

**ORDINANCE NO. 1257**

**AN ORDINANCE MANDATING THE USE OF FACE COVERINGS IN PUBLIC PLACES WITHIN THE CITY LIMITS OF THE CITY OF DECORAH, IOWA**

WHEREAS, as Mayor and City Council of the City of Decorah, we took an oath to uphold and defend the Constitution of the United States and the Constitution of the State of Iowa, and

WHEREAS, Article III, Section 38A of the Iowa Constitution grants to municipalities the power to determine their local affairs and government not inconsistent with the laws of the general assembly; and

WHEREAS, Chapter 364 of the Iowa Code reaffirms the constitutional grant of Home Rule Authority to municipalities “to exercise any power and perform any function it deems appropriate to protect and preserve the rights, privileges, and property of the city or its residents, and improve the peace, safety, health, welfare, and convenience of its residents”; and

WHEREAS, a “city may exercise its general powers subject only to limitations expressly imposed by a state or city law” and the exercise of a city power “is not inconsistent with a state law unless it is irreconcilable with the state law” Iowa Code section 364.2(2) and (3); and

WHEREAS, on March 17, 2020, the Governor of Iowa issued a Proclamation of Public Health Disaster Emergency after multiple cases of COVID-19 had been confirmed in Iowa and the Iowa Department of Public Health determined that community spread was occurring within the state; and

WHEREAS, positive cases of the virus continue to increase at an alarming rate in Winneshiek County and Iowa at large and

WHEREAS, many individuals with COVID-19 are asymptomatic, yet risk transfer to others. Wearing a face covering greatly reduces risk of community spread; and

WHEREAS, the Center for Disease Control (CDC) has determined that face coverings are a critical tool in the fight against COVID-19 that could reduce the spread of the virus, particularly when used universally within communities; and

WHEREAS, the Winneshiek County Medical Center, Winneshiek County Public Health, Mayo Clinic, and Gundersen Health System support the wearing of cloth face masks in public settings. The proper use of facemasks helps to reduce the spread of COVID-19 to vulnerable adults; and

WHEREAS, on June 28, 2020, the CDC issued the following guidance on mask use:

1. The CDC recommends that people wear cloth face coverings in public settings and when around people who do not live in your household, especially when other social distancing measures are difficult to maintain.
2. Cloth face coverings may help prevent people who have COVID-10 from spreading the virus to others.
3. Cloth face coverings are most likely to reduce the spread of COVID-19 when they are widely used by people in public settings.
4. Cloth face coverings should NOT be worn by children under the age of 2 or anyone who has trouble breathing, is unconscious, incapacitated, or otherwise unable to remove the mask without assistance; and

WHEREAS, voluntary measures have failed to yield sufficient progress in flattening the virus' curve; and

WHEREAS, Decorah is a highly promoted tourist destination within the Driftless Area in Iowa, Wisconsin, and Minnesota which is bringing 1000s of visitors to our community from out-of-town weekly during the pandemic; and

WHEREAS, the Decorah City Council and the Mayor Lorraine Borowski prefer a proactive approach to handling the pandemic crisis and would like to be preventative against outbreaks here in our community as opposed to reactionary; and

WHEREAS, on July 25th, 2020 The Decorah Public Schools have announced a return to learn plan that includes the requirement of masks in school; and

WHEREAS, Luther College, the largest employer in Decorah has a mask requirement; and

WHEREAS, the purpose of this Ordinance is to minimize the need for future reclosing efforts based on public health data, including the closing of public schools; and

WHEREAS, many businesses already require masks in their place of business, including Decorah's largest retailer, Walmart, and other business owners have indicated they would require face coverings if the local jurisdiction would implement a mandate.

NOW, THEREFORE, the Decorah City Council mandates the following:

1. All persons present within the City of Decorah shall wear a face covering that covers their nose and mouth when inside a business building or public space as ordered below until further council action.
2. Except for individuals exempted as provided herein, all individuals within the city of Decorah shall wear face coverings while in an indoor business or public indoor space, to include, but not limited to, the following:
  - a. Businesses, which include for example, but are not limited to, restaurants, grocery stores, pharmacies, hardware stores, and retail stores, must require that all workers, to include but not limited to owners, employees, contractors, vendors, volunteers, and interns, wear a face covering when the individual is within any area open to the public or within six feet of another person. Customers are required to wear a face covering before entering the business and must wear the face covering until exiting the business. "Businesses" is broadly defined to include entities that are sole proprietorships, or employ or engage workers, including private-sector entities and non-profit entities;
  - b. Participants, staff, and spectators at gyms, fitness centers, and Sports Facilities, must wear a face covering at all times when the individual is within six feet of another person. (*For purposes of this order, gymnastics facilities, yoga studios, fitness centers, and climbing walls are considered Sports Facilities.*);
  - c. Individuals at Entertainment Venues must wear face coverings when the user is within six feet of another person. When the user is seated and not within six feet of another person, they may remove the face covering, but must wear the face covering when walking to or from their seat and while standing in or walking through public areas such as lobbies and restrooms.
  - d. Individuals must wear face coverings while riding in public transportation or private car services (including taxis, rideshares and carpooling). This requirement does not apply in a private vehicle that is being used for private purposes.
  - e. Social distancing protocols should be in place of at least six feet whenever feasible.
3. Exemptions: This order does not apply to any of the following:
  - a. Facilities operated by the County, State, or Federal Government.
  - b. Medical and long-term care facilities that already have face covering requirements.
  - c. Children two years of age or younger.
  - d. Individuals actively eating or drinking.
  - e. Individuals temporarily removing the face covering for identification purposes.
  - f. Individuals unable to wear a face covering due to medical, disability, or developmental reasons with a doctor's recommendation.
  - g. Individuals speaking to an audience, whether in person or through broadcast, as long as the speaker remains six feet or more away from other individuals.
  - h. Individuals communicating with an individual who is deaf or hard of hearing or has a disability, medical condition, or mental health condition that makes communication with that individual while wearing a face covering difficult, provided that social distancing is maintained to the extent possible between persons who are not members of the same household.
  - i. Participants in youth sports are exempt from this Order but subject to all requirements under the State's Executive Orders.

- j. Individuals who are alone in the following circumstances: alone in an office, room or cubicle with walls that are higher than five and a half feet when social distancing is maintained, a vehicle, or 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 no longer alone.
  - k. When a public safety worker is actively engaged in a public safety role, including but not limited to law enforcement, firefighters, or emergency medical personnel, in situations where wearing a face covering would seriously interfere in the performance of their public safety responsibilities.
  - l. Individuals receiving a service—including a dental examination or procedure, medical examination or procedure, or personal care service—that cannot be performed or would be difficult to perform when the individual receiving the service is wearing a face covering. Workers performing services for an individual who is allowed to temporarily remove their face covering under this provision must comply with face covering requirements in the applicable industry guidance.
  - m. Individuals at their workplace, school, or home when wearing a face covering would create a job hazard for the individual or others, as determined by local, state, or federal regulators or workplace safety and health standards and guidelines.
4. Face coverings will be required in outdoors situations where six feet social distancing cannot be maintained and people are not actively eating or drinking, to include walk up windows and drive up windows and in outdoor social events open to the public.
5. For purposes of this Order, “face covering” shall mean a manufactured, medical grade, or homemade cloth covering that fully covers an individual’s nose and mouth. The terms “mask” and “face covering” are synonymous. If a cloth face covering is chosen, appropriate use of a cloth face covering includes:
  - a. A snug fit, but comfortable against the side of the face
  - b. Completely covers the nose and mouth
  - c. Is secured with ties or ear loops
  - d. Includes multiple layers of fabric
  - e. Allows for breathing without restriction
  - f. Can be laundered and machine dried without damage or change to shape
6. Businesses shall not require customers to provide proof of a medical condition, mental health condition, or disability, or require customers to explain the nature of their conditions or disability.
7. Businesses and organizations that are open to the public must post signs at entrance(s) instructing customers of their legal obligation to wear a face covering while inside the establishment.
8. Businesses and organizations are encouraged to provide masks for customers at no or nominal cost.
9. Restaurants and bars are encouraged to take advantage of outdoor seating.
10. This is an education forward policy However:

Enforcement. Public education regarding the importance of wearing a mask to mitigate the spread of COVID-19 shall be a primary purpose. Penalties may be assessed for violations of this Order as provided herein.

  - a. No business that is open to the public may provide service to a customer or allow a customer to enter its premises, unless the customer is wearing a face covering as required by this order, and business that are open to the public must post signs at entrance(s) instructing customer of their legal obligation to wear a face covering while inside.
  - b. Any individual violating this Order shall be subject to a municipal infraction, with the following penalties:
    - i. Verbal warning for the first offense
    - ii. Written warning for second offense
    - iii. \$10.00 fine for third, and all subsequent offenses

- c. For purposes of this Order, any violation of any provision of this Order can be considered a separate offense.

Repealer. All Ordinances or parts of Ordinances in conflict with the provisions of this Ordinance are hereby repealed.

Severability Clause. If any section, provision or part of this Ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the Ordinance as a whole, or any section, provision or part thereof not adjudged invalid or unconstitutional.

When Effective. This Ordinance shall be in effect upon its passage, approval and publication as provided by law.

PASSED AND ADOPTED this 17<sup>th</sup> day of August, 2020.

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Lorraine Borowski, Mayor

ATTEST:

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Wanda Hemesath, City Clerk-Treasurer

Date of First Reading:

August 17, 2020

Date of Second Reading:

August 17, 2020

Date of Third and final reading and adoption:

August 17, 2020

I hereby certify that the above Ordinance No. \_\_\_\_ was published on the \_\_\_\_ day of \_\_\_\_\_, 2020, in the \_\_\_\_\_.