



# DeKalb County Government

Manuel J. Maloof Center  
1300 Commerce Drive  
Decatur, Georgia 30030

## Agenda Item

File ID: FileID

Walk-On Item

7/14/2020

Public Hearing: YES  NO

Department: Board of Commissioners

### **SUBJECT:**

**Commission District(s):** All Commission Districts

Ordinance to require the wearing of a face covering or mask while in public places in DeKalb County, with specified exceptions.

**Information Contact:** Commissioner Mereda Davis Johnson

**Phone Number:** 404-371-2159

### **PURPOSE:**

To increase protection of public safety during the COVID-19 epidemic by requiring wearing of masks in DeKalb County in certain locations where use of masks would be likely to slow the spread of COVID-19.

### **NEED/IMPACT:**

COVID-19 continues to spread in DeKalb County. A mask requirement, with appropriate exceptions, is needed to protect public safety by slowing the spread of COVID-19 in DeKalb County.

### **FISCAL IMPACT:**

unknown

### **RECOMMENDATION:**

Approve the ordinance to require the wearing of a face covering or mask while in public places in DeKalb County, with specified exceptions, for the benefit of public health and safety in DeKalb County.

**AN ORDINANCE TO AMEND THE CODE OF DEKALB COUNTY, GEORGIA AS REVISED 1988, TO AMEND CHAPTER 18, NUISANCES, TO ENACT AN ORDINANCE REQUIRING THE WEARING OF A FACE COVERING OR MASK WHILE IN PUBLIC PLACES, AND FOR OTHER PURPOSES**

**WHEREAS**, the Governing Authority has the power pursuant to the home rule powers of the Georgia Constitution to enact ordinances, rules and regulations that are reasonably necessary to protect the health, safety and welfare of its citizens;

**WHEREAS**, the World Health Organization has indicated that COVID-19 is spread primarily by respiratory droplets expelled when an infected person coughs, sneezes or speaks;

**WHEREAS**, the Director for the Centers for Disease Control, Dr. Robert Redfield, stated it is possible that as many as one in four people who are infected with COVID-19 show no symptoms, and that people who do not experience symptoms can spread COVID-19 to other individuals;

**WHEREAS**, the CDC has stated that people infected with COVID-19 are contagious before they start showing symptoms, and that individuals who are infected can spread the virus to others before the onset of symptoms;

**WHEREAS**, based on evidence that people experiencing no symptoms can spread COVID-19, the CDC recommends that all persons over the age of (2) two years wear face coverings in public and when around people of separate households, particularly when other social distancing measures are difficult to maintain;

**WHEREAS**, Governor Brian Kemp has ordered that “Code Section 16-11-38(b)(4) shall not apply to any person wearing a ‘mask, hood, or device by which any portion of the face is so hidden, concealed, or covered as to conceal the identity of the wearer’ if that person is wearing such device for the purpose of complying with the guidance of any healthcare agency or to prevent the spread of COVID-19.” *See* Executive Order 04.13.20.02;

**WHEREAS**, Governor Kemp has issued an executive order “strongly encouraging” the use of face coverings. *See* Executive Order 04.23.20.02;

**WHEREAS**, the guidelines promulgated by the White House on reopening America specifically call for a 14-day downward trajectory among other gating criteria, which guidelines are specifically incorporated by reference;

**WHEREAS**, the number of cases is growing rapidly and if COVID-19 continues to spread in the County, the number of persons needing medical attention and facilities could exceed available resources and the private and public sector workforce and economy will be negatively impacted;

**WHEREAS**, Yale researchers and scientists recently published a paper estimating “the benefits of each additional cloth mask worn by the public are conservatively in the \$3,000-\$6,000 range due to their impact in slowing the spread of the virus;”<sup>1</sup>

**WHEREAS**, the purpose of face covering is to protect the public from the mask wearer inadvertently spreading the virus. As such, the use of face coverings is a matter of public health, and individuals who do not use such coverings create a public safety hazard by potentially exposing others to the virus, meanwhile gaining the health benefit offered by others who utilize face coverings. Requiring the use of face coverings is therefore necessary to ensure the safety of all persons and to slow the spread of the virus;

**WHEREAS**, the public health crisis in DeKalb County Georgia is ongoing. As of \_\_\_\_\_, 2020, there have been \_\_\_\_\_ deaths and \_\_\_\_\_ confirmed cases in the County. On \_\_\_\_\_ Hospitalizations in DeKalb were \_\_\_\_\_ and on \_\_\_\_\_ hospitalizations now number \_\_\_\_\_; and

**WHEREAS**, this ordinance is authorized and specifically intended to comply with the Governor’s Executive Orders regarding the public health crisis in the State of Georgia;

**NOW, THEREFORE**, be it ordained by the Governing Authority of DeKalb County, Georgia, and it is hereby ordained by the authority of same, that Chapter 18 of the Code of DeKalb County, as Revised 1988, be and the same is hereby amended as follows:

### **PART I. ENACTMENT**

*By amending article VI, to add reserved sections to read as follows:*

**Secs. 18-157 – 18-159. Reserved.**

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*By adding article VII to chapter 18 to read as follows:*

### **ARTICLE VII. MASK WEARING ORDINANCE**

**Sec. 18-600. Purpose.**

**[The County Attorney is directed to insert final whereas clauses set forth above as the purpose into the last draft of this ordinance if and when it is adopted and approved by the governing authority]**

1.

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1 See [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=3567438](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3567438)

**Sec. 18-601. Definitions.**

Words or phrases not defined in this article but defined in applicable state law or the Code of DeKalb County, as Revised 1988, shall be given that meaning. All other words or phrases shall be given their common ordinary meaning unless the context requires otherwise. The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them below except where the text clearly indicates a different meaning:

“*Face Covering*” or “*Mask*” means a fabric which covers the nose and mouth. It can be secured to the head with ties or straps or simply wrapped around the lower face. It can be made of a variety of materials, such as cotton, silk, or linen. A cloth face covering may be factory-made or sewn by hand or can be improvised from household items such as scarves, T-shirts, sweatshirts, or towels.

“*Person*” shall mean an individual and shall also mean any individual associated with a business who has control or authority to enforce the requirements of this article within the business, such as a manager, owner or supervisor. Person also means an employee or designee who is present at the business but does not have the title of manager, supervisor, etc. but has authority and ability to ensure that the requirements of this article are met.

“*Public place*” means any place other than the privately owned or leased location where a person resides or that person’s own personal vehicle. Public place does not mean any facility owned or operated by the state of Georgia or the federal government.

“*Social distance*” means a maintaining a distance of at least six feet from any other person who is not a member of the same household.

**Sec. 18-602. Requirement to wear a Face Covering or Mask.**

- (a) All persons present in the county who are over the age of (8) eight years are required to utilize a face covering or mask which covers the nose and mouth when in any public place, except as exempt as provided in this article.
- (b) No employer shall prohibit an employee from wearing a face covering, except to the limited extent that doing so would prevent the employee from performing an essential job function that cannot be performed while wearing a face covering.
- (c) Nothing in this article shall be construed to prohibit the use of medical or industrial face coverings, shields, or other forms of personal protective equipment which offer more protection than the face coverings otherwise required by this article.
- (e)(d) The County will make available a standard form document that businesses or citizens can post to provide notice of the requirements in this ordinance.

**Sec 18-603. Exemptions.**

- (a) No face covering shall be required:

- (1) during outdoor physical activity, provided the active person maintains a minimum a 6-foot radius from others who are not part of that person's household;
- (2) in personal vehicles;
- (3) if the use of a face covering prohibits effective communication, in which case it may be removed solely to address any immediate need to communicate and replaced thereafter, provided that appropriate social distance is observed during any such communication;
- (4) if a medical provider has advised against the use of a face covering due to an underlying medical issue or because wearing such covering presents a health, safety, or security risk;
- (5) if wearing a face covering causes or aggravates a health condition;
- (6) if wearing a face covering would prevent the receipt of personal services;
- (7) if removal of the face cloth is necessary to treat or examine a person subject to the direction of a medical professional;
- (8) when consuming food or beverages, but the face covering must be used when interacting with others not at the table, like servers;
- (9) if temporary removal of the face cloth is necessary for the purposes of verifying a person's identity for the purposes of law enforcement, purchasing alcohol, tobacco, or prescription drugs;
- (10) if a person is employed and working in their capacity as a governmental professional (i.e. public safety, fire, sanitation), or medical professional and is wearing more protective equipment or is otherwise prohibited from utilizing a face covering by the policy of their employer;
- (11) if an employer consults with an occupational safety and health professional who determines in writing that face coverings are not appropriate for employees, because of heat or other health related or safety concerns (like straps being caught in machinery or standing on a ladder); or
- (12) if wearing a mask poses a greater mental or physical health safety or security risk such as when a person has trouble breathing, is unconscious, is incapacitated, or is unable to remove the face covering without assistance.

**Sec. 18-604. Exemptions for children, childcare establishments and schools.**

- (a) Children two (2) years of age and under should not wear face coverings or mask while in a public place as the mask may pose a risk of choking, strangulation or suffocation to infants and young toddlers. Carriers and strollers with covers that allow the child to breathe comfortably are recommended as safe alternatives.
- (b) Children three (3) to eight (8) years of age are encouraged but not required to wear face coverings. Parents or guardians are responsible for ensuring the proper masking of children over the age of two years when in public places. Parents or guardians must also ensure that the face covering does not pose a health hazard for children and can be worn safely.
- (c) Parents or guardians of children eight (8) years or younger shall exercise their own discretion regarding the wearing of masks by such children.
- (d) All schools, daycares, and other child care establishments shall develop face covering policies and procedures based on guidance from public health authorities, the state department of education and the local board of education. These policies should weigh the

risks and benefits of masks to children, teachers and other employees of such establishments. Parents and guardians should be notified of such policies and procedures. Where the consistent use of face coverings or masks is not possible due to supervision of multiple children, the facility shall adhere to sanitary, hygienic and face covering practices to the maximum extent possible.

- (e) All persons other than teachers, employees and children in such establishments shall abide by the applicable provisions of this article. Teachers, children and employees shall abide by the policies developed by such establishment as delineated in this article.

### **Section 18-605. Enforcement.**

- (a) The provisions of this article may be enforced by authorized county employees, including police officers, code enforcement officers, and/or inspectors.
- (b) No person shall be arrested for a violation of this article.
- (c) Any person who does anything prohibited or fails to do anything required by this article, upon citation by an authorized county employee, and conviction of the ordinance violation in a court of competent jurisdiction, shall be subject to a fine as follows:
- (1) Upon a first violation, every person shall be given a written warning.
  - (2) After issuance of the written warning, a person who violates the terms of this article shall be subject to a fine not to exceed two hundred and fifty (250) dollars.
- (d) In addition to the fines imposed by this article, repeated violations of this article by a person who owns, manages, operates, or otherwise controls a business subject to this article, may be declared a public nuisance which may be abated by the County and may be subject to all other legal or equitable actions by the county to enforce compliance with this article. Each day of a continuing violation of this article shall be considered a separate and distinct offense.

### **PART II. EFFECTIVE DATE**

This ordinance shall become effective on at \_\_\_\_\_ am/pm on \_\_\_\_\_ if adopted by the Board of Commissioners and approved by the Chief Executive Officer. This ordinance shall stand repealed at 11:59 p.m. on \_\_\_\_\_ without further official action by the governing authority. If this ordinance is to remain in effect, the governing authority by official action shall adopt and approve new effective dates for this ordinance prior to its automatic repeal.

### **PART III. SEVERABILITY**

Should any section or provision of this ordinance be declared by a court of competent jurisdiction to be invalid or unconstitutional, such decision shall not affect the validity of the ordinance as a whole, nor any part thereof, other than the part so declared to be invalid or

unconstitutional. All ordinances or resolutions, or parts thereof, in conflict with this ordinance are repealed.

**ADOPTED** by the DeKalb County Board of Commissioners, this \_\_\_\_ day of \_\_\_\_\_, 2020.

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**STEPHEN R. BRADSHAW**  
Presiding Officer  
Board of Commissioners  
DeKalb County, Georgia

**APPROVED** by the Chief Executive Officer of DeKalb County, this \_\_\_\_ day of \_\_\_\_\_, 2020.

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**MICHAEL L. THURMOND**  
Chief Executive Officer  
DeKalb County, Georgia

**ATTEST:**

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BARBARA H. SANDERS-NORWOOD, CCC  
Clerk to the Board of Commissioners and  
Chief Executive Officer  
DeKalb County, Georgia

**APPROVED AS TO SUBSTANCE:**

**APPROVED AS TO FORM:**

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(DEPARTMENT HEAD'S NAME)  
(Department Head's Title)  
DeKalb County, Georgia

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VIVIANE H. ERNSTES  
County Attorney  
DeKalb County, Georgia