

ORDINANCE NO. 21-XX

AN ORDINANCE MANDATING FACE COVERINGS BE WORN INDOORS BY ANYONE ACCESSING PUBLIC BUILDINGS WITHIN THE CITY OF MADEIRA, OHIO

WHEREAS, as of July 30, 2021, the CDC determined that “All of Hamilton County, including the City of Cincinnati, have been identified as an area of “substantial spread” of COVID-19.” Accordingly, the CDC recommended (i) everyone, including those fully-vaccinated, wear a mask in public indoor settings; (ii) fully-vaccinated people might choose to wear a mask regardless of the level of transmission, particularly if they are immunocompromised or at increased risk for severe disease from COVID-19, or if they have someone in their household who is immunocompromised, at increased risk of severe disease or not fully vaccinated; (iii) fully-vaccinated people who have a known exposure to someone with suspected or confirmed COVID-19 should be tested 3-5 days after exposure, and wear a mask in public indoor settings for 14 days or until they receive a negative test result; and (iv) universal indoor masking for all teachers, staff, students, and visitors to schools, regardless of vaccination status; and

WHEREAS, the City of Madeira is located in Hamilton County. As such, there is a current threat of an acutely hazardous disease, illness, or health condition; specifically, COVID-19, that is believed to be caused by the appearance of a novel infectious agent; and

WHEREAS, as of August 13, 2021, the Center for Disease Control (“CDC”) also determined, “If you are not fully vaccinated and aged 2 or older, you should wear a mask in indoor public places. In general, you do not need to wear a mask in outdoor settings ... People who have a condition or are taking medications that weaken their immune system may not be fully protected even if they are fully vaccinated...[and] should continue to take all precautions recommended for unvaccinated people, including wearing a well-fitted mask, until advised otherwise by their healthcare provider ... [and even] [i]f you are fully vaccinated, to maximize protection from the Delta variant and prevent possibly spreading it to others, wear a mask indoors in public if you are in an area of substantial or high transmission;” and

WHEREAS, Face Coverings can decrease the spread of respiratory droplets from people, and evidence has grown, as show in numerous studies, that the use of Face Coverings decreases the spread of COVID-19 within populations; and

WHEREAS, pursuant to Article II of the Madeira City Charter, the City of Madeira is a chartered, home-rule political subdivision with “all legislative powers of the municipality...vested in an elected Council,” possessing “all the powers of local self-government and all other powers possible for it to have under the Constitution of the State of Ohio, and all powers that now are or may hereafter be granted it by the laws of Ohio;” and

WHEREAS, by Resolution 24-20 dated April 13, 2020 and pursuant to Section 735.051 of the Ohio Revised Code, the elected Council of the City of Madeira has already unanimously declared “a State of Emergency in connection with the outbreak of COVID-19,” invoking “those

portions of the Ohio Revised Code which are applicable to such conditions and have caused the issuance of [Resolution 24-20] to be in full force and effect in the City for the exercise of all necessary emergency authority for the protection of the lives and property of the people of Madeira and to safeguard the continuity and, if necessary, restoration of local government with minimal interruption;” and

WHEREAS, by the same Resolution 24-20, the Council of the City of Madeira resolved that “a real and present emergency exists...affecting the public health and safety of residents” and authorized the Mayor “to take any and all steps necessary to maintain order and control in the City for the well-being, health, and safety of residents” and that “all citizens are called upon and directed to comply with necessary emergency measures to cooperate with public officials;” and

WHEREAS, pursuant to Section 715.37 of the Ohio Revised Code, “Any municipal corporation may [p]rovide for the public health,” and “[s]ecure the inhabitants of the municipal corporation from the evils of contagious, malignant, and infectious diseases;” and

WHEREAS, the spread of COVID-19 continues to threaten the lives of the citizens of the City of Madeira and substantially impairs the functioning of city government and its ability to protect the lives and property of the citizens of the City of Madeira; and

NOW, THEREFORE, BE IT ORDAINED by the City Council of Madeira, Ohio as follows:

Section 1. That the foregoing recitals are hereby incorporated as if fully restated herein.

Section 2. *Definitions.* For purposes of this Ordinance:

- A. “Face Covering” means a covering of the nose and mouth that is secured to the head with ties, straps, or loops over the ears or is simply wrapped around the lower face. A Face Covering can be made of a variety of synthetic and natural fabrics, including cotton, silk, or linen. A Face Covering may be factory-made, sewn by hand, or can be improvised from household items such as scarfs, bandanas, t-shirts, sweatshirts, or towels. A face shield that covers the nose and mouth also meets the Face Covering requirements of this Ordinance.
- B. “Public Building” means any building located within the City of Madeira owned, used, or occupied by the City of Madeira and the Madeira City School District.

Section 3. *Face Coverings.* Subject to the exceptions set forth herein, individuals are required to wear a Face Covering when inside any Public Building within the City of Madeira if the individual is or may be within six (6) feet of another person.

Section 4. *Exceptions.* This Ordinance does not require Face Coverings for, and a Face Covering does not need to be worn by any individual who:

- A. Should not wear a Face Covering due to any medical or behavioral condition or disability (including, but not limited to, any person who has trouble breathing, or is unconscious, or incapacitated, or is otherwise unable to put on or remove the Face Covering without assistance);
- B. Is two (2) years of age or younger;
- C. Is actively eating or drinking;
- D. Is strenuously exercising;
- E. Is seeking to communicate with someone who is hearing-impaired in a way that requires the mouth to be visible;
- F. Is temporarily removing his or her Face Covering to secure government or medical services or for identification purposes;
- G. Would be at risk from wearing a Face Covering at work, as determined by local, state, or federal regulations or workplace safety guidelines;
- H. Has found that his or her Face Covering is impeding visibility to operate equipment or a vehicle; or
- I. Is a child whose parent, guardian, or responsible person has been unable to place the Face Covering safely on the child's face.

Any individual who declines to wear a Face Covering in connection with any of the foregoing exceptions shall not be required to produce documentation or any other proof of a condition.

Law enforcement officers, firefighters, EMTs and other first responders, while encouraged to wear Face Coverings and practice social distancing where practicable, are specifically exempt from this Ordinance while engaged in the exercise of their duties.

Section 5. *Enforcement.* Citations under this Ordinance shall be written only to individuals over eighteen (18) years of age and to organizations and entities that fail to enforce the requirement to wear Face Coverings. Organizations and entities are entitled to rely upon an individual's statements about whether they are excepted from the Face Covering requirement, and organizations and entities do not violate this Ordinance if they rely upon such statements.

- A. Law enforcement personnel are not authorized to criminally enforce the Face Covering requirements of this Ordinance against any individual under eighteen (18) years of age.
- B. However, if an organization or entity does not allow entry to an individual because that person refuses to wear a Face Covering, and if that individual enters or refuses to leave the premises of the Public Building, law enforcement personnel may enforce the trespassing laws and any other laws that individual may violate.

Any violation of this Ordinance shall constitute a minor misdemeanor, which carries a fine of up to \$150.00 for each offense. Any organization or entity which fails to comply with this Ordinance may be subject to a civil penalty of up to \$150.00.

PASSED ON THE XXTH DAY OF AUGUST, 2021 BY THE FOLLOWING X-X VOTE:

YEA: NAY: ABSTAIN: ABSENT:

Nancy Spencer

Chris Hilberg

Scott Gehring

Traci Theis

Tom Henning

Doug Moorman

Brian Mueller

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Nancy Spencer, Mayor

CERTIFICATE

The undersigned, Clerk of Council of the City of Madeira, hereby certifies this to be a true and exact copy of Ordinance 21-XX, adopted by the Council of the City of Madeira on August XX, 2021.

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Clerk of Council

**Pursuant to Article XII, Section 3 of the Madeira City Charter, the passage of this measure is subject to referendum.*