

ORDINANCE NO. 20 - _____

**AN ORDINANCE REQUIRING PROTECTIVE FACE COVERINGS
BY AMENDING SECTION 1
(CONDUCT, MORALS, AND DECENCY, OFFENSES CONCERNING) OF
CHAPTER 2 (GENERAL OFFENSES) OF
TITLE 10 (POLICE REGULATIONS) OF
THE NAPERVILLE MUNICIPAL CODE**

Recitals

1. **WHEREAS**, the City of Naperville, DuPage and Will Counties, Illinois (“City”), is a home rule unit of government and, pursuant to the provisions of Article VII, Section 6(a) of the Illinois Constitution, may exercise any power and perform any function pertaining to its government and affairs; and
2. **WHEREAS**, the Illinois Municipal Code, 65 ILCS 5/11-20-5, provides that municipalities may do all acts and make all regulations which may be necessary or expedient for the promotion of health or the suppression of diseases; and
3. **WHEREAS**, the City has determined that the continued outbreak of novel coronavirus (COVID-19), a highly contagious disease, and rapid increase in the number of new cases reported to both the DuPage and Will County Health Departments jeopardize the public health and safety of the residents of the City; and
4. **WHEREAS**, according to recent data from the DuPage and Will County Health Departments, Naperville is experiencing a significant increase in its COVID-19 testing positivity rate as well as in the number of COVID-19 infections, hospitalizations, and deaths as compared to the spring and summer of this year; and
5. **WHEREAS**, as of November 20, 2020, the Governor of the State of Illinois has issued an executive order imposing “Tier 3 mitigation measures” that increased protective COVID-19 related regulations and guidelines for the State of Illinois; and
6. **WHEREAS**, the United States Centers for Disease Control and Prevention (CDC) and the Illinois Department of Public Health (IDPH) have identified the risks associated with the outbreak of COVID-19 and made recommendations for suppression of the disease. Because people who are asymptomatic can spread COVID-19, include that all individuals wear protective face coverings in public settings where other social distancing measures may be difficult to maintain; and

7. **WHEREAS**, since May of 2020, the Governor of the State of Illinois has had in effect an executive order generally mandating that protective face coverings be worn by all individuals (over age two and medically able) when in a public place and unable to maintain a six-foot social distance. However, there has not been consistent enforcement of those requirements due to a lack of clarity as to what entity or entities are responsible for their enforcement; and
8. **WHEREAS**, the City has determined that codifying the requirement to wear protective face coverings as set forth herein will provide the City with the means of enforcing such requirement which will result in a higher level of protection against COVID-19 for its residents.

NOW THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF NAPERVILLE, DUPAGE AND WILL COUNTIES, ILLINOIS, in exercise of its home rule authority that:

SECTION 1: The foregoing Recitals are hereby incorporated in this Section 1 as though fully set forth herein.

SECTION 2: Section 1 (Conduct, Morals, and Decency, Offenses Concerning) of Chapter 2 (General Offenses) of Title 10 (Police Regulations) of the Naperville Municipal Code is hereby amended by adding the underlined language as follows:

TITLE 10 – POLICE REGULATIONS

CHAPTER 2 – GENERAL OFFENSES

SECTION:

10-2-1: - CONDUCT, MORALS AND DECENCY, OFFENSES CONCERNING:

10-2-1-1: - DISORDERLY CONDUCT through

10-2-1-6: - OFFENSES RELATED TO CITY OFFICERS: * * *

10-2-1-7: - PROTECTIVE FACE COVERINGS REQUIRED

1. Purpose. It is the intent and purpose of this Section to preserve the health and safety of the residents of the City of Naperville by requiring protective face coverings in public places in order to help reduce the spread of COVID-19 within the City of Naperville.
2. Definitions. The following words and phrases shall, for the purposes of this Section, have the following meanings:

<u>BUSINESS</u>	<u>Any corporate entity, including but not limited to an establishment, store, retailer, restaurant, service-provider, facility, warehouse, or organization that has a physical premise open to the public or employees. Religious organizations, places of worship and providers of religious services are not included in this definition and are exempt from the regulations of this ordinance.</u>
<u>NON-HOUSEHOLD PERSONS</u>	<u>Individual(s) who do not share the same primary residence.</u>
<u>PROTECTIVE FACE COVERING</u>	<u>A fabric or disposable paper mask which is firmly secured and which completely covers the nose and mouth at the same time.</u>

3. A Protective Face Covering shall be worn by all persons within the corporate limits of the City of Naperville when in a public place and unable to maintain at least a six-foot (6') social distance from other Non-Household Persons.

This requirement applies whether in an indoor premises, such as a store, or in an outdoor space except as provided in Section 5 hereof.

Examples of when a Protective Face Covering is required to be worn include, but are not limited to:

- a. Shopping or working at retail businesses such as grocery stores or pharmacies;
- b. Picking up food from a drive thru or curbside pickup;
- c. Visiting a health care provider unless required to be removed for exam purposes or health care procedures;
- d. Traveling on public transportation, taxis or rideshares; and
- e. Walking within Naperville's Central Business District when close interactions with other people are unavoidable.

4. A Business shall require all employees, customers, and other individuals on its physical premises within the corporate limits of the City of Naperville to wear a Protective Face Covering when unable to maintain at least a six-foot (6') social distance from other Non-Household Persons.

5. Exceptions. The following are exempt from having to wear a Protective Face Covering within the corporate limits of the City of Naperville as otherwise required by Section 10-2-1-7:3 and Section 10-2-1-7:4, as applicable:

- a. Children under two (2) years of age.
 - b. Persons with medical or accessibility issues that would be compromised by having to wear a Protective Face Covering.
 - c. Persons while engaged in the protected exercise of religion.
 - d. Persons while engaged in eating or drinking.
 - e. Persons while engaged in outdoor physical activity such as walking or running if they are able to maintain at least a six-foot (6') social distance from other Non-Household Persons.
 - f. Persons while traveling on public roadways in motor vehicles or on bicycles or other mechanical modes of transportation.
 - g. Persons visiting a health care provider to the extent that it is necessary that Protective Face Coverings be temporarily removed during health care exams or procedures.
 - h. Health care providers or emergency responders to the extent that the performance of their work requires temporary removal of Protective Face Coverings.
6. Violations.
- a. Unless an exemption applies as set forth in Section 10-2-1-7:5, any person violating the provisions of Section 10-2-1-7:3 and any Business violating the provisions of Section 10-2-1-7:4 shall be guilty of an offense against the City of Naperville and shall be punished by a fine.
 - b. The minimum fine for any person violating the requirements of Section 10-2-1-7:3 shall be fifty dollars (\$50) for each violation.
 - c. The minimum fine for any Business violating the requirements of Section 10-2-1-7:4 shall be two hundred and fifty dollars (\$250) for the first violation and five hundred dollars (\$500) for each subsequent violation.
7. Nothing contained in this Section 10-2-1-7 or any sub-part hereof shall be construed to impair the powers of public safety employees to carry out their responsibilities.

SECTION 3: If any section, paragraph, or provision of this Ordinance shall be held to be invalid or unenforceable for any reason, the invalidity or unenforceability of such section, paragraph, or provision, shall not affect any of the remaining provisions of this

Ordinance or any other City ordinance, resolution, or provision of the Naperville Municipal Code.

SECTION 4: This Ordinance shall be in full force and effect upon its passage and approval as required by law. The restrictions herein shall remain in effect until the City of Naperville repeals this Ordinance.

ADOPTED this _____ day of _____, 2020.

AYES:

NAYS:

ABSENT:

APPROVAL this _____ day of _____, 2020.

Steve Chirico
Mayor

ATTEST:

Pam Gallahue, Ph.D.
City Clerk