

WINNEBAGO COUNTY HEALTH DEPARTMENT
GENERAL FACE COVERINGS ORDER

WHEREAS, this General Order is advisory only until reviewed and reaffirmed or revised and affirmed by a majority of the Winnebago County Board of Supervisors at its next regularly-scheduled meeting date or within 14 days, whichever is earlier.

WHEREAS, Winnebago County has been in the midst of a pandemic since March 2020. Data provided by the Wisconsin Department of Health Services shows that the number of cases in Winnebago County as of February 12, 2021, surpassed 16,792 confirmed cases with a current biweekly confirmed case rate of 190.1 cases per 100,000 from January 27, 2021 – February 9, 2021. These numbers indicate a "high" burden threshold established by the Wisconsin Department of Health Services (<https://www.dhs.wisconsin.gov/covid-19/disease.htm>); and

WHEREAS, the Centers for Disease Control and Prevention (CDC), World Health Organization (WHO), Wisconsin Department of Health Services (DHS), and the Winnebago County Health Department recommend the use of facial coverings as an effective measure to address the rising number of cases and limit exposure to the COVID-19 virus; and

WHEREAS, the CDC Director has stated "[c]loth face coverings are one of the most powerful weapons we have to slow and stop the spread of the virus – particularly when used universally within a community setting. All Americans have a responsibility to protect themselves, their families, and their communities"; and

WHEREAS, as a novel disease with no certain immunity and limited vaccination availability, the entire population is at risk; and

WHEREAS, many individuals with COVID-19 may be asymptomatic or may experience a delayed onset of symptoms, during which time such individuals may transmit the virus unknowingly to others; and

WHEREAS, wearing a cloth face covering over both the nose and mouth greatly reduces the risk of continued community spread of COVID-19 without having a significant impact on people's day-to-day lives; and

WHEREAS, the CDC's information on the use of cloth face coverings to prevent the spread of COVID-19 includes the following:

1. Studies have shown that wearing a cloth face covering can prevent the spread of COVID-19.
2. Cloth face coverings are most likely to reduce the spread of COVID-19 when they are widely used by most people in public settings.

3. Cloth face coverings should not be worn by children under the age of 2 years old or by anyone who has trouble breathing, or is unconscious, incapacitated, or otherwise unable to remove their own face covering without assistance.; and

WHEREAS, the CDC Director Robert Redfield on Wednesday, September 16, 2020 reaffirmed the importance of wearing masks, noting that while a facial covering may not offer total protection it is guaranteed to offer at least some protection and that “we have clear scientific evidence they (facial coverings) work”; and

WHEREAS, effective August 1, 2020, the State of Wisconsin Emergency Order #1 relating to preventing the spread of COVID-19 by requiring face coverings in certain situations was issued by the Office of the Governor and was scheduled to expire on September 28, 2020; and

WHEREAS, effective September 22, 2020, the State of Wisconsin Emergency Order #1 relating to preventing the spread of COVID-19 by requiring face coverings in certain situations was issued by the Office of the Governor and was scheduled to expire on November 21, 2020; and

WHEREAS, effective November 20, 2020, the State of Wisconsin Emergency Order #1 relating to preventing the spread of COVID-19 by requiring face coverings in certain situations was issued by the Office of the Governor and was scheduled to expire on January 19, 2021; and

WHEREAS, State of Wisconsin Emergency Order #1 relating to preventing the spread of COVID-19 by requiring face coverings in certain situations issued by the Office of the Governor on January 19, 2021, was overturned by the Wisconsin State Legislature; and

WHEREAS, over the past several weeks, the Wisconsin State Legislature and Governor have gone back and forth with measures at the state level related to the statewide mask mandate and other COVID provisions. The statewide mask mandate is currently in effect, the Governor having issued a new emergency declaration and mask mandate within hours of the Wisconsin State Legislature overturning the previous emergency declaration and mask mandate on February 4, 2021; and

WHEREAS, it is essential to use all available tools as is reasonable and necessary to minimize the transmission of COVID-19; and

WHEREAS, Winnebago County has an interest in protecting the public health, safety, and welfare of all people in Winnebago County from the continued spread of COVID-19 throughout the community; and

WHEREAS, COVID-19 is not only a threat to our public health but also to our economy; and

WHEREAS, the widespread use of face coverings will slow the spread of COVID-19, allowing Wisconsin's economy to move forward by making sure businesses can stay open and create job opportunities; and

WHEREAS, requiring face coverings to be worn by any person in a public place within Winnebago County directly serves that interest by avoiding and/or reducing the further spread of COVID-19 and minimizing the strain on healthcare resources while simultaneously enabling the continuation of essential services, businesses, and social and commercial life during the state of emergency; and

WHEREAS, based upon information and input from federal, state, and local public health officials Winnebago County hereby determines that a face covering requirement is necessary to protect persons within Winnebago County; and

WHEREAS, Winnebago County intends to seek voluntary compliance from all individuals concerning the wearing of face coverings, but may impose civil penalties where voluntary compliance is not followed; and

WHEREAS, without measures to slow the spread of COVID-19, Winnebago County will suffer from more unnecessary illness, vulnerability from an overwhelmed health care system, and insecurity from an unstable economy; and

WHEREAS, the average number of hospitalized COVID-19 patients per day in our region is 43 for the past 28 days (January 14 – February 11); and

WHEREAS, pursuant to Wis. Stat. § 252.03, the local health officer: (i) shall take all measures necessary to prevent, suppress and control communicable diseases; (ii) may do what is reasonable and necessary for the prevention and suppression of disease; and (iii) may forbid public gatherings when deemed necessary to control outbreaks or epidemics; and

WHEREAS, the Local Health Officer deems the issuance of this Order and the measures described herein to be reasonable and necessary to prevent, suppress and control the spread of COVID-19 in Winnebago County; and

WHEREAS, pursuant to Wis. Admin. Code ch. DHS 145.06(6) the local health officer has authority to “direct persons who own or supervise real or physical property..., which present a threat of transmission of any communicable disease...to do what is reasonable and necessary to abate the threat of transmission”; and

NOW THEREFORE, I, Douglas Gieryn, Local Health Officer for the Winnebago County Health Department, by the authority vested in me by the Laws of the State, including but not limited to Wis. Stat. Section 252.03, Wis. Stat. Section 66, DHS 145.05 and DHS 145.06, Wis. Admin. Code, and Winnebago County General Code 11.08 and 25.04, order the following:

(1) **FACE COVERINGS REQUIRED.** Every individual, age five and older, under Winnebago County Health Department jurisdiction shall wear a face covering if both of the following apply:

- (a) The individual is indoors or in an enclosed space, other than at a private residence; and
- (b) Another person or persons who are not members of individual's household or living unit are present in the same room or enclosed space.

Face coverings are strongly recommended in all other settings, including outdoors when it is not possible to maintain physical distancing.

(2) **DEFINITIONS.**

(a) "Face covering" means a piece of cloth or other material that is worn to covers a person's nose and mouth completely. A "face covering" includes but is not limited to a bandana, a cloth face mask, a disposable or paper mask, a neck gaiter, or a religious face covering. A "face covering" does not include face shields, mesh masks, masks with holes or openings, or masks with vents.

(b) "Enclosed Space" means a confined space open to the public where individuals congregate, including but not limited to outdoor bars, outdoor restaurants, taxis, public transit, ride-share vehicles, and outdoor park structures, but does not include any private residence.

(c) "Physical distancing" means maintaining at least six feet of distance from other individuals who are not members of your household or living unit.

(3) **EXCEPTIONS:**

(a) Temporary Removal of Face Covering Authorized.

Individuals may temporarily remove their face covering under the following circumstances:

1. While eating or drinking.
2. When communicating with an individual who is deaf or hard of hearing and communication cannot be achieved through other means.
3. While obtaining a service that requires the temporary removal of the face covering, such as dental services.
4. While sleeping.
5. While swimming or on duty as a lifeguard
6. While a single individual is giving a religious, political, media, educational, artistic, cultural, musical, or theatrical presentation for an audience, the single speaker may remove the face covering when actively speaking. While the face covering is removed, the speaker must remain at least 6 feet away from all other individuals at all times.
7. When engaging in work where wearing a face covering would create a risk to the individual, as determined by government safety guidelines.
8. When necessary to confirm the individual's identity including when entering a bank, credit union, or other financial institution.
9. When federal or state law or regulations prohibit wearing a face covering.

(b) Exemptions.

In accordance with [CDC guidance](#), the following individuals are exempt from the Face Covering requirement:

1. Children between the ages of 2 and 5 are encouraged to wear a mask when physical distancing is not possible, but it is not required. The CDC does not recommend masks for children under the age of 2.
 2. Individuals who have trouble breathing.
 3. Individuals who are unconscious, incapacitated or otherwise unable to remove the face covering without assistance.
 4. Individuals with medical conditions, intellectual or developmental disabilities, mental health conditions or sensory sensitivities that prevent the individual from wearing a Face Covering.
 5. Incarcerated individuals; these individuals may be required to wear a face covering pursuant to local law enforcement protocols.
- (c) State Facilities or Offices under the control of the Wisconsin State Legislature or the Wisconsin Supreme Court. The Wisconsin State Legislature or the Wisconsin Supreme Court may establish guidelines for face coverings that are consistent with the specific needs of their respective branches of government.

(4) **PRESERVATION OF MEDICAL SUPPLIES.** To conserve limited supplies of N95 masks and other medical-grade supplies, individuals are discouraged from using such supplies as face coverings.

(5) **AUTHORITY:** The authority for this Order is Chapter 252, Wis. Stats.; §§66.0113 and 66.0119, Wis. Stats., §251.06(3), Wis. Stats., DHS 145.05 and 145.06, Wis. Admin. Code, and Winnebago County General Code 11.08 and 25.04, which are incorporated herein by reference as if fully set forth at length.

(6) **ENFORCEMENT:**

(a) Written Order: When a violation of this Order is encountered, the Winnebago County Health Officer or his/her designees may issue a written order to the violator in accordance with DHS 145.05 and 145.06, Wis. Admin. Code. This Order shall specify the following:

1. The nature of the violation and the steps needed to abate and/or correct the violation.
2. The time period in which the violation must be corrected and/or abated (usually 1 to 5 days or 10 to 30 days depending on the nature of the violation).
3. The penalty or penalties the violator will be subject to if the apparent violation is not abated and/or corrected within the given time period.

(b) Exceptions to Written Order: In cases where a violation poses an immediate human health threat as determined by the Winnebago County Health Officer or his/her designee, or in the case of repeated occurrences of the same violation by the same persons, actions specified in Paragraph 7, Violations and Penalties, below may be initiated immediately in accordance with Chapter 252, Wis. Stats.; §§66.0113 and 66.0119, Wis. Stats., DHS 145.06, Wis. Admin. Code, and Winnebago County General Code 11.08 and 25.04.

(7) VIOLATIONS AND PENALTIES:

(a) Any person who violates or obstructs this Order of the Winnebago County Health Officer is subject to the following:

1. The issuance of a citation pursuant to Winnebago County General Code 11.08 and 25.04, §66.0113, Wis. Stats, and §252.25, Wis. Stats. A citation hereunder may be issued by the Winnebago County Health Officer or Winnebago County Health Department jurisdiction law enforcement officers. Any citation arising from enforcement on this Ordinance will utilize the Uniform Citation form set forth in §66.0113, Wis Stats., (See Appendix E, B, and A).
2. A minimum forfeiture of \$100 to a maximum forfeiture of \$500 for each violation together with the costs of prosecution. (See Section 11.08 and 25.04 of the General Code of Winnebago County and §252.25, Wis. Stats.)
3. The issuance of a summons and complaint, and entry of a civil judgment for a forfeiture and injunctive (temporary and/or permanent) relief.
4. Suspension of any license or permit issued by the Winnebago County Health Department.

(b) A separate offense shall be deemed committed each day during or on which a violation occurs or continues.

(c) Proceeding under any other ordinance or law relating to the same or any other matter shall not preclude enforcement under this Order.

(8) DURATION: This General Order is advisory only until reviewed and reaffirmed or revised and affirmed by a majority of the Winnebago County Board of Supervisors at its next regularly-scheduled meeting date or within 14 days, whichever is earlier. This General Order is in place only at such time as the State mandate is overturned and/or expires without replacement and is in effect for a maximum duration of 60 days unless otherwise authorized by the County Board but no later than June 30, 2021. Unless specifically and/or explicitly repealed, superseded, or otherwise invalidated by action of the United States Congress, State of Wisconsin, or other entity, this Order shall be superseded only by legislation at least as restrictive as this order and only for the duration of the superseding legislation but shall not be repealed and shall automatically become reactivated upon termination of the superseding legislation without further action of the Winnebago County Board of Supervisors being required.



Douglas Gieryn
Health Officer, Winnebago County

02/16/2021
Date