

Ordinance No. 2020-14

An emergency ordinance relating to face covering requirements within specified indoor spaces within the city

The City of Minnetonka Ordains:

Section 1. Preamble

Since March 16, 2020, the City of Minnetonka has been under a local state of peacetime emergency, due to the worldwide COVID-19 pandemic. The conditions that gave rise to the state of emergency continue to exist. The United States now leads the world in the number of confirmed COVID-19 cases, and in some parts of the United States, the number of confirmed cases is surging, posing a threat to the response capabilities of health care facilities. Growing scientific evidence indicates that the wearing of face coverings in public significantly reduces the risk of infection from the coronavirus. The Center for Disease Control and Prevention, the Minnesota Department of Health, the Mayo Clinic, and Governor Tim Walz have all urged the use of face masks as a measure to reduce or prevent the spread of COVID-19. This emergency ordinance is adopted in response to the emergency and in accordance with Section 3.07 of the City Charter and Section 900 of the City Code to protect the public safety, health and welfare.

Section 2. Findings

The Minnetonka City Council makes the following findings:

- 2.01 The COVID-19 disease presents a serious health risk to the residents of Minnetonka. As of July 8, 2020, there have been 3,048,072 confirmed cases in the United States, resulting in 133,322 deaths, 39,133 confirmed cases in Minnesota, resulting in 1,511 deaths, 12,597 confirmed cases in Hennepin County, resulting in 787 deaths, and 214 confirmed cases in Minnetonka resulting in 28 deaths.
- 2.02 Scientific studies suggest that wearing face coverings significantly reduces the risk of infection from the coronavirus and that face-covering mandates could save hundreds of thousands of lives in the United States.
- 2.03 On June 28, 2020, the Center for Disease Control and Prevention (CDC) issued the following guidance on face covering use:
 1. 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.

- 2.04 Many businesses in the city already require face coverings for employees and customers, and others have indicated that they would also if the local jurisdiction requires it.
- 2.05 The primary benefit of most face coverings is that it reduces the spread of infection by the wearer to others. Because many persons infected with the coronavirus may be asymptomatic or presymptomatic, without any reason to know that they have the disease, a face-covering requirement protects the health of others, such as business employees who provide essential services to the public.
- 2.06 Businesses are adversely impacted when employees become infected or must be quarantined due to an exposure. Employee illness can result in temporary closure of some businesses. Reducing the rate of employee illness provides an economic benefit to individual businesses and to the economy as a whole. The state encourages businesses to “Stay Safe to Stay Open.”
- 2.07 This ordinance is enacted for the purpose of protecting the public health, promoting the local economy, minimizing the need for future reclosing based on public health, and reducing the demand that COVID-19 cases place upon the healthcare system.

Section 3. Face covering requirement

3.01 Definitions

1. For purposes of this ordinance “face covering” means a manufactured or homemade cloth covering that fully covers an individual’s nose and mouth. The terms “mask” and “face covering” are synonymous.
2. For purposes of this ordinance, a “space of public accommodation” means a business, refreshment, entertainment or recreatio facility, or an institution of any kind, whether licensed or not, whose goods, services, facilities, privileges, advantages, or accommodations are extended, offered, sold or otherwise made available to the public. Examples include retail stores, rental establishments, city-owned buildings, and service establishments as well as recreational facilities, and service centers. This definition includes establishments and facilities that offer food and beverage not for on-premises consumption, including grocery stores, markets, convenience stores, pharmacies, drug stores, and food pantries.

3.02 Except as exempted by section 3.04 of this ordinance, all individuals must wear a face covering in indoor areas accessible to the public within the city of Minnetonka. Specific to the face covering mandate in this section 3.02, the following shall also apply:

1. Restaurants and bars must include the requirements of this ordinance in their COVID-19 Preparedness Plan.

2. Spaces of public accommodation. Owners and managers of spaces of public accommodation must include in their COVID-19 Preparedness Plan that all employees 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 and until exiting.
3. Gyms, fitness centers and sports facilities, including city-owned sports facilities. Employees, staff, participants and spectators are required to wear a face covering at all times when the individual is indoors and within six feet of another person. Face masks are not required for an individual while actively participating in permitted athletic activities. Businesses must include the requirements of this ordinance in their COVID-19 Preparedness Plan.
4. Indoor entertainment venues, including movie theaters. All employees and customers must wear face coverings when inside the entertainment venue and not seated in their assigned seat; individuals speaking to an audience are not required to wear a mask while speaking, as long as the speaker remains six feet or more away from other individuals. All indoor entertainment venues must include the requirements of this ordinance in their COVID-19 Preparedness Plan.
5. Common spaces in multi-family residential and multi-tenant office buildings. Residents of multi-family housing building and their guests, and tenants and employees in multi-tenant office buildings and their guests, shall wear a face covering when in common spaces such as hallways, corridors, lobbies, restrooms, mail rooms, elevators, trash and recycling rooms, fitness rooms, recreation rooms, laundry rooms and other space owned and used in common by the residents, employees and tenants of the building; except, that an individual within a fitness center is not required to wear a mask while actively participating in permitted athletic activities.
6. City buildings. City employees and all other individuals must wear face coverings within those portions of city-owned buildings that are open to the general public; except that, with respect to polling locations, no voter may be told to leave the premises for refusal to wear a mask. This paragraph does not apply to city-owned facilities that are otherwise covered by paragraph 3 above.

3.03 Other requirements:

1. Except for facilities exempted by section 3.04 of this ordinance, all employers of businesses that are spaces of public accommodation, as defined by this ordinance, shall require their employees to wear a face covering whenever such employees have face-to-face contact with the public, unless other physical barriers are in place or at least six feet of separation is maintained according to CDC guidelines.

2. Owners or managers of property subject to this ordinance shall post written notice at all points used by the public to access the property, notifying the public that face coverings are required.

3.04 Exemptions. The following locations and individuals are exempted from this ordinance:

1. Facilities operated by the county, state or federal government or a political subdivision of the state of Minnesota.
2. Personal care services/salons that already have state face covering requirements.
3. Children five (5) years of age and under.
4. Individuals actively eating or drinking.
5. Individuals temporarily removing the face covering for identification purposes.
6. Individuals unable to wear a mask due to medical, disability or developmental reasons.
7. Individuals unable to remove their face covering without assistance.
8. Individuals speaking to someone who is deaf or hard of hearing and requires the mouth to be visible to communicate effectively.
9. Participants in youth sports activities.
10. Places of worship.
11. Public and private school facilities.

3.05 Enforcement.

1. Any individual who fails to comply with this ordinance must be asked to leave by an authorized representative of the business or organization. If the individual continues to refuse to leave, law enforcement may enforce trespassing laws or any other law the individual may violate. Businesses and organizations may rely on an individual's statements if they claim to be exempt from the ordinance due to medical, disability, or developmental reasons.
2. An individual's subsequent failure to comply with this ordinance may be subject to the penalty provisions of Sec. 900.055, which provides that violation of an emergency regulation adopted by the city council is a misdemeanor offense.

3. Any business violating this ordinance shall be subject to administrative action for any licenses they possess with the city.

Section 4. Recommendations

1. The requirement in this Order that face-coverings be worn in certain circumstances is intended to add to (and not substitute for) other practices (such as hand washing, staying home when sick, and maintaining appropriate physical distancing of at least six feet) as recommended by public health officials to minimize the spread of COVID-19.
2. It is recommended that any individual cover their nose and mouth with a mask or a cloth face covering when physical distancing standards or at least six feet of separation cannot be maintained among all individuals in accordance with CDC guidelines when in outdoor spaces.
3. Businesses and organizations are encouraged to provide masks for customers at no or nominal cost.

Section 5. Enforcement

This emergency ordinance supersedes inconsistent or conflicting provisions of the City Code and any resolution or ordinance while this emergency ordinance remains in effect. To the extent that this ordinance directly conflicts with Emergency Executive Order 20-74 of Minnesota Gov. Tim Walz, the language of Emergency Executive Order 20-74 shall take precedence.

Section 6. Duration

This emergency ordinance is effective as of 11:59 p.m. on July 23, 2020. The ordinance will expire on the earliest of:

1. Sixty-one (61) days after its effective date;
2. Upon the expiration of the local emergency to which it relates;
3. Upon the issuance of an executive order by Minnesota Gov. Tim Walz that mandates the wearing of face coverings for any geographic area that includes Hennepin County, Minnesota.

Adopted by the city council of the City of Minnetonka, Minnesota, on July 13, 2020.

Brad Wiersum, Mayor

Attest:

Becky Koosman, City Clerk

Action on this Ordinance:

Date of introduction: Not applicable
Date of adoption: July 13, 2020
Motion for adoption: Schack
Seconded by: Calvert
Voted in favor of: Schaeppi-Coakley-Kirk-Schack-Carter-Calvert-Wiersum
Voted against: None
Abstained: None
Absent: None
Ordinance adopted.

Date of publication:

I certify that the foregoing is a true and correct copy of an ordinance adopted by the city council of the City of Minnetonka, Minnesota, at a meeting held on

Becky Koosman, City Clerk