

ORDINANCE NO. 17-20 (Amended)

ORDINANCE REQUIRING THE WEARING OF FACE COVERINGS AS
NECESSARY TO REDUCE THE SPREAD OF COVID-19

WHEREAS, West Lafayette Mayor John R. Dennis signed Executive Order 2020-01 on July 13, 2020 to combat the spread of COVID-19;

WHEREAS, on September 1, 2020, the Tippecanoe Circuit Court determined that Executive Order 2020-01 serves the “compelling interests of trying to save lives, protect students and keep businesses open” and “justifies reasonable restrictions”;

WHEREAS, on the September 1, 2020, the Tippecanoe Circuit Court determined the Executive Order 2020-01 was partially overruled and is void to the extent it is “punishable by a fine of \$100 for a first offense and \$250 for each subsequent offense” or is more restrictive than the Governor’s Executive Order 20-37. The Circuit Court Order states that the Mayor’s Executive Order remains “[i]n all other respects”;

WHEREAS, the Circuit Court Order further states: “To be clear, nothing in this order shall prevent the West Lafayette City Council from exercising their authority to address these matters”; and

WHEREAS, the City of West Lafayette may impose restrictions upon persons that might cause other persons to contract diseases under Ind. Code § 36-8-2-5 and the City may regulate conduct and the use of property that might endanger the public health, safety, or welfare under Ind. Code § 36-8-2-4.

NOW THEREFORE BE IT ORDAINED:

1. The Mayor’s Executive Order 2020-01, is attached and made a part of this Ordinance and is hereby adopted into law as part of the West Lafayette Municipal Code, with the exception of Section 7 which is now moot and is not incorporated; and
2. The Mayor’s Executive Order 2020-01 as attached and incorporated, is and shall be, fully enforceable by all of its substantive and procedural terms and recitals, including, but not limited to, the fines provided for at Section 6 thereof, and in all other respects will be given full force and effect as any other Ordinance now or hereafter in effect in the City of West Lafayette, Indiana.
3. This Ordinance, upon passage, shall be placed on the City Council’s regular meeting agenda every sixth calendar month thereafter for consideration by the Council.

INTRODUCED ON FIRST READING ON THE 8 DAY OF September,
2020.

MOTION TO ADOPT MADE BY COUNCILOR DeBoer, AND
SECONDED BY COUNCILOR Thomas.

A MOTION TO CONSIDER ON FIRST READING WAS SUSTAINED BY A VOTE OF 9
IN FAVOR AND 0 OPPOSED, PURSUANT TO IC-36-4-6-13.

DULY ORDAINED, PASSED, AND ADOPTED BY THE COMMON COUNCIL OF THE
CITY OF WEST LAFAYETTE, INDIANA, ON THE 8 DAY OF
September, 2020, HAVING BEEN PASSED BY A VOTE OF 9 IN FAVOR
AND 0 OPPOSED, THE ROLL CALL VOTE BEING:

	AYE	NAY	ABSENT	ABSTAIN
Blanco	✓			
Bunder	✓			
DeBoer	✓			
Kang	✓			
Leverenz	✓			
Parker	✓			
Sanders	✓			
Thomas	✓			
Wang	✓			

Peter Bunder
Peter Bunder, Presiding Officer

Attest:

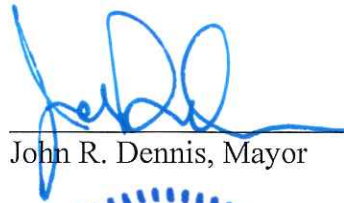
Sana G. Booker
Sana G. Booker, Clerk



PRESENTED BY ME TO THE MAYOR OF THE CITY OF WEST LAFAYETTE, INDIANA
ON THE 10 DAY OF September, 2020.

Sana G. Booker
Sana G. Booker, Clerk

THIS ORDINANCE APPROVED AND SIGNED BY ME ON THE 14 DAY OF
September, 2020.


John R. Dennis, Mayor

Attest:


Sana G. Booker, Clerk





Mayor John Dennis
1200 N Salisbury St.
West Lafayette, IN 47906
765.775.5103
mayor@wl.in.gov

MAYOR OF THE CITY OF WEST LAFAYETTE, INDIANA
EXECUTIVE ORDER 2020-01

WHEREAS, the COVID-19 pandemic has taken-and continues to take a severe toll on our country, our state, and the West Lafayette community;

WHEREAS, the Centers for Disease Control reports that COVID-19 may cause severe illness, including illness resulting in death, particularly among the elderly and those with underlying health conditions;

WHEREAS, the Secretary of Health and Human Services (HHS) declared a public health emergency on January 31, 2020, under section 319 of the Public Health Service Act (42 U.S.C. 247d), in response to COVID-19;

WHEREAS, on March 6, 2020 Governor Eric Holcomb declared a public health disaster emergency in the State of Indiana, and such declaration has been extended four times and currently runs through August 3, 2020;

WHEREAS, on March 11, 2020 the World Health Organization declared the COVID-19 outbreak a pandemic;

WHEREAS, on March 13, 2020 the President of the United States announced a national emergency in response to the COVID-19 pandemic,

WHEREAS, Governor Holcomb's announcement of a roadmap for reopening Indiana and his most recent Executive Order 20-35 provides that local orders may be more restrictive, which allows West Lafayette to respond to the unique challenges that this pandemic presents in a densely populated college town which will soon welcome back students to Purdue University;

WHEREAS, the nature of West Lafayette's dense population and incoming college students presents unique risks and challenges for this community in combatting the spread and dangers of COVID-19;

WHEREAS, the Centers for Disease Control and Prevention (CDC) has stated that COVID-19 spreads mainly from person to person through respiratory droplets produced when an infected person coughs, sneezes, talks, or raises their voice (e.g., while shouting, chanting, or singing). These droplets can land in the mouths or noses of people who are nearby or possibly be inhaled into the lungs. Recent studies show that a significant portion of individuals with COVID-19 lack symptoms (are "asymptomatic") and that even those who eventually develop symptoms (are "pre-symptomatic") can transmit the virus to others before showing symptoms;

WHEREAS, to reduce the spread of COVID-19, the CDC recommends that people wear cloth face coverings in group settings when around people outside of their household, especially when other social distancing measures are difficult to maintain;

WHEREAS, cloth face coverings help prevent people who have COVID-19 from spreading the virus to others. Wearing a cloth face covering will help protect nearby people, including those at higher risk of severe illness from COVID-19 and workers who frequently come into close contact with other people (e.g., in stores and restaurants). Cloth face coverings are most likely to reduce the community-wide spread of COVID-19 when they are widely used by people in group settings;

WHEREAS, some people have medical or health issues, disabilities, or other physical reasons that necessitate they be exempted from wearing a face covering;

WHEREAS, the spread of COVID-19 continues to threaten the lives of the citizens of West Lafayette, and impairs the efficient functioning of city government and its ability to protect the health and welfare of West Lafayette citizens;

WHEREAS, the City of West Lafayette may impose restrictions upon persons that might cause other persons to contract diseases under Ind. Code § 36-8-2-5 and the City may regulate conduct and the use of property that might endanger the public health, safety, or welfare under Ind. Code § 36-8-2-5;

WHEREAS, the spread of COVID-19 is injurious to the health of the citizens of West Lafayette, and interferes with their comfortable enjoyment of life, and is a nuisance;

WHEREAS, any building or part thereof, which may create a source of sickness among the citizens or which otherwise endangers the public health is a public nuisance in violation of West Lafayette Municipal Code 26-1, and a person convicted of such violation may be punished by a fine up to \$100 for the first violation and a fine up to \$250 for a subsequent violation;

WHEREAS, the ability of businesses to reopen and conduct business safely and remain open may be enhanced by wearing cloth face coverings in such businesses when practicable;

WHEREAS, it is the duty of the Mayor to hear any complaint regarding a license issued by the City and following such hearing, determine whether such license should be revoked or suspended; the City issues numerous and varying licenses to persons and businesses within West Lafayette;

WHEREAS, the unchecked spread of COVID-19 in the community and public businesses of West Lafayette creates a danger to the health, safety, and well-being of the citizens, and may be grounds for the revocation or suspension of City-issued licenses;

WHEREAS, pursuant to Ind. Code § 36-4-5-3 and West Lafayette Municipal Code 2-131, it is the duty of the Mayor to insure efficient government of the City and enforce the ordinances of the City and statutes of the State; and

WHEREAS, to prevent the spread of COVID-19, and thereby to save lives, face coverings must be worn to reduce the increasing spread of COVID-19.

NOW, THEREFORE, I, John R. Dennis, Mayor of the City of West Lafayette, do hereby order and direct, that:

SECTION 1. 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 attached so as to prevent slipping. A face covering shall be worn so as to cover the mouth and nose in compliance with the CDC's current and any future guidance on wearing face coverings. A face covering may be factory-made, sewn by hand, or improvised from household materials and can be made of a variety of synthetic and

natural fabrics, including cotton, silk, or linen. Ideally, a face covering has two (2) or more layers. Face coverings include, but are not limited to, bandanas, scarves, medical masks, and cloth masks; and also include face shields that cover the nose and mouth, respirators, N95 masks or other personal protective equipment that provides a higher level of protection than a face covering defined in this Section.

SECTION 2. For purposes of this Ordinance, "place of business" means any office, facility, building, or structure operated by or for a for-profit business or non-profit enterprise and which is 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), banquet and catering facilities, personal care, grooming, and tattoo facilities, child care, day camp, and overnight camp facilities, hotels and motels (excluding a rented room or suite), gyms and similar facilities; but excluding religious facilities.

SECTION 3. All individuals within the City of West Lafayette 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;

b. When entering, exiting, or waiting in line to enter a City of West Lafayette operated building or facility that is open to the public, and while inside a City of West Lafayette operated building or facility as to the areas within such 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 regulated by the City of West Lafayette, as well as all West Lafayette bus stations or stops. This includes but is not limited to a taxi or ridesharing vehicle or any other vehicle for hire, even if the vehicle is privately owned; however, this provision does not apply to people traveling alone or with household members or friends in their personal vehicles;

d. In high-density occupational settings where social distancing is not practicable, such as manufacturing, construction, and agriculture;

g. 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 4. All places of business shall require all employees, contractors, volunteers, and any other individuals that interact with the public to wear a face covering, and all places of business shall only sell or otherwise enter into any transaction of any kind for anything of value in exchange for goods, commodities, services, or provide temporary lodging to those who comply with this order. Any manager, owner, or person in charge of a place of business who fails or refuses to comply with this Order may be found in violation of this Order and any license issued by the City may be subject to review and revocation by the Mayor.

SECTION 5. The requirement to wear a face covering through this Order does not apply to the following persons or in the following situations or settings:

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.

- b. Individuals under 6 years old;
- c. An individual who is seated at a restaurant, bar, or other establishment that serves food or drink, while that individual is seated. If a patron within a restaurant, bar, or other establishment is not seated at a table or at a bar, a face covering is required. For restaurants, bars, or other establishments with outdoor dining areas that allow individuals to stand outside, a mask will not be required while dining as long as proper social distancing outside can be maintained;
- d. When seeking to communicate with someone who is hearing-impaired in a way that requires the mouth to be visible;
- e. When giving a speech or statement for a broadcast or to an audience;
- f. When working at home or while in a personal vehicle;
- g. When temporarily removing a face covering to secure government or medical services or for identification purposes;
- h. When individuals would be at risk from wearing a Face Covering at work, as determined by local, state, or federal regulations or workplace safety guidelines;
- i. When wearing a face covering is impeding visibility to operate equipment or a vehicle;
- j. For a child whose parent, guardian, or responsible person has been unable to place or keep the face covering safely on the child's face;
- k. For school individuals (including students, administrators, staff and teachers) on or in school or school district facilities. "School or school district" means any public, private, or charter school or institution that provides education including, daycares, preschools, kindergarten through twelfth grade; or a university, college, or similar post-secondary institution;
- l. In settings where it is not practicable to wear a face covering such as when receiving dental services, medical treatments, while swimming, while acting as an on-duty lifeguard, or while engaging in an athletic practice or event such as wrestling or other full contact sport;
- m. For individuals who are outdoors and are maintaining at least six feet of distance from others who are not part of their household;
- n. 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;
- o. When an individual is in his or her work office, conference room, or other workspace not intended for use by the general public, so long as physical separation of not less than six feet is maintained;
- p. When inside a personal or commercial vehicle either parked or moving that is not a vehicle described in Section 3(c);
- q. For 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 police officers, firefighters and other public safety or emergency medical personnel that support public safety functions;

r. For individuals complying with the directions of public safety employees or emergency responders as described above;

s. For individuals inside religious facilities;

t. Facilities owned and operated by the Federal and State Government are exempt from this order.

u. Long term care facilities (LTC), workers including skilled nursing facilities (SNF), adult care homes (ACH), family care homes (FCH), mental health group homes, and intermediate care facilities for individuals with intellectual disabilities (ICF-IID) shall follow the guidance set forth by the CDC/ISDH regarding the use of face coverings.

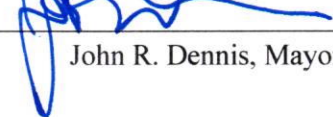
v. Health care facilities other than LTC facilities shall follow the guidance set forth by the CDC/ISDH regarding the use of face coverings.

SECTION 6. Violation of any provision of this Executive Order is punishable by a fine of \$100 for a first offense and \$250 for each subsequent offense.

SECTION 7. This order shall be in full force and effect on or after July 13, 2020 and shall remain in place until such time that it is superseded by ordinance of the Common Council of West Lafayette, or an order by the public health officer.

City of West Lafayette

Dated: July 13, 2020

By: 
John R. Dennis, Mayor

Attest:
City of West Lafayette, Clerk


Sana Booker, Clerk

Dated: July 13, 2020

