain as follows:

SECTION 1: **ADOPTION** “7.20 Face Covering Required” of the City Of West Allis Municipal Code is hereby *added* as follows:

ADOPTION

7.20 Face Covering Required(*Added*)

(a) Definitions. In this section:

1. "Face covering" means a piece of cloth or other material that is worn to cover the nose and mouth completely. A “face covering” includes but is not limited to a bandana, a cloth face mask, a disposable or paper mask, a neck gaiter, or a religious face covering. A “face covering” does not include face shields, mesh masks, masks with holes or openings, or masks with vents.
2. “Physical distancing” means maintaining at least 6 feet of distance from individuals who are not members of the same household or living unit.

(b) Face Covering Requirements. Every individual age 5 and older shall wear a face covering and practice physical distancing if both of the following apply:

1. The individual is indoors or in an enclosed space, other than at a private residence; and
 2. Another person or persons who are not members of individual's household or living unit are present in the same room or enclosed space.
- (c) Exceptions. Individuals who are otherwise required to comply with this section are not required to comply in the following situations:
1. While eating or drinking.
 2. When communicating with an individual who is deaf or hard of hearing and communication cannot be achieved through other means.
 3. While obtaining a service that requires the temporary removal of the face covering, such as dental services.
 4. While sleeping.
 5. While swimming or on duty as a lifeguard.
 6. While a single individual is giving a religious, political, media, educational, artistic, cultural, musical, or theatrical presentation for an audience, the single speaker may remove the face covering when actively speaking. While the face covering is removed, the speaker must practice physical distancing.
 7. When engaging in work where wearing a face covering would create a risk to the individual, as determined by government safety guidelines.
 8. When necessary to confirm the individual's identity, including when entering a bank, credit union, or other financial institution.
 9. When federal or state law or regulations prohibit wearing a face covering.
- (d) Exemptions. The following individuals are exempt from compliance with this section:
1. Individuals who have trouble breathing.
 2. Individuals who are unconscious, incapacitated, or otherwise unable to remove the face covering without assistance.
 3. Individuals with medical conditions, intellectual or developmental disabilities, mental health conditions, or other sensory sensitivities that prevent the individual from wearing a face covering.
 4. Incarcerated individuals.
- (e) Penalty. Any person who violates this section shall upon conviction forfeit not less than \$50 and not more than \$500.

SECTION 2: SEVERABILITY CLAUSE Should any part or provision of this Ordinance be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the Ordinances a whole or any part thereof other than the part so declared to be unconstitutional or invalid.

SECTION 3: EFFECTIVE DATE This ordinance shall be in full force and effect on and after the required approval and publication according to law.

SECTION 4: SUNSET CLAUSE This ordinance shall be repealed upon the expiration of the emergency originally declared on March 17, 2020 in R-2020-0196 and extended by R-2020-0268, R-2020-0404, R-2020-0748, and any future extensions.

PASSED AND ADOPTED BY THE CITY OF WEST ALLIS COUNCIL

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	AYE	NAY	ABSENT	ABSTAIN
Ald. Angelito Tenorio	_____	_____	_____	_____
Ald. Vince Vitale	_____	_____	_____	_____
Ald. Tracy Stefanski	_____	_____	_____	_____
Ald. Marty Weigel	_____	_____	_____	_____
Ald. Suzzette Grisham	_____	_____	_____	_____
Ald. Danna Kuehn	_____	_____	_____	_____
Ald. Thomas Lajsic	_____	_____	_____	_____
Ald. Dan Roadt	_____	_____	_____	_____
Ald. Rosalie Reinke	_____	_____	_____	_____
Ald. Kevin Haass	_____	_____	_____	_____

Attest

Presiding Officer

Rebecca Grill, City Clerk, City Of
West Allis

Dan Devine, Mayor City Of West
Allis