

City Council Special Meeting
Tuesday, November 24, 2020 7:00 PM
Council Chambers
1369 25 Avenue
Columbus, NE 68601

1. Statement of Compliance with Open Meetings Act and Roll Call.

OPEN MEETINGS ACT

**NEBRASKA
REVISED STATUTES
84-1407 THROUGH 84-1414**



**EFFECTIVE
NOVEMBER 14, 2020**



This is a complimentary copy of the Open Meetings Act - Nebraska Revised Statutes 84-1407 through 84-1414. We hope you find it helpful when conducting your public meeting.

There were revisions made to the Open Meetings Act in the 2020 Nebraska State Legislature. The most recent version of the Open Meetings Act in this manual is in effect as of November 14, 2020.

This manual is provided to Nebraska municipalities by the League of Nebraska Municipalities (LONM) and the League Association of Risk Management (LARM).



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84-1407. ACT, HOW CITED. SECTIONS 84-1407 TO 84-1414 SHALL BE KNOWN AND MAY BE CITED AS THE OPEN MEETINGS ACT.

**84-1408. DECLARATION OF INTENT;
MEETINGS OPEN TO PUBLIC.**

It is hereby declared to be the policy of this state that the formation of public policy is public business and may not be conducted in secret.

Every meeting of a public body shall be open to the public in order that citizens may exercise their democratic privilege of attending and speaking at meetings of public bodies, except as otherwise provided by the Constitution of Nebraska, federal statutes, and the Open Meetings Act.

84-1409. TERMS, DEFINED. FOR PURPOSES OF THE OPEN MEETINGS ACT, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1)(a) Public body means (i) governing bodies of all political subdivisions of the State of Nebraska, (ii) governing bodies of all agencies, created by the Constitution of Nebraska, statute, or otherwise pursuant to law, of the executive department of the State of Nebraska, (iii) all independent boards, commissions, bureaus, committees, councils, subunits, or any other bodies created by the Constitution of Nebraska, statute, or otherwise pursuant to law, (iv) all study or advisory committees of the executive department of the State of Nebraska whether having continuing existence or appointed as special committees with limited existence, (v) advisory committees of the bodies referred to in subdivisions (i), (ii), and (iii) of this subdivision, and (vi) instrumentalities exercising essentially public functions.

(b) Public body does not include (i) subcommittees of such bodies unless a quorum of the public body attends a subcommittee meeting or unless such subcommittees are holding hearings, making policy, or taking formal action on behalf of their parent body, except that all meetings of any subcommittee established under section 81-15,175 are subject to the Open Meetings Act, and (ii) entities conducting judicial proceedings unless a court or other judicial body is exercising rulemaking authority, deliberating, or deciding upon the issuance of administrative orders;

(2) Meeting means all regular, special, or called meetings, formal or informal, of any public body for the purposes of briefing, discussion of public business, formation of tentative policy, or the taking of any action of the public body; and

(3) Videoconferencing means conducting a meeting involving participants at two or more locations through the use of audio-video equipment which allows participants at each location to hear and see each meeting participant at each other location, including public input. Interaction between meeting participants shall be possible at all meeting locations.

84-1410. CLOSED SESSION; WHEN; PURPOSE; REASONS LISTED; PROCEDURE; RIGHT TO CHALLENGE; PROHIBITED ACTS; CHANCE MEETINGS, CONVENTIONS, OR WORKSHOPS.

(1) Any public body may hold a closed session by the affirmative vote of a majority of its voting members if a closed session is clearly necessary for the protection of the public interest or for the prevention of needless injury to the reputation of an individual and if such individual has not requested a public meeting. The subject matter and the reason necessitating the closed session shall be identified in the motion to close. Closed sessions may be held for, but shall not be limited to, such reasons as:

(a) Strategy sessions with respect to collective bargaining, real estate purchases, pending litigation, or litigation which is imminent as evidenced by communication of a claim or threat of litigation to or by the public body;

(b) Discussion regarding deployment of security personnel or devices;

(c) Investigative proceedings regarding allegations of criminal misconduct;

(d) Evaluation of the job performance of a person when necessary to prevent needless injury to the reputation of a person and if such person has not requested a public meeting;

(e) For the Community Trust created under section 81-1801.02, discussion regarding the amounts to be paid to individuals who have suffered from a tragedy of violence or natural disaster; or

(f) For public hospitals, governing board peer review activities, professional review activities, review and discussion of medical staff investigations or disciplinary actions, and any strategy session concerning transactional negotiations with any referral source that is required by federal law to be conducted at arms length.

Nothing in this section shall permit a closed meeting for discussion of the appointment or election of a new member to any public body.

(2) The vote to hold a closed session shall be taken in open session. The entire motion, the vote of each member on the question of holding a closed session, and the time when the closed session commenced and concluded shall be recorded in the minutes. If the motion to close passes, then the presiding officer immediately prior to the closed session shall restate on the record the limitation of the subject matter of the closed session. The public body holding such a closed session shall restrict its consideration of matters during the closed portions to only those purposes set forth in the motion to close as the reason for the closed session. The meeting shall be reconvened in open session before any formal action may be taken. For purposes of this section, formal action shall mean a collective decision or a collective commitment or promise to make a decision on any question, motion, proposal, resolution, order, or ordinance or formation of a position or policy but shall not include negotiating guidance given by members of the public body to legal counsel or other negotiators in closed sessions authorized under subdivision (1)(a) of this section.

(3) Any member of any public body shall have the right to challenge the continuation of a closed session if the member determines that the session has exceeded the reason stated in the original motion to hold a closed session or if the member contends that the closed session is neither clearly necessary for (a) the protection of the public interest or (b) the prevention of needless injury to the reputation of an individual. Such challenge shall be overruled only by a majority vote of the members of the public body. Such challenge and its disposition shall be recorded in the minutes.

(4) Nothing in this section shall be construed to require that any meeting be closed to the public. No person or public body shall fail to invite a portion of its members to a meeting, and no public body shall designate itself a subcommittee of the whole body for the purpose of circumventing the Open

Meetings Act. No closed session, informal meeting, chance meeting, social gathering, email, fax, or other electronic communication shall be used for the purpose of circumventing the requirements of the act.

(5) The act does not apply to chance meetings or to attendance at or travel to conventions or workshops of members of a public body at which there is no meeting of the body then intentionally convened, if there is no vote or other action taken regarding any matter over which the public body has supervision, control, jurisdiction, or advisory power.

84-1411. MEETINGS OF PUBLIC BODY; NOTICE; METHOD; CONTENTS; WHEN AVAILABLE; RIGHT TO MODIFY; DUTIES CONCERNING NOTICE; VIDEOCONFERENCING OR TELEPHONE CONFERENCING AUTHORIZED; EMERGENCY MEETING WITHOUT NOTICE; APPEARANCE BEFORE PUBLIC BODY.

(1)(a) Each public body shall give reasonable advance publicized notice of the time and place of each meeting as provided in this subsection. Such notice shall be transmitted to all members of the public body and to the public.

(b)(i) Except as provided in subdivision (1)(b)(ii) of this section, in the case of a public body described in subdivision (1)(a)(i) of section 84-1409 or such body's advisory committee, such notice shall be published in a newspaper of general circulation within the public body's jurisdiction and, if available, on such newspaper's web site.

(ii) In the case of the governing body of a city of the second class or village or such body's advisory committee, such notice shall be published by:

(A) Publication in a newspaper of general circulation within the public body's jurisdiction and, if available, on such newspaper's web site; or

(B) Posting written notice in three conspicuous public places in such city or village. Such notice shall be posted in the same three places for each meeting.

(iii) In the case of a public body not described in subdivision (1)(b)(i) or (ii) of this section, such notice shall be given by a method designated by the public body.

(c) In addition to a method of notice required by subdivision (1)(b)(i) or (ii) of this section, such notice may also be provided by any other appropriate method designated by such public body or such advisory committee.

(d) Each public body shall record the methods and dates of such notice in its minutes.

(e) Such notice shall contain an agenda of subjects known at the time of the publicized notice or a statement that the agenda, which shall be kept continually current, shall be readily available for public inspection at the principal office of the public body during normal business hours. Agenda items shall be sufficiently descriptive to give the public reasonable notice of the matters to be considered at the meeting. Except for items of an emergency nature, the agenda shall not be altered later than (i) twenty-four hours before the scheduled commencement of the meeting or (ii) forty-eight hours before the scheduled commencement of a meeting of a city council or village board scheduled outside the corporate limits of the municipality. The public body shall have the right to modify the agenda to include items of an emergency nature only at such public meeting.

(2) A meeting of a state agency, state board, state commission, state coun-

cil, or state committee, of an advisory committee of any such state entity, of an organization created under the Interlocal Cooperation Act, the Joint Public Agency Act, or the Municipal Cooperative Financing Act, of the governing body of a public power district having a chartered territory of more than one county in this state, of the governing body of a public power and irrigation district having a chartered territory of more than one county in this state, of a board of an educational service unit, of the Educational Service Unit Coordinating Council, of the governing body of a risk management pool or its advisory committees organized in accordance with the Intergovernmental Risk Management Act, or of a community college board of governors may be held by means of videoconferencing or, in the case of the Judicial Resources Commission in those cases specified in section 24-1204, by telephone conference, if:

(a) Reasonable advance publicized notice is given as provided in subsection (1) of this section;

(b) Reasonable arrangements are made to accommodate the public's right to attend, hear, and speak at the meeting, including seating, recordation by audio or visual recording devices, and a reasonable opportunity for input such as public comment or questions to at least the same extent as would be provided if videoconferencing or telephone conferencing was not used;

(c) At least one copy of all documents being considered is available to the public at each site of the videoconference or telephone conference;

(d) At least one member of the state entity, advisory committee, board, council, or governing body is present at each site of the videoconference or telephone conference, except that a member of an organization created under the Interlocal Cooperation Act that sells electricity or natural gas at wholesale on a multistate basis, an organization created under the Municipal Cooperative Financing Act, or a governing body of a risk management pool or an advisory committee of such organization or pool may designate a nonvoting designee, who shall not be included as part of the quorum, to be present at any site; and

(e)(i) Except as provided in subdivision (2)(e)(ii) of this section, no more than one-half of the state entity's, advisory committee's, board's, council's, or governing body's meetings in a calendar year are held by videoconference or telephone conference; or

(ii) In the case of an organization created under the Interlocal Cooperation Act that sells electricity or natural gas at wholesale on a multistate basis or an organization created under the Municipal Cooperative Financing Act, such organization holds at least one meeting each calendar year that is not by videoconferencing or telephone conferencing.

Videoconferencing, telephone conferencing, or conferencing by other electronic communication shall not be used to circumvent any of the public government purposes established in the Open Meetings Act.

(3) A meeting of a board of an educational service unit, of the Educational Service Unit Coordinating Council, of the governing body of an entity formed under the Interlocal Cooperation Act, the Joint Public Agency Act, or the Municipal Cooperative Financing Act, of the governing body of a risk management pool or its advisory committees organized in accordance with the Intergovernmental Risk Management Act, of a community college board of governors, of the governing body of a public power district, of the governing body of a public power and irrigation district, or of the Nebraska Brand Committee may be held by telephone conference call if:

(a) The territory represented by the educational service unit, member educational service units, community college board of governors, public

power district, public power and irrigation district, Nebraska Brand Committee, or member public agencies of the entity or pool covers more than one county;

(b) Reasonable advance publicized notice is given as provided in subsection (1) of this section which identifies each telephone conference location at which there will be present: (i) A member of the educational service unit board, council, community college board of governors, governing body of a public power district, governing body of a public power and irrigation district, Nebraska Brand Committee, or entity's or pool's governing body; or (ii) A nonvoting designee designated under subdivision (3)(f) of this section;

(c) All telephone conference meeting sites identified in the notice are located within public buildings used by members of the educational service unit board, council, community college board of governors, governing body of the public power district, governing body of the public power and irrigation district, Nebraska Brand Committee, or entity or pool or at a place which will accommodate the anticipated audience;

(d) Reasonable arrangements are made to accommodate the public's right to attend, hear, and speak at the meeting, including seating, recordation by audio recording devices, and a reasonable opportunity for input such as public comment or questions to at least the same extent as would be provided if a telephone conference call was not used;

(e) At least one copy of all documents being considered is available to the public at each site of the telephone conference call;

(f) At least one member of the educational service unit board, council, community college board of governors, governing body of the public power district, governing body of the public power and irrigation district, Nebraska Brand Committee, or governing body of the entity or pool is present at each site of the telephone conference call identified in the public notice, except that a member of an organization created under the Interlocal Cooperation Act that sells electricity or natural gas at wholesale on a multistate basis, an organization created under the Municipal Cooperative Financing Act, or a governing body of a risk management pool or an advisory committee of such organization or pool may designate a nonvoting designee, who shall not be included as part of the quorum, to be present at any site;

(g) The telephone conference call lasts no more than five hours; and

(h) No more than one-half of the board's, council's, governing body's, committee's, entity's, or pool's meetings in a calendar year are held by telephone conference call, except that:

(i) The governing body of a risk management pool that meets at least quarterly and the advisory committees of the governing body may each hold more than one-half of its meetings by telephone conference call if the governing body's quarterly meetings are not held by telephone conference call or videoconferencing; and

(ii) An organization created under the Interlocal Cooperation Act that sells electricity or natural gas at wholesale on a multistate basis or an organization created under the Municipal Cooperative Financing Act may hold more than one-half of its meetings by telephone conference call if the organization holds at least one meeting each calendar year that is not by videoconferencing or telephone conference call.

Nothing in this subsection shall prevent the participation of consultants, members of the press, and other nonmembers of the governing body at sites not identified in the public notice. Telephone conference calls, emails, faxes, or other electronic communication shall not be used to circumvent any of the public government purposes established in the Open Meetings Act.

(4) The secretary or other designee of each public body shall maintain a list of the news media requesting notification of meetings and shall make reasonable efforts to provide advance notification to them of the time and place of each meeting and the subjects to be discussed at that meeting.

(5) When it is necessary to hold an emergency meeting without reasonable advance public notice, the nature of the emergency shall be stated in the minutes and any formal action taken in such meeting shall pertain only to the emergency. Such emergency meetings may be held by means of electronic or telecommunication equipment. The provisions of subsection (4) of this section shall be complied with in conducting emergency meetings. Complete minutes of such emergency meetings specifying the nature of the emergency and any formal action taken at the meeting shall be made available to the public by no later than the end of the next regular business day.

(6) A public body may allow a member of the public or any other witness other than a member of the public body to appear before the public body by means of video or telecommunications equipment.

84-1412. MEETINGS OF PUBLIC BODY; RIGHTS OF PUBLIC; PUBLIC BODY; POWERS AND DUTIES.

(1) Subject to the Open Meetings Act, the public has the right to attend and the right to speak at meetings of public bodies, and all or any part of a meeting of a public body, except for closed sessions called pursuant to section 84-1410, may be videotaped, televised, photographed, broadcast, or recorded by any person in attendance by means of a tape recorder, camera, video equipment, or any other means of pictorial or sonic reproduction or in writing.

(2) It shall not be a violation of subsection (1) of this section for any public body to make and enforce reasonable rules and regulations regarding the conduct of persons attending, speaking at, videotaping, televising, photographing, broadcasting, or recording its meetings. A body may not be required to allow citizens to speak at each meeting, but it may not forbid public participation at all meetings.

(3) No public body shall require members of the public to identify themselves as a condition for admission to the meeting nor shall such body require that the name of any member of the public be placed on the agenda prior to such meeting in order to speak about items on the agenda. The body may require any member of the public desiring to address the body to identify himself or herself.

(4) No public body shall, for the purpose of circumventing the Open Meetings Act, hold a meeting in a place known by the body to be too small to accommodate the anticipated audience.

(5) No public body shall be deemed in violation of this section if it holds its meeting in its traditional meeting place which is located in this state.

(6) No public body shall be deemed in violation of this section if it holds a meeting outside of this state if, but only if:

- (a) A member entity of the public body is located outside of this state and the meeting is in that member's jurisdiction;
- (b) All out-of-state locations identified in the notice are located within public buildings used by members of the entity or at a place which will accommodate the anticipated audience;
- (c) Reasonable arrangements are made to accommodate the public's right to attend, hear, and speak at the meeting, including making a telephone conference call available at an instate location to members, the public, or the press, if requested twenty-four hours in advance;
- (d) No more than twenty-five percent of the public body's meetings in a calendar year are held out-of-state;
- (e) Out-of-state meetings are not used to circumvent any of the public government purposes established in the Open Meetings Act;
- (f) Reasonable arrangements are made to provide viewing at other instate locations for a videoconference meeting if requested fourteen days in advance and if economically and reasonably available in the area; and
- (g) The public body publishes notice of the out-of-state meeting at least twenty-one days before the date of the meeting in a legal newspaper of statewide circulation.

(7) The public body shall, upon request, make a reasonable effort to accommodate the public's right to hear the discussion and testimony presented at the meeting.

(8) Public bodies shall make available at the meeting or the instate location for a telephone conference call or videoconference, for examination and copying by members of the public, at least one copy of all reproducible written material to be discussed at an open meeting. Public bodies shall make available at least one current copy of the Open Meetings Act posted in the meeting room at a location accessible to members of the public. At the beginning of the meeting, the public shall be informed about the location of the posted information.

84-1413. MEETINGS; MINUTES; ROLL CALL VOTE; SECRET BALLOT; WHEN.

(1) Each public body shall keep minutes of all meetings showing the time, place, members present and absent, and the substance of all matters discussed.

(2) Any action taken on any question or motion duly moved and seconded shall be by roll call vote of the public body in open session, and the record shall state how each member voted or if the member was absent or not voting. The requirements of a roll call or viva voce vote shall be satisfied by a public body which utilizes an electronic voting device which allows the yeas and nays of each member of such public body to be readily seen by the public.

(3) The vote to elect leadership within a public body may be taken by secret ballot, but the total number of votes for each candidate shall be recorded in the minutes.

(4) The minutes of all meetings and evidence and documentation received or disclosed in open session shall be public records and open to public inspection during normal business hours.

(5) Minutes shall be written, except as provided in subsection (6) of this section, and available for inspection within ten working days or prior to the next convened meeting, whichever occurs earlier, except that cities of the second class and villages may have an additional ten working days if the employee responsible for writing the minutes is absent due to a serious illness or emergency.

(6) Minutes of the meetings of the board of a school district or educational service unit may be kept as an electronic record.

**84-1414. UNLAWFUL ACTION BY PUBLIC BODY;
DECLARED VOID OR VOIDABLE BY DISTRICT COURT;
WHEN; DUTY TO ENFORCE OPEN MEETING LAWS;
CITIZEN’S SUIT; PROCEDURE;
VIOLATIONS; PENALTIES.**

(1) Any motion, resolution, rule, regulation, ordinance, or formal action of a public body made or taken in violation of the Open Meetings Act shall be declared void by the district court if the suit is commenced within one hundred twenty days of the meeting of the public body at which the alleged violation occurred. Any motion, resolution, rule, regulation, ordinance, or formal action of a public body made or taken in substantial violation of the Open Meetings Act shall be voidable by the district court if the suit is commenced more than one hundred twenty days after but within one year of the meeting of the public body in which the alleged violation occurred. A suit to void any final action shall be commenced within one year of the action.

(2) The Attorney General and the county attorney of the county in which the public body ordinarily meets shall enforce the Open Meetings Act.

(3) Any citizen of this state may commence a suit in the district court of the county in which the public body ordinarily meets or in which the plaintiff resides for the purpose of requiring compliance with or preventing violations of the Open Meetings Act, for the purpose of declaring an action of a public body void, or for the purpose of determining the applicability of the act to discussions or decisions of the public body. It shall not be a defense that the citizen attended the meeting and failed to object at such time. The court may order payment of reasonable attorney’s fees and court costs to a successful plaintiff in a suit brought under this section.

(4) Any member of a public body who knowingly violates or conspires to violate or who attends or remains at a meeting knowing that the public body is in violation of any provision of the Open Meetings Act shall be guilty of a Class IV misdemeanor for a first offense and a Class III misdemeanor for a second or subsequent offense.

EFFECTIVE DATE – NOVEMBER 14, 2020

**DISTRIBUTED BY THE
LEAGUE OF NEBRASKA MUNICIPALITIES AND THE
LEAGUE ASSOCIATION OF RISK MANAGEMENT.**



**LEAGUE OF NEBRASKA
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**LEAGUE ASSOCIATION OF
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2. **Emergency Ordinance No. 20-25 amending Chapter 92 of Title IX of Ordinance No. 05-47 (Columbus City Code) to add Sections 92.50 through 92.61, entitled "Prevention of COVID-19"; providing legislative findings and intent; requiring individuals to wear facial coverings and exceptions thereof; providing for enforcement of violations and penalties; establishing a sunset provision; and providing for the effective date.**

EMERGENCY ORDINANCE NO. 20-25

AN EMERGENCY ORDINANCE PURSUANT TO THE CITY OF COLUMBUS' AUTHORITY TO PASS ORDINANCES AND MAKE REGULATIONS TO SERVE THE GENERAL HEALTH OF THE CITY, PRESCRIBE RULES FOR THE PREVENTION, ABATEMENT, AND REMOVAL OF NUISANCES AS WELL AS THE AUTHORITY TO MAKE SUCH REGULATIONS AS TO PREVENT THE INTRODUCTION AND SPREAD OF CONTAGIOUS, INFECTIOUS, OR MALIGNANT DISEASES IN THE CITY OF COLUMBUS, PURSUANT TO NEB. REV. STAT. §§16-201, 16-238, 16-240 AND 16-246; AMENDING CHAPTER 92 OF TITLE IX OF ORDINANCE NO. 05-47 (COLUMBUS CITY CODE) TO ADD SECTIONS 92.50 THROUGH 92.61 ENTITLED "PREVENTION OF COVID-19"; TO PROVIDE LEGISLATIVE FINDINGS AND INTENT; TO REQUIRE INDIVIDUALS TO WEAR FACIAL COVERINGS AND EXCEPTIONS THEREOF; TO PROVIDE FOR THE ENFORCEMENT OF VIOLATIONS AND PENALTIES; TO ESTABLISH A SUNSET PROVISION; AND TO PROVIDE THE EFFECTIVE DATE HEREOF.

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF COLUMBUS, NEBRASKA:

Section 1. That as a result of Novel Coronavirus (COVID-19) pandemic and with an increased number of confirmed COVID-19 cases within the City limits of the City of Columbus and the closing of numerous city and private facilities, an emergency exists authorizing action by the City of Columbus. This ordinance seeks to impose a non-pharmaceutical intervention to combat the spread of COVID-19 and to halt the progression thereof.

Section 2. That Sections 92.50 through 92.61 entitled "Prevention of COVID 19" of Chapter 92 of Title IX of Ordinance No. 05-47 are hereby created as follows:

§ 92.50: Legislative Findings and Intent.

- (1) The City Council hereby finds and declares, based upon the scientific and medical evidence before it, that:
 - a) the Novel Coronavirus (COVID-19) has impacted and continues to dramatically impact the citizens of the City of Columbus, Nebraska; and
 - b) an exposure to COVID-19 presents a risk of death or serious long-term disability; the exposure is widespread and poses significant risk of harm, including death, to people in the general population of the City of Columbus; there is a particular subset of the population that is more vulnerable to the threat and thus at an increased risk; and the threat is from a novel infectious disease; and
 - c) information from the World Health Organization, the CDC, Nebraska Department of Health and Human Services, the East Central Health Department, local public health departments throughout Nebraska, and members of the City of Columbus and Platte County medical community indicates that citizens of the City of Columbus have been and will continue to be exposed due to community transmissions of COVID-19; and

- d) the manner in which the spread of COVID-19 cases in the City of Columbus has occurred creates an unacceptable risk to the health, safety, and welfare of the citizens of the City of Columbus; and
- e) the number of COVID-19 infections within the City of Columbus continues to increase; and
- f) COVID-19 constitutes a public nuisance and a threat to the health, safety, and welfare of the City of Columbus; and
- g) The Director of the United States Centers for Disease Control and Prevention (CDC), the city physician for the City of Columbus, doctors and infectious disease experts from the University of Nebraska Medical Center and Nebraska Medicine, have concluded that the wearing of face coverings by every individual while in public is one of the best methods to slow and stop the spread of COVID-19; and
- h) the wearing of face coverings by every individual while indoors in public places in the City of Columbus will reduce community transmissions of COVID-19, resulting in fewer deaths, serious health complications, and will ease the strain on hospitals and other medical offices and facilities; and
- i) the wearing of face coverings by every individual while indoors in public places in the City of Columbus will help keep businesses open and operating, encouraging economic growth, and preventing prolonged economic harm; and
- j) it is just and proper for the city council to exercise the authority granted to it by Nebraska statutes in furtherance of protecting the public health, safety, and welfare.

§ 92.51: Definitions.

For purposes of this Prevention of Covid-19 Chapter, the following terms are defined as follows:

FACE COVERING. A face covering is defined as a covering which, when worn properly, must cover the nose and mouth completely and can include a paper or disposable face mask, a cloth face mask, a scarf, a bandanna, a neck gaiter, or a religious face covering. Medical-grade masks and respirators are sufficient face coverings, but to preserve adequate supplies, their purchase and use is discouraged for those who do not work in a health care setting or in other occupations that require medical-grade personal protective equipment. Masks that incorporate a valve designed to facilitate easy exhaling, mesh masks, or masks with openings, holes, visible gaps in the design or material, or vents are not sufficient face coverings because they allow exhaled droplets to be released into the air.

PREMISES THAT ARE OPEN TO THE GENERAL PUBLIC. Premises that are open to the general public are broadly defined to include entities that employ or engage workers, including private-sector entities, public-sector entities, non-profit entities, regular commercial or business establishments, private clubs, religious centers or buildings, public transportation (including buses, taxis, ride-sharing vehicles, or vehicles used for business purposes),

and any place which is generally open to the public, including educational institutions and daycare facilities.

§ 92.52: Individual Facial Coverings Required.

All individuals age six and older shall wear a face covering over their mouth and nose while indoors in a premises that is open to the general public including, but not limited to, educational institutions, unless the individual maintains a minimum of six feet of separation or social distance at all times from anyone who is not a member of the individual's household, except face coverings will not be required if the individual:

- (1) is seeking federal, state, or county services; or
- (2) is seated at a bar, restaurant, or their seat at an arena to eat or drink, or while immediately consuming food or beverages; or
- (3) is engaged in an occupation preventing the wearing of a face covering; or
- (4) is obtaining a service or purchasing goods or services that requires the temporary removal of the face covering; or
- (5) is asked to remove a face covering to verify an identity for lawful purposes; or
- (6) is providing a speech, lecture, or broadcast to an audience so long as six feet of distancing from other individuals is maintained; or
- (7) cannot otherwise wear a face covering because of a medical condition, a mental health condition, or a disability that makes it unreasonable for the individual to wear a face covering.

Nothing in this section shall prohibit the owner or person in charge of a premises that is open to the general public from requiring an individual to wear a face covering during any of the circumstances enumerated above or from implementing a more restrictive face covering policy.

§ 92.53: Premises that are Open to the Public – Duty to Require Facial Coverings.

Any individual or entity which maintains premises that are open to the general public including, but not limited to, educational institutions, shall require all individuals age six and older to wear a face covering over their mouth and nose while indoors in said premises, unless the individual maintains a minimum of six feet of separation or social distance at all times from anyone who is not a member of the individual's household, except face coverings will not be required if the individual:

- (1) is seeking federal, state or county services; or
- (2) is seated at a bar or restaurant to eat or drink, or while immediately consuming food or beverages; or
- (3) is engaged in an occupation preventing the wearing of a face covering; or
- (4) is obtaining a service or purchasing goods or services that requires the temporary removal of the face covering; or
- (5) is asked to remove a face covering to verify an identity for lawful purposes; or

- (6) is providing a speech, lecture, or broadcast to an audience so long as six feet of distancing from other individuals is maintained; or
- (7) cannot otherwise wear a face covering because of a medical condition, a mental health condition, or a disability that makes it unreasonable for the individual to wear a face covering.

Nothing in this section shall prohibit the owner or person in charge of a premises that is open to the general public from requiring an individual to wear a face covering during any of the circumstances enumerated above or from implementing a more restrictive face covering policy.

§ 92.54: Notice of Face Covering Requirements.

Any individual or entity which maintains premises that are open to the general public, including but not limited to educational institutions, must post one or more signs that are visible to all persons — including workers, customers, and visitors instructing them to wear face coverings as required by this Prevention of Covid-19 Chapter.

§ 92.55: Exceptions.

The provisions of this Prevention of Covid-19 Chapter shall not apply to:

- (1) Courts of law; public utilities or federal, state, county, or city operations; medical providers, facilities, or pharmacies; congregate living centers or facilities; group homes and residential drug and/or mental health treatment facilities; shelters; airport travel; election offices; polling places on an election day; or to residential dwelling units.
- (2) Children under the age of six. While children ages three to five may wear a face covering if that child can remove the face covering without assistance, guidance from the CDC states that children two years old and under should never wear a face covering due to the risk of suffocation.
- (3) Federal and state activities. Nothing in this Prevention of Covid-19 Chapter shall be construed to limit, prohibit, or restrict in any way the operations of the federal or state government or the movement of federal or state officials in the city while acting in their official capacity, including federal and state judicial, legislative, and executive staff and personnel.
- (4) Individuals at their workplace when wearing a face covering would create a job hazard for the individual or others as determined by federal, state, or local regulators or workplace safety and health standards and guidelines.
- (5) Individuals who are alone in an office, room, a vehicle, the cab of heavy equipment or machinery, or an enclosed work area. In such situations, the individual should still carry a face covering to be prepared for person-to-person interactions and to be used when the individual is no longer alone.
- (6) Individuals who are seated at a desk or standing at a stationary workstation, provided that the desk or workstation has a solid Plexiglas or plastic barrier installed upon it which cannot be moved.
- (7) Individuals who are officiating at a religious service.
- (8) Individuals communicating with other individuals who are deaf or hard of hearing or who have a disability, medical condition, or mental health condition

that makes communication with that individual while wearing a face covering difficult, provided that minimum social distancing of six feet or more is maintained to the extent possible between persons who are not members of the same household.

- (9) Individuals who are engaged in activities, such as swimming or showering, where the face covering will get wet.
- (10) Individuals who are exercising in an indoor business or indoor space such as a gym or fitness center, while the level of exertion makes it difficult to wear a face covering, provided that minimum social distancing of six feet or more is maintained at all times.
- (11) Individuals in an indoor premises that is generally open to the public while playing a musical instrument that cannot be played when a face covering is worn, provided that a minimum social distancing of six feet or more is maintained at all times.
- (12) Public safety workers actively engaged in a public safety role, including but not limited to law enforcement personnel, fire fighters, or emergency medical personnel, in situations where wearing a face covering would seriously interfere in the performance of the individual's public safety responsibilities.
- (13) Participants in a sporting event, but only while they are playing the game, if the school or sponsoring organization does not require facial coverings, however, spectators, coaches, and non-participants would be required to wear facial coverings.

§ 92.56: Public Nuisance Declared.

Any individual or entity which maintains premises that are open to the general public who fails to comply with the requirements of Section 92.53 above, is hereby declared to be a nuisance and a danger to the public health, safety, and welfare.

§ 92.57: Application.

The provisions of this Prevention of Covid-19 Chapter shall only apply to all persons and property within the corporate limits of the City of Columbus and shall not extend into the two-mile extraterritorial jurisdiction of the city.

§ 92.58: Penalty.

Any individual or person who is found to have violated any of the provisions of this Prevention of Covid-19 Chapter shall be guilty of an infraction as defined in the City Code for each offense and shall be subjected to the fine of \$25. Each instance of violation of this Prevention of Covid-19 Chapter may be considered to be a separate offense.

§ 92.59: Civil Abatement.

In addition to any other penalty sought or obtained under this Prevention of Covid-19 Chapter or other applicable law, the city attorney may institute injunctive or other appropriate civil proceedings necessary to obtain compliance with this Prevention of Covid-19 Chapter or to abate any nuisance resulting from violations of this Prevention of Covid-19 Chapter.

§ 92.60: Sunset Provision.

The requirements imposed by this Prevention of Covid-19 Chapter shall expire and terminate at 11:59 p.m. on February 23, 2021, unless otherwise extended by ordinance of the city council.

§ 92.61: Report Required.

The city physician of the City of Columbus shall, every month while the provisions of this Prevention of Covid-19 Chapter remain in effect, prepare a report to be delivered to the mayor and the city council. The report shall include information on the number of new COVID-19 cases in Platte County, the city of Columbus hospital occupancy rate, and the ventilator utilization rate as well as any such information that the city physician deems relevant to the spread of COVID-19 within the City of Columbus.

Section 3. That Sections 92.50 through 92.61 of Chapter 92 of Title IX of Ordinance No. 05-47 are hereby reserved for future use.

Section 4. The sections, subsections, paragraphs, sentences, clauses, and phrases of this ordinance are severable, and if any section, subsection, paragraph, sentence, clause, or phrase of this ordinance shall be declared invalid, unenforceable, or unconstitutional by the valid judgment or decree of a court of competent jurisdiction, such invalidity, unenforceability, or unconstitutionality shall not affect any of the remaining sections, subsections, paragraphs, sentences, clauses, or phrases of this ordinance.

Section 5. This ordinance, being emergency in nature, shall be in full force and take effect three (3) days from and after the date of its passage.

INTRODUCED BY COUNCIL MEMBER _____

PASSED AND ADOPTED THIS ____ DAY OF _____, 2020.

MAYOR

ATTEST:

CITY CLERK

APPROVED AS TO FORM:

CITY ATTORNEY

3. Adjournment.