

DECORAH FACE COVERING ORDINANCE: WHAT YOU NEED TO KNOW

Link to ordinance:

<https://www.decorahia.org/covid19>

For purposes of the City's 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.

THE IMPORTANCE OF FACE COVERINGS IN THE FIGHT AGAINST THE SPREAD OF COVID 19 IN OUR COMMUNITY.

Numerous and authoritative public health experts have recommended that face coverings be used in conjunction with other social distancing and public health measures to slow the spread of COVID 19. Universal face coverings are an important component in the fight to slow the spread of COVID 19. To reduce the spread of COVID-19, the U.S. Centers for Disease Control and Prevention (CDC) recommends that people wear masks in public settings when around people outside of their household, especially when other [social distancing](#) measures are difficult to maintain.

<https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/about-face-coverings.html>. The CDC calls on Americans to wear masks to prevent COVID 19 spread.

<https://www.cdc.gov/media/releases/2020/p0714-americans-to-wear-masks.html>. The Iowa Department of Public Health advises: "A cloth face mask can help slow the spread of COVID-19 in Iowa. Protect yourself and your community by wearing a face covering when out in public and when social distancing is not possible." <https://idph.iowa.gov/Emerging-Health-Issues/Novel-Coronavirus/Public>.

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.

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-19 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.

According to the CDC:

*"Masks may help prevent people who have COVID-19 from spreading the virus to others. Wearing a mask will help protect people around you, including those at [higher risk of severe illness](#) from COVID-19 and workers who frequently come into close contact with other people (e.g., in stores and restaurants). **Masks are most likely to reduce the spread of COVID-19 when they are widely used by people in public settings.** The spread of COVID-19 can be reduced when masks are used along with other [preventive measures](#), including [social distancing](#), frequent handwashing, and cleaning and disinfecting frequently touched surfaces.*

The masks recommended here are not surgical masks or respirators. Currently, those are critical supplies that should be reserved for healthcare workers and other first responders. Masks are not personal protective equipment (PPE). They are not appropriate substitutes for PPE such as respirators (like N95 respirators) or medical facemasks (like surgical masks) in workplaces where respirators or facemasks are recommended or required to protect the wearer."

See: <https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/about-face-coverings.html>

WHAT IS A FACE COVERING?

Under the City of Decorah Ordinance 1257, “*face covering*” means 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

WILL MASKS ALONE SLOW THE SPREAD OF COVID 19?

Masks are an important part in slowing the spread of COVID 19, but masks alone will not stop it. Masks, along with social distancing, are critical to slowing the spread of COVID 19. The CDC advises that to protect yourself and others from the spread of COVID 19, the following should be done:

- Wash your hands often
- Avoid close contact with people outside of your household
- Cover your mouth and nose with a mask when around others
- Cover coughs and sneezes
- Clean and disinfect
- Monitor Your Health Daily

See: <https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/prevention.html>

Four Cs for mitigating the risk of COVID 19:

1. Avoid **C**losed Spaces
2. Avoid **C**rowded spaces
3. Avoid **C**lose contact
4. **C**over respiratory surfaces with face masks

“The important steps for mitigation and reducing the risk of SARS-CoV-2 infection can be remembered by avoiding the three C’s: closed spaces, crowded spaces and close contact settings. Covering respiratory mucosal surfaces with a face mask in a setting of risk is the fourth C.” H. Cody Meissner M.D., FAAP, *Ask the Expert: Why is there so much uncertainty about SARS-Co-V-2 transmission?*, AAP News (July 28, 2020), <https://www.aappublications.org/news/2020/07/28/sarscov2transmission072820>

ARE MASK MANDATES EFFECTIVE?

According to the CDC website, “...CDC reviewed the latest science and affirms that cloth face coverings are a critical tool in the fight against COVID-19 that could reduce the spread of the disease, particularly when used universally within communities.” <https://www.cdc.gov/media/releases/2020/p0714-americans-to-wear-masks.html>.

The findings of researchers at the University of Iowa College of Public Health suggest that requiring face mask use in public could help in mitigating the spread of COVID-19. See “University of Iowa College of Public Health study examines the effects of state mask mandates”: <https://www.public-health.uiowa.edu/news-items/study-examines-the-effects-of-state-mask-mandates/>

Data from the State of Kansas, where counties can choose whether or not to have a universal mask mandate, supports the use of mask mandates to reduce COVID 19 infections. See: <https://www.coronavirus.kdheks.gov/ImageRepository/Document?documentID=1410>; See also <https://www.facebook.com/KDHEnews/videos/3181624445282231/>

WHAT IS SOCIAL DISTANCING?

The CDC has the following explanation of what social distancing is:

“Social distancing, also called “physical distancing,” means keeping a safe space between yourself and other people who are not from your household.

To practice social or physical distancing, stay at least 6 feet (about 2 arms’ length) from other people who are not from your household in both indoor and outdoor spaces.

Social distancing should be practiced in combination with other [everyday preventive actions](#) to reduce the spread of COVID-19, including [wearing masks](#), avoiding touching your face with unwashed hands, and frequently washing your hands with soap and water for at least 20 seconds.”

See: <https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/social-distancing.html>

THE PURPOSE OF ORDINANCE 1257.

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.

WHO HAS TO WEAR A FACE COVERING?

Every person in the city of Decorah three-years of age or older is required to wear a face covering that covers their nose and mouth when inside a business building or public space, unless they qualify for one of the exemptions.

WHERE ARE FACE COVERINGS REQUIRED?

Except for individuals exempted as provided herein, all individuals within the city of Decorah shall wear face coverings while in indoor businesses or public indoor space, to include, but not limited to, the following:

- a. restaurants,
- b. grocery stores,
- c. pharmacies,
- d. hardware stores, and
- e. retail stores.

“Businesses” is broadly defined to include entities that are sole proprietorships, or employ or engage workers, including private-sector entities and nonprofit entities.

ARE FACE COVERINGS REQUIRED OUTSIDE?

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.

WHEN AND WHERE ARE FACE COVERINGS NOT REQUIRED?

- 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 interscholastic and 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.

WHY DID THE DECORAH CITY COUNCIL VOTE 6-1 TO APPROVE A FACE COVERING ORDINANCE?

The Decorah City Council voted 6-1 for a face covering ordinance in light of increased rate of COVID 19 infection in our community and the belief that universal face covering use will help slow the spread of COVID 19 in our community. 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...”*

Positive cases of the virus in Winneshiek County and Iowa at large continue to increase at a rate a majority of the City Council considers alarming. *“Since Saturday, August 8th, there have been 50 positive COVID-19 cases in Winneshiek County. Since July 27th, there have been 74--more than half the total number of cases that have been reported since the epidemic began in March.”* -Decorahnews.com (August 21, 2020), <http://www.decorahnews.com/news-stories/2020/08/26116.html>.

Further explanation for the ordinance can be found in the ordinance itself.

DOES DECORAH HAVE THE AUTHORITY TO REQUIRE A FACE COVERING?

It is the opinion of the City attorney that under Home Rule Authority the City of Decorah is within its authority for the City Council to institute a face covering requirement.

In 1968, Iowa passed the Home Rule Amendment to the Iowa Constitution which constitutionalized local control in the State of Iowa. The Home Rule Amendment became Article III, Section 38A of the Iowa Constitution granting municipalities the power to determine their local affairs and governing not inconsistent with the laws of the general assembly. 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.”

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 §§ 364.2(2) and (3).

The necessary analysis has not been done at the state level as to whether local face mask mandates are irreconcilable with the Governor’s emergency management action. Until that analysis is done, or a court settles the question of preemption, the matter may be considered unsettled.

Under Home Rule Authority, a city may set standards *“more stringent than those imposed by state law, unless a state law provides otherwise.”* Iowa Code § 364.3(a); City of Des Moines v. Gruen, 457 N.W.2d 340, 343 (Iowa 1990); Bryan v. City of Des Moines, 261 N.W.2d 685, 687 (Iowa 1978).

Education and personal responsibility for wearing face coverings are positions all members of the community should take and are keys to successfully controlling the spread of this virus.