



**NOTICE OF SPECIAL MEETING
OF THE
COMMON COUNCIL
Wednesday, April 14, 2021
6:30 p.m. or Immediately Following Committee of the Whole
Council Chambers
Hybrid Virtual/In Person Meeting**

Due to the Public Health Emergency caused by the COVID-19 Pandemic, this meeting will occur both virtually and in person in Council Chambers at City Hall. The virtual meeting can be accessed by the below link or conference call. Committee members and the public should use the following information:

Link: <https://global.gotomeeting.com/join/216197333>

OR

Conference Telephone Number (AUDIO ONLY): 1-408-650-3123

Access Code: 216-197-333

- **Members of the public who join the meeting will be asked for their name and address and whether they wish to speak during the Public Forum.**
- **The web link or conference call-in number may be accessed from any location.**

- I. Roll Call and Pledge of Allegiance.
- II. Public Appearances
- III. Ordinance 2021-08 Creating an Ordinance to Create a Temporary Mask Order within the City of Neenah due to the COVID-19 Pandemic **(Roll Call)**
- IV. Any other such business as may legally come before the Council.
- V. Adjournment.

In accordance with the requirements of Title II of the Americans with Disabilities Act (ADA), the City of Neenah will not discriminate against qualified individuals with disabilities on the basis of disability in its services, programs, or activities. If you need assistance, or reasonable accommodation in participating in this meeting or event due to a disability as defined under the ADA, please call the Clerk's Office (920) 886-6100 or the **City's ADA Coordinator at (920) 886-6106 or e-mail attorney@ci.Neenah.wi.us** at least 48 hours prior to the scheduled meeting or event to request an accommodation.



211 Walnut Street
Neenah, WI 54956

AN ORDINANCE: Moved by Alderperson Steele
Re: Creating an Ordinance to Create a
Temporary Mask Order within the City of
Neenah due to the COVID-19 Pandemic

ORDINANCE NO. 2021-08
Introduced: April 7, 2021
Committee/Commission Action:

AN ORDINANCE

WHEREAS, on March 13, 2020, the Mayor of the City of Neenah declared a public health emergency in the City of Neenah as a result of COVID-19; and

WHEREAS, the Common Council of the City of Neenah ratified said proclamation on March 18, 2020 pursuant to Wis. Stat. §323.14; and

WHEREAS, the City of Neenah has broad authority to act for the health, safety and welfare of its citizens and others within its boundaries under Chapters 62, 64 and 66 of the Wisconsin Statutes and in particular Sections 62.04 and 62.11(5) of the Wisconsin Statutes; and

WHEREAS, the emergency power granted to governing bodies by Wis. Stat. § 323.14(4)(a) includes the general authority to order, by ordinance or resolution, whatever is necessary and expedient for the health, safety, protection, and welfare of persons and property within the local unit of government in the emergency; and

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

WHEREAS, wearing a cloth face covering over both the nose and the mouth greatly reduces the risk of continued community spread of COVID-19; and

WHEREAS, the Center for Disease Control and Prevention (CDC) recommends the use of cloth face coverings to prevent the spread of COVID-19 for all people 2 years of age and older in public settings and when around people who do not live in their household, especially when other social distancing measures are difficult to maintain; and

WHEREAS, despite the progress and the development of vaccines, the COVID-19 virus continues to spread within the community and new and variant strains of the virus have developed which may be more contagious and spread more easily; and

WHEREAS, Studies have shown that wearing a cloth face covering can prevent the spread of COVID-19; and

WHEREAS, a Scientific Brief: Community Use of Cloth Masks to Control the Spread of SARS-CoV-2 (<https://www.cdc.gov/coronavirus/2019-ncov/more/masking-science-sars-cov2.html>) published by the Centers for Disease Control and Prevention (CDC) concludes: "Experimental and epidemiological data support community masking to reduce the spread of SARS-CoV-2. The prevention benefit of masking is derived from the combination of source control and personal protection for the mask wearer. The relationship between source control and personal protection is likely complementary and possibly synergistic, so that individual benefit increases with increasing community mask use. Adopting universal masking policies can help avert future lockdowns, especially if combined with other non-pharmaceutical interventions such as social distancing, hand hygiene, and adequate ventilation"; and

WHEREAS, the City of Neenah has an interest in protecting the public health, safety, and welfare of the citizens of Neenah from the continued spread of COVID-19 throughout the community; and

WHEREAS, an ordinance requiring face coverings to be worn by any person in a public place within the City of Neenah directly serves that interest by avoiding and/or reducing the further spread of COVID-19 and minimizing the strain on health care resources, while 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 the City of Neenah hereby determines that a face covering requirement is necessary to protect persons within the City of Neenah; and

WHEREAS, the Wisconsin Supreme Court overturned the Statewide Mask Mandate and there is no County Mandate in effect currently, and possibly for the remaining duration of the COVID-19 pandemic.

The Common Council of the City of Neenah, Wisconsin, do ordain as follows:

SECTION 1. City of Neenah Temporary Ordinance: Face Coverings Required, is hereby created to read as follows:

FACE COVERINGS REQUIRED

(A) Within Buildings and other Enclosed Spaces.

Except as otherwise specifically provided below, every person age five (5) years and older who is present in any Enclosed Space Accessible to the Public shall wear a Face Covering that completely covers their nose and mouth when another person or persons who are not members of the individual's household or living unit are present in the same room or enclosed space.

Property owners, businesses, organizations or other entities owning or controlling Enclosed Space Accessible to the Public shall require every person age five (5) years and older who is present in areas subject to this ordinance to wear a Face Covering that covers their nose and mouth when another person or persons who are not members of the individual's household or living unit are present in the same room or enclosed space.

(B) In or on Public Transportation or In Transit Facilities.

Except as otherwise specifically provided below, every person age five (5) years and older who is driving or riding in or on Public Transportation shall wear a Face Covering that covers their nose and mouth. Owners and/or operators of any vehicle offered for Public Transportation shall require every person age five (5) years and older to wear a Face Covering that covers their nose and mouth while in or on Public Transportation.

(At the time of adoption of this ordinance. Public Transportation is covered by an order issued by the Centers for Disease Control and Prevention effective February 1, 2021 requiring persons age two (2) years and older to wear a face mask that completely covers both the nose and mouth while awaiting, boarding, disembarking, and traveling on public transportation and while at public transportation facilities or bus stops.)

(C) Definitions

For purposes of this ordinance the following definitions shall apply:

"Face Covering" means a manufactured or homemade covering of cloth or other material that completely covers a person's nose and mouth and that is secure and remains affixed in place without the use of one's hands. Face Coverings shall be secured with ear straps or otherwise tied so as to prevent slipping, fanning up or gaps in coverage. Face Coverings include, but are not limited to, bandanas, medical masks, cloth masks, disposable or paper masks, and scarves, provided that they are worn in such a way that completely and securely cover the person's nose and mouth. Face Covering does not include mesh coverings or coverings with holes, exhalation valves/vents or openings.

"Enclosed Space Accessible to the Public" means any interior area of any structure or premises open to or used in whole or in part by the public, and to which the public customarily has access, but does not include any private residence.

"Public Transportation" means public transportation under contract with a private contractor; taxis; ride-sharing vehicles; or any other vehicle for hire.

(D) Exceptions

1. Governmental Facilities.

This ordinance shall not apply in governmental facilities owned or operated by United States of America, State of Wisconsin, University of Wisconsin and Fox Valley Technical College, Winnebago County, and Neenah Joint School District facilities.

2. Public Transportation.

This ordinance shall not apply in or upon Public Transportation or Public Transportation Facilities which are subject to a current order issued from the State or Federal Government.

(At the time of adoption of this ordinance. Public Transportation is covered by an order issued by the Centers for Disease Control and Prevention effective February 1, 2021 requiring persons age two (2) years and older to wear a face mask that completely covers both the nose and mouth while awaiting, boarding, disembarking, and traveling on public transportation and while at public transportation facilities or bus stops.)

(E) Temporary Removal of Masks Authorized.

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

1. While eating, drinking, or sleeping
2. When communicating with an individual who is deaf or hard of hearing and communication cannot be achieved through other means
3. When, to the extent necessary, a Face Covering must be removed in order to receive services (for example certain medical and dental services)
4. When necessary to confirm the individual's identity
5. When federal or state law or regulations prohibit wearing a face covering

(F) Exemptions.

The following persons are exempt from the requirement to wear a Face Covering:

1. Persons who are having difficulty breathing, unconscious, incapacitated or otherwise unable to remove the face covering without assistance
2. Persons who have chronic upper-respiratory conditions
3. Persons within work settings where a Face Covering would create a risk to the person related to their work as determined by government regulation
4. Persons with medical conditions, intellectual or developmental disabilities, mental health conditions or sensory sensitivities that prevent or impair the person's ability to wear a Face Covering
5. Persons engaged in exercising at a gym or other indoor facility so long as separation is at least 6 feet and the individual wears a Face Covering when not actively engaged in exercising

6. Persons engaged in sporting competitions or practices at a gym or other indoor facility so long as the individual wears a Face Covering when not actively engaged in the competition or practice

7. 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

(G) Non-Compliance

Any property owner, business, organization or entity that fails to comply with this ordinance shall be referred to the Winnebago County Department of Health. Owners, businesses, organizations and other entities are encouraged to offer accommodations for those persons wishing to receive goods or services but who are unable or unwilling to abide by the requirements of this ordinance within buildings open to and accessible by the general public such as online ordering, drive thru services, pickup and delivery.

Any person who fails to comply with this ordinance may be asked to leave by any property owner, business, organization or entity. Persons refusing to leave when asked may be subject to citation for trespass or other applicable law or regulation based upon their conduct.

(H) Effective Date / Duration

This ordinance shall take effect upon passage and publication and shall remain in effect until *May 31, 2021* or until termination of the state of emergency in the City of Neenah as a result of COVID-19 declared by Proclamation 2020-01 , whichever is earlier; unless extended or earlier terminated or modified by the Neenah Common Council or by passage of regulations by the United States Congress, State of Wisconsin or other entity with authority to supersede this ordinance which explicitly repeals or invalidates this ordinance, in which case this ordinance shall automatically repeal upon the superseding authority becoming effective with no further action required.

In the case of regulations by the United States Congress, State of Wisconsin or other entity with authority to supersede this ordinance which do not specifically and/or explicitly repeal or invalidate this ordinance, this ordinance shall remain in effect until the date specified above, unless extended or earlier terminated by action of the Common Council. It is the intention of the Common Council that unless specifically and/or explicitly repealed, superseded or otherwise invalidated by the action of the United States Congress, State of Wisconsin or other entity, that this ordinance shall be superseded only by legislation at least as restrictive as this ordinance and only for the duration of the superseding legislation, but shall not be repealed and shall automatically become effective upon termination of the superseding legislation without further action of the Council being required.

Section 2. Severability. In the event any section, subsection, clause, phrase or portion of this ordinance is for any reason held illegal, invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remainder of this ordinance. It is the legislative intent of the Common Council that this ordinance would have been adopted if such illegal provision had not been included or any illegal application had not been made.

Section 3. Suspension of Conflicting Provisions of Municipal Code. All ordinances or parts of ordinances and resolutions in conflict herewith are hereby suspended during the effective period of this Ordinance. All provisions of the City Ordinances, Council Rules and General Rules of Order not specifically altered by these temporary rules shall remain in effect.

Section 4. No codification. Due to the temporary nature of this Ordinance, it shall not be codified in the Neenah Code of Ordinances.

Section 5. Effective and Sunset Dates. This ordinance shall take effect immediately and shall automatically repeal on May 31, 2021 or at the termination of the Health Emergency.

Approved:

Moved by: _____

Dean R. Kaufert, Mayor

Adopted: _____

Attest:

Published: _____

Stephanie A. Cheslock, City Clerk

THIS INSTRUMENT WAS DRAFTED BY:
City Attorney Adam James Westbrook
211 Walnut Street
Neenah, WI 54956
State Bar No. 1098651