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LEGAL UPDATES

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## City of Milwaukee Passes New Indoor Mask Mandate

Today, Acting Milwaukee Mayor Cavalier Johnson signed into law a new indoor mask mandate for the City of Milwaukee. The Milwaukee Common Council previously approved the new ordinance earlier this week by a vote of 12-1, with one abstention. The ordinance takes effect upon publication and will remain in effect until March 1, 2022.

The ordinance requires any person over three years old who enters a “building open to the public” to wear a face covering. The ordinance contains explicit exceptions for “persons in settings where it is not practical or feasible to wear face coverings when obtaining or rendering goods or services to the extent necessary to obtain or render such goods or services.” The ordinance cites performers who are part of rehearsals or performances, athletes taking part in athletic activities and restaurant customers who are eating or drinking as examples.

Importantly, the new mandate is not the same as last year’s mandate. At present, the new mask mandate does not define the scope of what constitutes a “building open to the public.” The city’s previous mask mandate, which ended June 1, 2021, defined the term to mean “any structure or premises licensed by the city of Milwaukee or used in whole or in part as a place of resort, assemblage, lodging, trade, traffic, occupancy or other use by the public.” We assume the new mandate, which amends certain sections of the city code containing the expired mandate, incorporates this definition of “building open to the public.” As such, we consider it prudent for business owners to consider this definition in deciding whether your business is subject to the new mandate.

Likewise, the ordinance does not explicitly define other important aspects of the new mandate, such as whether the ordinance permits exceptions for medical and religious reasons, and what precisely qualifies as a “face

covering.” As with the definition of “building open to the public,” however, we assume the new mask mandate incorporates these exceptions and the earlier definition of face covering.

Unlike the city’s earlier mandate, the new ordinance does not authorize monetary citations against violators. Instead, accountability is tied to business license renewals.

Specifically, the new ordinance permits, but does not require, the city’s Health Department to target an offending business’s license renewal application if the department receives three complaints about non-compliance, but only after the department performs certain outreach steps, including an on-site compliance investigation of the building open to the public.

## **Contact us**

If you have any questions about the city’s new mask mandate, please contact Erik Eisenmann, Samuel Mitchell or your Husch Blackwell attorney.

## **Your comprehensive COVID-19 legal resource**

Since the pandemic’s onset, Husch Blackwell has continually monitored state-by-state orders regarding capacity, masking, vaccines, and more. We regularly address your FAQs and provide you with easy-to-use COVID-19 tools about returning to work and navigating federal programs. Contact our industry-specific legal teams or your Husch Blackwell attorney to plan through and beyond the pandemic.