

## RESOLUTION #R20-13512

### **RESOLUTION INTRODUCED BY COUNCILOR DALBEC MANDATING THE USE OF FACE COVERINGS IN INDOOR AREAS ACCESSIBLE TO THE PUBLIC AND WHILE RIDING IN ANY PUBLIC BUS OR TAXICAB, UNLESS EXEMPTED, IN THE CITY OF SUPERIOR BEGINNING JULY 27, 2020 AND CONTINUING UNTIL SEPTEMBER 25, 2020, OR THE EXPIRATION OF THE CITY OF SUPERIOR'S EXISTING STATE OF EMERGENCY OR UNTIL ACTION IS TAKEN BY THE COMMON COUNCIL TO RESCIND THIS RESOLUTION.**

WHEREAS, Coronavirus disease 2019 is an infections and dangerous disease for which there is no vaccine and that is currently spreading throughout the world, resulting in more than 12 million cases and more than 550,000 deaths; and

WHEREAS, many individuals with COVID-19 are asymptomatic, yet contagious; and

WHEREAS, wearing a face covering greatly reduces risk of community spread; and

WHEREAS, Essentia Health, St. Luke's, and the Mayo Clinic support the wearing of cloth face coverings in public settings because the proper use of face masks or face coverings helps to reduce the spread of COVID-19 to vulnerable populations; and

WHEREAS reducing the rate of community spread will prevent the overburdening of our local medical personnel, facilities, and equipment; and

WHEREAS, Douglas County Public Health follows the Wisconsin Department of Health Services (WDHS) and Centers for Disease and Prevention (CDC) recommendations and supports the wearing of cloth face masks in public settings; and

WHEREAS, on July 8, 2020, the WDHS recommended that individuals where a cloth face covering when possible in situations where physical distancing is difficult; and

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

WHEREAS, the Wisconsin Economic Development Corporation has encouraged all businesses and facilities to enact and enforce policies to help reduce the spread of COVID-19, including policies to require cloth face coverings; and

WHEREAS, the Retail Industry Leaders Association has asked public leaders to enact mask requirements in retail spaces; and

WHEREAS, many businesses have already required face coverings and others have indicated they would if local or state authorities required them, and

WHEREAS, on May 13, 2020, the Wisconsin Supreme Court struck down Governor Tony Evers' Administration's extended "Safer at Home" Order; and

WHEREAS, to date, the state legislature has not engaged in a successful rule-making process to implement rules designed to combat or slow the spread of the COVID-19 in the State of Wisconsin; and

WHEREAS, the constitutional home rule provision of the Wisconsin Constitution as well as statutory authority for home rule provided in Wis. Stat. sec. 62.11(5) gives our common council the power to act for the health, safety and welfare of the public and to carry out its powers by license, regulation, and other necessary or convenient means; and

WHEREAS, the City of Superior has authority to declare an emergency within its local unit of government under Wis. Stat. sec. 323.11 and is provided with emergency powers and authority under Wis. Stat. sec. 324.14(4) to order, by ordinance or resolution, whatever is necessary and expedient for the health, safety, protection, and welfare of persons within the local unit of government in the emergency; and

WHEREAS, on March 17, 2020, Mayor Paine declared a local emergency under Wis. Stat. 323.11 and 323.14(4) based on the existence and spread of the dangerous and unpredictable coronavirus within the City of Superior, which was unanimously adopted by the common council; and

WHEREAS, on May 19, 2020, Mayor Paine extended the declaration of emergency through December 31, 2020 based on the continued existence and spread of the coronavirus within the City of Superior, which was unanimously adopted by the common council; and

WHEREAS, the City of Superior has recently experienced a significant surge in documented positive cases of COVID-19; and

NOW, THEREFORE, BE IT RESOLVED by the Common Council of the City of Superior that beginning on Monday, July 27<sup>th</sup>, 2020 and continuing until the sooner of the expiration of the City of Superior's existing State of Emergency, action by the Common Council to rescind this resolution, or September 25<sup>th</sup>, 2020 all individuals shall wear a face covering in indoor areas accessible to the public and while riding in any public bus or taxicab, unless exempted, as follows:

- A. **Restaurants and Taverns:** All employees must wear a face covering while working in areas open to the public or handling food, beverage, utensils, or equipment, and all customers except when actively eating or drinking unless otherwise exempted below.
- B. **Retail Businesses:** Employees and customers must wear a face covering at all times unless exempted below
- C. **Public Transportation:** Riders must wear a face covering before boarding a bus and until the rider disembarks
- D. **Gyms, Fitness Centers, and Sports Facilities:** Participants, staff, and spectators are required to wear a face covering at all times when the individual is within six feet of another person
- E. **Entertainment Venue:** Users, guests, customers, and spectators are required to wear a face covering at all times when the individual is within six feet of another person.

BE IT FURTHER RESOLVED that the following individuals, places, and circumstances shall be exempt from this resolution

1. Government facilities not operated or controlled by the City of Superior.
2. Medical or personal care services that require access to the face or mouth
3. Children 5 years of age or younger
4. Individuals actively eating or drinking
5. Individuals temporarily removing their face covering for identification purposes
6. Individuals unable to wear a face covering due to legitimate medical, disability, developmental, or psychological reasons.
7. Individuals speaking to an audience, in person or through broadcast, as long as the speaker remains six feet or more from other individuals
8. Individuals speaking to someone who is deaf or hard of hearing
9. Participants in a sports or performance event, during a period of practice, performance, or competition.
10. Religious activities.
11. Institutions of higher education, public and private kindergarten through twelfth grade schools, and licensed childcare or youth facilities that are following Wisconsin Economic Development Corporation or Wisconsin Department of Children and Families guidelines as applicable.

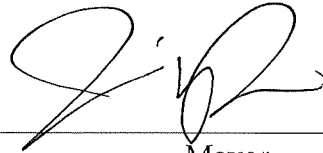
BE IT FURTHER RESOLVED that the definition of a “face covering” shall mean a manufactured or homemade cloth that fully covers an individual’s nose and mouth. The terms “mask” and “face covering” are synonymous.

BE IT FURTHER RESOLVED, to provide consistent language, the City of Superior will make available signage to be posted on the public entrance of interested businesses.

BE IT FINALLY RESOLVED that violation of this resolution is not a criminal offense, however;

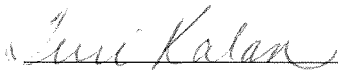
- i. Any individual who fails to comply with this resolution must be asked to leave by an authorized representative of the business or organization. If the individual refuses to leave, this resolution authorizes the enforcement of trespassing statutes and any other ordinances and statutes the individual may violate.
- ii. Compliance with this resolution is a mandatory requirement for any license or economic incentive from the City of Superior and failure to comply shall be grounds for denial, revocation, or rejection of licensure, grants, awards, or other incentives for up to one year from the expiration of this resolution.

Passed and adopted this 21st day of July, 2020



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Mayor

Attest:



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City Clerk