

O-21-18
AN ORDINANCE REQUIRING FACE COVERINGS TO BE WORN IN PUBLIC
DURING THE COVID-19 PUBLIC HEALTH EMERGENCY

WHEREAS, in order to slow the spread of COVID-19, in July 2020, the City Commission of the City of Decatur adopted Ordinance O-20-09, which required face coverings to be worn in public;

WHEREAS, Ordinance O-20-09 was extended by the City Commission multiple times over the following eleven months, remaining in effect until June 21, 2021, at which point the Ordinance was allowed to expire based on guidance from the Centers for Disease Control and Prevention (“CDC”) and the widespread availability of the COVID-19 vaccine;

WHEREAS, the pandemic continues and the Delta variant has caused a new surge in cases in Georgia and in DeKalb County specifically, with the DeKalb County Emergency Management Agency reporting a 2.7 % increase in new cases in DeKalb County in the seven day period between August 4 and August 11, 2021;

WHEREAS, on July 27, 2021, the CDC issued new guidance recommending that to maximize protection from the Delta variant and to prevent spreading it to others, persons, including those who are fully vaccinated, should wear a face covering indoors in public if they are in an area of substantial or high transmission;

WHEREAS, the CDC recommendations on usage of face coverings are hereby incorporated by reference;

WHEREAS, DeKalb County is considered by the Centers for Disease Control to be an area of high transmission;

WHEREAS, nonetheless, the City of Decatur is a densely populated, thriving intown community that serves as a center of commercial, civic, government, social, entertainment, academic, and religious activities, and, therefore, the City of Decatur has heightened risk of “community spread” as that term is defined by the CDC;

WHEREAS, residents of the City of Decatur who are under twelve (12) years old still are not able to obtain vaccines against COVID-19;

WHEREAS, the continued increase of COVID-19 cases, especially those caused by the highly contagious Delta variant, is a threat to the health, safety, and welfare of the City of Decatur community, especially children and individuals in Vulnerable Populations and Other Populations at Risk, as such terms are defined by the CDC;

WHEREAS, a large number of persons with serious infections can compromise the ability of the healthcare system in DeKalb County to deliver necessary care to the public;

WHEREAS, the Georgia Emergency Management Agency reports a 7% increase in Region D hospital capacity in the period between July 12 and August 11, 2021;

WHEREAS, pursuant to the authority of O.C.G.A. § 38-3-28(a), local governments are specifically empowered to enact rules and regulations as may be necessary for emergency management purposes;

WHEREAS, this Ordinance is intended to be entered with due regard to the widely accepted, scientifically proven uniform principle that masks or facial coverings will slow the spread of COVID-19, as contemplated by O.C.G.A. § 38-3-28(c);

WHEREAS, the United States Supreme Court has previously held that “[u]pon the principle of self-defense, of paramount necessity, a community has the right to protect itself against an epidemic of disease which threatens the safety of its members;”

WHEREAS, the following actions related to requiring facial coverings in public are necessary and appropriate to balance the public’s interest in not being unduly burdened with the compelling public interest of providing for the health, safety and welfare of the residents of the City of Decatur and the surrounding communities, particularly children under 12 years of age and those individuals who are members of Vulnerable Populations and Other Populations at Risk.

NOW, THEREFORE, BE IT ORDAINED by the City Commissioners of the City of Decatur, Georgia, and it is hereby ordained by the authority of the same, that for the protection of members of the public, including children under 12 years of age and members of Vulnerable Populations and members of other Populations at Risk, facial coverings or masks shall be required within the City of Decatur to slow the spread of COVID-19 as follows:

SECTION 1

(a) For purposes of this Ordinance, the following terms are hereby defined as follows:

Establishment means any business, store, or other place where goods or services are sold or provided as part of a commercial or non-profit venture, to which the public is invited or in which the public is permitted. The term establishment includes but is not limited to the following: (1) automobile dealerships, furniture or other showrooms for the display of merchandise offered for sale; (2) grocery, pharmacy, specialty, department and other stores which sell goods or merchandise; (3) service stations, stores or shops for the repair or maintenance of appliances, shoes, motor vehicles or other items or products; (4) barbershops, beauty shops, cleaners, laundromats and other establishments offering services to the general public; (5) video arcades, pool halls and other amusement centers; (6) the common areas of commercial, retail and office buildings; (7) the common areas of public buildings and

structures; (8) banks, savings and loan offices, and other financial establishments; (9) hotels and motels and other places that provide accommodations to the public; (10) restaurants, including indoor and outdoor dining areas; and (11) fitness centers, health clubs and gyms.

Employee means any person who is employed by any employer in consideration for direct or indirect monetary wages of profit.

Facial covering or mask means a device to cover the nose and mouth of a person to impede the spread of saliva, respiratory droplets, or other fluids during speaking, coughing, sneezing or other intentional or involuntary action. Medical grade masks are not required; coverings may be fashioned as advised by the CDC and from other suitable fabrics. The mask must cover the mouth and nose of the wearer.

Polling place means the room provided in each precinct for voting at a primary or election.

Public place means any place other than an individual's home, including the curtilage thereof, or a personal vehicle.

(b) All persons entering an establishment in the City of Decatur shall wear a facial covering or mask while inside such establishment. This requirement to wear a facial covering does not apply to religious establishments; however, the use of facial coverings is highly recommended during religious activity.

(c) All employees of establishments in the City of Decatur shall wear a facial covering or mask at all times while having face-to-face interaction with the public.

(d) All persons within the City of Decatur shall wear a facial covering or mask when in an outdoor public place when it is not feasible to maintain at least six (6) feet of physical distance from another person who is not part of the same household.

(e) Any person who is unable to safely wear a facial covering or mask due to age or an underlying health condition or is unable to remove the facial covering or mask without the assistance of others is exempt from this Ordinance.

(f) Facial coverings or masks are not required in the following circumstances:

1. In personal vehicles;
2. When a person is alone in enclosed spaces or only with other household members;
3. During outdoor physical activity, provided the active person maintains a minimum of six (6) feet from others who are not part of the same household;
4. While drinking or eating;

5. When a licensed healthcare provider has determined that wearing a facial covering or mask causes or aggravates a health condition for the individual;
6. When wearing a facial covering or mask would prevent the receipt of personal services;
7. When complying with the directions of a law enforcement officer or for the purposes of verifying a person's identity, such as when purchasing alcohol, tobacco, or prescription drugs or when engaging in a financial transaction;
8. Children under the age of ten (10) years;
9. When the person has a bona fide religious objection to wearing a facial covering or mask; and
10. At any polling place and no individual shall be denied ingress or egress to or from a polling place for failure to wear a facial covering or mask.

(g) All establishments in the City of Decatur shall post a sign in a clearly visible location near the front entrance stating the following: "Per City Ordinance, all persons must wear a mask or face covering while on the premise. Violators are subject to a civil penalty of up to \$50.00."

(h) 1. Any establishment that does not consent to enforcement of this Ordinance upon its property shall post a clearly legible sign in one inch Arial font at all public entrances of such entity stating the following: "This establishment does not consent to enforcement of any local face covering requirement upon this property."

2. If an establishment does not post signage described in subparagraph 1 of this paragraph, the establishment shall be conclusively presumed to have consented to enforcement of this Ordinance on its property and failures by individuals to wear facial coverings or masks as required by this Ordinance shall be determined to be violations and enforced as contemplated in paragraph (i).

(i) Violations of Sub-Sections (b), (c) and (d) of this Section 1 may be enforced by a notice of ordinance violation issued by any police officer, code enforcement officer, or other authorized law enforcement official, as provided below:

1. A person who fails to comply with Sub-Sections (b), (c) or (d) of Section 1 of this Ordinance shall be subject to a civil penalty of not more than

\$25.00 on the first offense and not more than \$50 on the second offense and any subsequent offenses.

2. A notice of violation may be served by delivery into the hands of the suspected violator.
3. Notwithstanding the foregoing, every effort shall be made to bring an individual into voluntary compliance with the terms of this Ordinance prior to issuance of any notice of violation, including providing complimentary masks, explaining the importance of wearing facial coverings during this pandemic, and issuing verbal and written warnings.

(j) In all locations where facial coverings or masks are not required to be worn pursuant to this Ordinance, they are strongly encouraged to be worn.

SECTION 2

This Ordinance shall become effective at 8:00 a.m. on August 17, 2021 and remain in effect until 11:59 p.m. on September 27, 2021, or until it is extended, rescinded, or amended by ordinance of the City Commission.

SECTION 3

Should any provision, paragraph, sentence, or word of this Ordinance be rendered or declared invalid by any final court of competent jurisdiction, the remaining provisions, paragraphs, sentences, or words of this Ordinance shall remain in full force and effect.

SECTION 4

Should any ordinance or part thereof be found to conflict with this Ordinance or the provisions thereof, then those sections contained herein shall be deemed controlling.

SO ORDAINED this 16th day of August, 2021.

Patricia M. Barnett

Mayor

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Attest: _____
City Clerk

