

Ordinance 00XX-20 – 2019 Novel Coronavirus Response – Face Coverings

An ordinance to amend Chapter 54 of the Municipal Code of the City of Racine, Wisconsin.

Whereas, the United States of America and the State of Wisconsin have been affected by the worldwide pandemic of the 2019 novel coronavirus disease (COVID-19), which is a dangerous respiratory illness that can spread from person to person; and

Whereas, since well before March 2020, City of Racine elected, appointed, and public health officials been working to minimize the risk and threat of contagion related to the ongoing COVID-19 pandemic while enhancing the safety and health of city residents; and

Whereas, the COVID-19 pandemic and its prevalence in the southeastern Wisconsin region and throughout the United States continues to constitute a public health emergency; and

Whereas, the City of Racine has become a hot spot for infection related to the novel coronavirus. As of July 9, 2020, the City of Racine has had more than 1,500 confirmed positive COVID-19 cases. According to the Wisconsin Department of Health Services, the positive COVID-19 rate in Racine County is higher, per capita, than all but two other counties in Wisconsin. Approximately 70 percent of the positive COVID-19 cases within Racine County are in the City of Racine; and

Whereas, the City of Racine continues to deal with this unprecedented threat to City residents, as well as the healthcare systems in place to respond. this time represents the most significant threat to public health that has occurred in the past 100 years; and

Whereas, response to public health crises is within the indisputable authority of local governments in the United States, and in Wisconsin, as part of the exercise of their police power; and

Whereas, if COVID–19 cases continue to increase in the City of Racine, the demand for medical, pharmaceutical, personal, and general cleaning supplies may overwhelm sources of supply, the private and public sector work force may be negatively impacted by absenteeism, and the demand for medical facilities may exceed locally available resources;

Whereas, health authorities, including the United States Surgeon General, the Centers for Disease Control and Prevention, and the Wisconsin Department of Health Services recommend wearing face coverings in public where other physical distancing measures

are difficult to maintain to help prevent the spread of COVID-19 from symptomatic or asymptomatic carriers to others; and

Whereas, wearing a mask or face covering in public is the easiest and most effective way to protect each other and help keep businesses and the economy open; and

Whereas, there exists a continuing public health emergency within the City of Racine as contemplated by in Wisconsin Statutes sections 323.11 and 323.14(4) and Racine Ordinance section 34-1.

NOW THEREFORE, the Common Council of the City of Racine, Wisconsin, do ordain as follows:

Part 1: Chapter 54, Article II, Section 54-35, of the Municipal Code of the City of Racine, Wisconsin, is created as follows:

Sec. 54-35. – Wear of face coverings

- (1) Definitions. As used in this section, the terms below shall have the following meanings:
 - a. “Face covering” means a uniform multi-layer piece of cloth, fabric, or other material that securely covers a person’s nose and mouth and remains affixed in place without the use of one’s hands. Face Coverings include, but are not limited to, bandanas, medical masks, cloth masks, scarves, and gaiters, provided that they are worn such that they securely cover the person’s nose and mouth.
 - b. “Public space” means any indoor or outdoor space that is open to the public. This does not include any private residence, private residential property, or private offices or workspaces that are not open to customers or to public visitors.
- (2) Use of Face Coverings.
 - a. All persons in the City of Racine shall have possession of a face covering when the person leaves home or other place of residence and shall cover their mouths and noses with a face covering when:
 - i. In any indoor public space.
 - ii. In any outdoor public space and within six feet of any other person who is not a member of the person’s family or household.
 - iii. Riding on public transportation or riding in a taxi, private car service, or ride-sharing vehicle.

- b. All businesses, organizations, and non-profit entities within the City of Racine shall require all employees, customers, visitors, members, or members of the public to wear a face covering when:
 - i. Employees are working in any space visited by customers or members of the public, regardless of whether customers or members of the public are present at the time.
 - ii. Employees who are working in any space where food is prepared or packaged for sale or distribution to others.
 - iii. Customers, visitors, members, or members of the public are in a facility managed or operated by the business, organization, or entity.
 - iv. Employees are in any room or enclosed area where other people, except for members of the same family or household, are unable to maintain a six-foot distance except for infrequent or incidental moments of closer proximity.
- c. Exemptions. Face coverings shall not be required:
 - i. For children aged four years or under
 - ii. Persons who fall into the Centers for Disease Control and Prevention's guidance for those who should not wear face coverings due to a medical condition, mental health condition, developmental disability, or are otherwise covered under the Americans with Disabilities Act.
 - iii. Persons who have upper-respiratory chronic conditions.
 - iv. Persons who are hearing impaired, or communicating with a person who is hearing impaired, where the ability to view a person's mouth is essential for communication.
 - v. Persons who are obtaining a service involving the nose, mouth, or face for which temporary removal of the face covering is necessary to perform the service.
 - vi. Persons who are seated at a restaurant or other establishment that offers food or beverage service, while they are eating or drinking, provided they maintain a six-foot distance between individuals, not including individuals who are members of the same family or household or are seated together, with only infrequent or incidental moments of closer proximity, such as persons walking or passing by.
 - vii. Persons for whom wearing a face covering would create a risk to the person related to their work, as determined by local, state, or federal regulations or workplace safety guidelines.
 - viii. Whenever federal, state, or local law otherwise prohibit wearing a face mask or where it is necessary to evaluate or verify an individual's identity.

- ix. Persons whose religious beliefs prevent them from wearing a face covering
 - x. While exclusively with members of a family or the same household, and no person other than such family or household is within the same enclosed area.
 - xi. In private, individual offices, when no other persons other than members of the same family or household are present.
 - xii. Persons present in government facilities closed to the public, institutions of higher education, public and private kindergarten through twelfth grade schools, and licensed childcare or youth facilities that are following Wisconsin Economic Development Corporation or Wisconsin Department of Children and Families guidelines as applicable.
- (3) The owner or operator of any business or building has the right to refuse entry or service to any person who fails to comply with section 54-35(2).
- (4) Penalties.
- a. Upon conviction, any person found to be in violation of section 54-35(2)a. shall forfeit no more than \$25 upon the first conviction, \$50 upon the second conviction, and \$100 upon the third or subsequent conviction.
 - b. Upon conviction, the owner or operator of any business, organization, and non-profit entity within the City of Racine found to be in violation of section 54-35(2)b. shall forfeit no less than \$50 no more than \$500.
 - c. The city attorney and city clerk are authorized to pursue license revocation for any business licensed by the City of Racine for failing to comply with section 54-35(2)b.
- (5) Sunset. This ordinance shall be effective July 27, 2020 at 8:00 a.m., and shall remain in effect until 11:59 p.m., December 31, 2020, unless extended or earlier terminated or modified by the common council.

Part 2: This ordinance shall take effect upon passage by a majority vote of the members-elect of the City of Racine Common Council and publication or posting as required by law.

Fiscal Note: N/A