

Ordinance 0013-21 – Wear of 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 public health crisis, 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, 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, despite extraordinary efforts taken by City of Racine officers, employees, and public health professionals, there has been a recent resurgence of the number of confirmed positive COVID-19 cases in the City of Racine and surrounding communities; and

Whereas, one such highly-transmissible COVID-19 variant, B.1.617.2, commonly known as the Delta variant, now accounts for the majority of new infections; and

Whereas, as of August 24, 2021, the community transmission level for every county in the State of Wisconsin is in the Substantial or High category, the case rate in Racine County was 229.74 per 100,000, and the case rate for the jurisdiction of the City of Racine was 242.34 per 100,000; and

Whereas, if COVID-19 cases continue to increase in the City of Racine, the private and public sector work force may be negatively impacted by absenteeism, and the demand for medical services and 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, in addition to being fully vaccinated, 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, Section 54-35, Wear of Face Coverings, is recreated 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, medical masks and multi-layer cloth masks, provided that they are worn such that they securely cover the person's nose and mouth. *Face covering* does not include single-layer cloth garments such as bandanas, scarves, or gaiters.
- b. *Public space* means any indoor 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. 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 any of the following apply:
 - 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 in any room or enclosed area where other people, except for members of the same family or household.

c. Exemptions. Face coverings shall not be required:

- i. For children aged four years or younger.
- 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 place including, but not limited to, a school cafeteria, restaurant, or other establishment that offers or permits food or beverage service, while they are eating or drinking.
- 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 covering 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. While giving a religious, political, media, artistic, cultural, musical, theatrical, or other public presentation for an audience, a person may remove the face covering when actively speaking or performing.

(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 \$25.00 upon the first conviction, \$50.00 upon the second conviction, and \$100.00 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 \$50.00 no more than \$500.00.
- 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) At any time that the community transmission level for COVID-19 for the City of Racine is at the Moderate or lower category for three consecutive weeks, the repeal or continuation of this ordinance shall be considered by the common council at its next regular meeting.

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.

Pursuant to Wisconsin Statutes section 62.09(8)(c), the mayor shall have the veto power as to all acts of the common council, except such as to which it is expressly or by necessary implication otherwise provided. All such acts shall be submitted to the mayor by the clerk and shall be in force upon approval evidenced by the mayor's signature, or upon failing to approve or disapprove within 5 days, which fact shall be certified thereon by the clerk. If the mayor disapproves the mayor's objections shall be filed with the clerk, who shall present them to the council at its next meeting. A two-thirds vote of all the members of the council shall then make the act effective notwithstanding the objections of the mayor.