



**Mayoral Proclamation and Executive Orders
Amended September 10, 2021**

WHEREAS: The COVID-19 global pandemic has necessitated special consideration of public health guidelines, resulting in the need for flexibility and quick action relating to public health and related business regulations; and

WHEREAS: In the event of a "... disaster affecting life and property and which substantially impairs the functioning of the City government and its ability to protect the lives and property of the people," the Mayor is authorized to proclaim the existence of a State of Emergency in the City; and

WHEREAS, in the City of Bexley 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 Franklin County, where Bexley is located, has been designated by the Center for Disease Control and Prevention as currently having high community transmission levels, characterized by more than 100 new cases per 100,000 persons in the past seven days, and more than 10 percent of positive nucleic acid amplification tests (NAATs) tests during the past seven days; and

WHEREAS, the Centers for Disease Control and Prevention (CDC) estimates the Delta variant of the coronavirus now accounts for more than 90 percent of all sequenced coronavirus cases in the U.S.; and

WHEREAS, Franklin County Public Health and Columbus Public Health have determined the Delta variant is currently the most dominant strain of COVID-19 locally, has spread quickly among unvaccinated people of all ages, and has shown the ability to infect fully vaccinated individuals, cause symptomatic illness, and be spread to others; and

WHEREAS, the Delta variant is more aggressive and more transmissible than previously circulating strains and poses significant new risks in the ongoing effort to slow and stop the spread of the virus; and

WHEREAS, central Ohio hospital systems are experiencing increased numbers of COVID-19 cases and increased numbers of hospital beds and ICU beds utilized by COVID-19 patients; and

WHEREAS, staffing levels in central Ohio hospital systems are alarmingly low, taxing the ability of hospitals to provide COVID-19 care while tending to the community's other critical healthcare needs; and

WHEREAS, COVID-19 cases for 5 to 11-year-olds and 12 to 17-year-olds have increased significantly over the past month, and slowing the spread is critical to the health and wellbeing of young people and to continuing safe, in-person learning in central Ohio school districts; and

WHEREAS, the CDC has recognized vaccination as the leading public health prevention strategy to end the COVID-19 pandemic, and vaccines are safe, effective, and widely available to any eligible resident; and

WHEREAS, while over 738,353 Franklin County, Ohio residents have been fully vaccinated against COVID-19, in order to protect against the rapid spread of the Delta variant, additional steps are necessary to ensure that the number of vaccinated residents continues to increase; and

WHEREAS, social distancing, face coverings and other public health precautions have proved to be critical in slowing and stopping the spread of COVID-19; and

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

WHEREAS, the CDC has issued guidance recommending wearing a mask indoors in public in most circumstances, even for fully vaccinated people, as well as where required by federal, state, local, tribal, or territorial laws, rules, and regulations, including local business and workplace guidance; and

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

WHEREAS, the spread of COVID-19 is a disaster that continues to affect and threaten the lives of the citizens of the City of Bexley and substantially impairs the functioning of city government and its ability to protect the lives and property of the citizens of the City of Bexley;

NOW, THEREFORE, I, BENJAMIN J. KESSLER, Mayor of the City of Bexley, by virtue of the authority vested in me by the Ohio Constitution, the Charter of the City of Bexley, the Codified Ordinances of the City of Bexley, including Section 648.09 (Mayor's Emergency Powers), and consistent with Section 660.02 (Spreading Contagion), do hereby find and proclaim that the threat of a COVID-19 outbreak in the City of Bexley constitutes a State of Emergency, first declared on March 15, 2020. Pursuant to this amended proclamation, I hereby issue the following executive orders:

Section 1. Enforcement of state and federal orders.

All state and federal orders relating to the containment of COVID-19 contagion shall be enforceable via Section 648.09 and Section 660.02.

Section 2. Order Regarding Temporary Signage at Commercially Zoned Properties.

Restrictions on temporary signage at commercially zoned properties are hereby lifted for the duration of this order.

Section 3. Temporary Expansion of Restaurant Patios

In order to accommodate safe distancing at restaurant patios, restaurants may apply for administrative approval for temporary expansion of patio space through the Building Department.

Section 4. Order Regarding Temporary Facilities for COVID-19 Testing and Vaccination

In order to accommodate rapid deployment of COVID-19 testing and vaccination, businesses and institutions wishing to establish temporary facilities related to COVID-19 testing and vaccination may apply for administrative approval of applicable temporary facilities.

Section 5. Order Regarding Masking in Public Spaces

Due to enhanced transmissibility of the Delta variant of COVID-19 and the lack of availability of the vaccine for certain age groups, the following order is established to require masking in indoor public spaces.

- 1) Definitions: For the purposes of this executive order:
 - 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. Ideally, a Face Covering has two (2) or more layers. 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. These Face Coverings are not intended for use by healthcare providers in the care of patients.
 - b) "Surgical Mask" means American Society for Testing and Materials ("ASTM") Level 1, 2, or 3 approved procedural and surgical masks. An N95 respirator approved by the National Institute for Occupational Safety and Health ("NIOSH") (or a respirator from another country allowed by the Occupational Safety & Health Administration, the Food & Drug Administration, or the CDC, meet both the Face Covering and Surgical Mask requirements of this Executive Order.

- 2) Where Face Coverings are required: All individuals are required to wear face coverings over the individual's nose and mouth in indoor areas accessible to the public, unless otherwise exempted, as follows:
 - a) 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) While inside a City of Bexley 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 certain high-density occupational settings where social distancing is difficult, such as manufacturing, construction, and agriculture and to include businesses or operations within North American Industry Classification System (NAICS) sectors 311 to 339 (manufacturing), 236 to 238 (construction), and 111, 112, 1151, and 1152 (agriculture);

- 3) Exemptions: This Executive Order does not require Face Coverings for, and a Face Covering does not need to be worn by, a worker, customer, or patron 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 under six (6) years of age;
 - c) Is actively eating or drinking;

- d) Is actively engaged in exercise, sport, coaching, or officiating in a training, recreational, or competitive capacity;
 - e) Is seeking to communicate with someone who is hearing-impaired in a way that requires the mouth to be visible;
 - f) Is giving a speech or performance for a broadcast or to an audience;
 - g) Is working at home or is in a personal vehicle;
 - h) Is temporarily removing his or her Face Covering to secure government or medical services or for identification purposes;
 - i) Would be at risk from wearing a Face Covering at work, as determined by local, state, or federal regulations or workplace safety guidelines;
 - j) Has found that his or her Face Covering is impeding visibility to operate equipment or a vehicle;
 - k) Is a child whose parent, guardian, or responsible person has been unable to place the Face Covering safely on the child's face;
 - l) Is within a religious facility, is leading a religious service in a building serving as a religious facility, or is otherwise engaged in First Amendment protected activities;
 - m) Is in a facility owned and operated by the State of Ohio and/ or the Federal Government.
 - n) Law enforcement officers, firefighters, EMTs and other first responders, while encouraged to wear Face Coverings and practice social distancing when practicable, are specifically exempt from this order while engaged in the exercise of their duties outside of an office or business-type setting.
- 4) Application of Exemptions: Anyone who declines to wear a Face Covering for any of the reasons which constitute an exemption should not be required to produce documentation or any other proof of a condition. Children under six (6) years of age should not be required to wear a Face Covering.
- 5) Right to refuse service and provision of masks
- a) Businesses who observe a violation of this Section have a right to refuse service based upon the violation.
 - b) Businesses are encouraged to make face coverings available for customers upon request. The City will facilitate sourcing face coverings on an as-available basis.
- 6) Enforcement Process
- a) The enforcement of this Section shall be coordinated with Franklin County Public Health, consistent with the authority granted by Bexley Codified Ordinance Section 648.09.
 - (1) Citations under this Executive Order shall be written only to businesses or organizations that fail to enforce the requirement to wear Face Coverings; this order's purpose is to impose organizational criminal liability pursuant to Bexley Codified Ordinances Section 606.08. Businesses and organizations are entitled to rely on their customers' or patrons' statements about whether or not they are exempted from the Face Covering requirements, and businesses and organizations do not violate this Executive Order if they rely upon such statements.

- (2) Law enforcement personnel are not authorized to criminally enforce the Face Covering requirements of this Executive Order against individual workers, customers, or patrons.
- (3) However, if a business or organization does not allow entry to a worker, customer, or patron because that person refuses to wear a Face Covering, and if that worker, customer, or patron enters the premises or refuses to leave the premises, law enforcement personnel may enforce the trespassing laws and any other laws that the worker, customer, or patron may violate.

2) Places of Worship and Educational Institutions

This mandate does not apply to places of worship or educational institutions. Places of worship and educational institutions are urged to follow current guidelines as propagated by the Centers for Disease Control and Franklin County Public Health Department.

3) Effective Date

- a) Section 6 shall be in full force and effect on and after September 10, 2021.

Section 6. Prohibition Against Refusing Service on the Basis of Face Coverings

Owners and operators of places of public accommodation may not require the removal of face coverings or masks in public spaces.

Section 7. Duration of orders.

These orders shall be in full force and effect on and after September 10, 2021 and will continue to be in effect until such time as the Proclamation of Emergency is lifted or the order is superseded by ordinance of City Council. This order may be modified or extended at any time if public health conditions warrant.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the City of Bexley, Ohio, to be hereto affixed this 10th day of September, 2021.



Mayor Benjamin J. Kessler