

AN ORDINANCE CREATING CHAPTER 8.37 REQUIRING FACE COVERINGS DURING
COVID-19 PANDEMIC

The Common Council of the City of Whitewater, Walworth and Jefferson Counties, Wisconsin, do ordain as follows:

SECTION 1. Whitewater Municipal Code Chapter 8.37 is hereby created to read as follows:

Chapter 8.37 – FACE COVERING REQUIREMENTS DURING COVID-19 PANDEMIC

WHEREAS, COVID-19 cases have increased in Wisconsin, Walworth and Jefferson Counties and the City of Whitewater in recent weeks; and

WHEREAS, public spaces and businesses are open for in-person operations in the City of Whitewater, increasing the potential for further community spread of COVID-19; and

WHEREAS, COVID-19 is primarily spread via respiratory droplets when people are in close proximity with each other and people that are infected speak, sneeze, or cough and people can be infected and have no symptoms (asymptomatic) and are still able to transmit the virus; and

WHEREAS, according to the Centers for Disease Control (CDC), there is emerging evidence from clinical and laboratory studies that demonstrates face masks reduce the spray of respiratory droplets; and

WHEREAS, wearing a face mask is one of the most effective ways to reduce person to person transmission of COVID-19 and face masks serve as a barrier to prevent droplets from entering the air, which is known as source control and when combined with other preventive measures, including physical distancing and proper hygiene practices, wearing face masks is a simple and effective way to reduce the risk of COVID-19 transmission; and

WHEREAS, according to the Centers for Disease Control (CDC), the effectiveness of face coverings at reducing the spread of COVID-19 is highest when masks are widely used by people in public settings and in settings where physical distancing is difficult to maintain;

8.37.010 DEFINITIONS.

(a) **FACE COVERING.** A face covering is a non-mesh, intact, protective mask without holes or perforations, covering the nose and mouth including cloth face coverings and surgical masks.

(b) **BUILDING AREA OPEN TO THE PUBLIC.** An area in a public or privately-owned structure, including exterior parts of the building, such as a porch, exterior platform or steps providing means of ingress or egress that the public is invited or allowed to frequent.

An example of an area of a building open to the public would be the public reception lobby of a manufacturing building. That same building may have 200 employees working in areas not

open to the public. Those 200 employees and others in that area of the building would not be required to wear masks under this ordinance. Also, private residences and residential apartment buildings are not considered to be buildings open to the public under this ordinance.

8.37.020 – MASKS REQUIRED

(a) MASK REQUIRED INDOORS IN CERTAIN AREAS. Any person 5 years old or older who is present in the City of Whitewater shall wear a face covering whenever the person is in a building open to the public and is in an area of the building open to the public, or is a pedestrian picking up food, drink or goods inside or outside of the building or waiting in line to enter such an area.

(b) Masks shall be required for individuals who are attending the Tuesday Whitewater City Market and the Saturday Whitewater Farmers Market which are located in the area of the intersection of Fremont Street and Whitewater Street.

(c) CITY MANAGER AUTHORITY. The City Manager shall establish a face covering requirement policy for all city employees and other persons on the premises of any city facility.

8.37.030 - EXCEPTIONS. Exceptions for required face covering are as follows:

(a) Persons who fall into the Centers for Disease Control's guidance for those who should not wear face coverings due to a medical condition, mental health condition or developmental disability.

(b) Persons who have a written note from a healthcare provider excusing mask use.

(c) Persons who have upper-respiratory chronic conditions or other conditions or disabilities that make wearing a mask inappropriate. If a person states that they have a medical condition that prevents them from wearing a mask it shall be assumed that it is true without further verification.

(d) Persons who are communicating with an individual who is deaf or hard of hearing and effective communication cannot be achieved through other means.

(e) 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 including, but not limited to, the receipt of dental services or medical treatments or consuming food or beverages.

(f) Whenever federal, state, or local law otherwise prohibit wearing a face mask or where it is necessary to evaluate or verify an individual's identity.

(g) Persons whose religious beliefs prevent them from wearing a face covering.

(h) Private K through 12 schools that have a comprehensive safety plan in place.

(i) Childcare or youth facilities that have a comprehensive safety plan in place.

(j) In private residences and residential apartment buildings.

8.37.040 OWNER/OPERATOR RESPONSIBILITIES.

(a) The owner (if the owner controls the day to day operations in the building) or operator of any building shall require that all persons present in the building area open to the public comply with **Section 8.37.020 Masks Required**.

(b) RIGHT TO REFUSE SERVICE. The owner or operator of any building open to the public has the right to refuse entry or service to any person for failure to comply with **Section 8.37.020 Masks Required**.

8.37.050 - ENFORCEMENT.

(a) The Police Department shall enforce this chapter by issuing a warning for first offenses and shall only issue a citation for first offenses if an individual refuses to comply with the ordinance after receiving a warning or for second and subsequent offenses.

8.37.060 - PENALTY.

(a) Any person violating this ordinance and any owner (if the owner controls day to day operations) or operator of a building open to the public that does not enforce **Section 8.37.020 Masks Required** in the building shall, upon conviction, forfeit not less than \$10.00 and not more than \$40.00 for a first offense and not less than \$50.00 and not more than \$150.00 for second and subsequent offenses. Each violation shall be considered a separate offense.

EFFECTIVE DATE. This ordinance shall take effect on August 1, 2020 and shall remain in effect until 11:59 p.m. on December 31, 2020 unless extended or earlier terminated by the Common Council.


Ordinance introduced by Council Member Binnie, who moved its adoption. Seconded by Council Member Palmer.

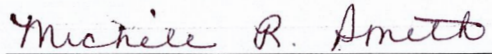
AYES: McCormick, Palmer, Brown, Binnie, Schulgit, Allen, Singer. NOES: None.

ABSENT: None. ADOPTED: July 21, 2020.

It was then moved by Allen and seconded by Schulgit to **waive the requirement for a second reading of the ordinance**. AYES: McCormick, Palmer, Brown, Binnie, Schulgit, Allen, Singer.

NOES: None. ABSENT: None. ADOPTED: July 21, 2020.


Cameron L. Clapper, City Manager


Michele R. Smith, City Clerk