

**AN ORDINANCE OF THE NEWTON COUNTY BOARD OF COMMISSIONERS
AMENDING CHAPTER 31, GENERAL OFFENSES, TO ENACT AN ORDINANCE
ADDRESSING THE WEARING OF A FACE COVERING OR MASK WHILE IN
PUBLIC PLACES, AND FOR OTHER PURPOSES.**

**THE BOARD OF COMMISSIONERS OF NEWTON COUNTY HEREBY
ORDAINS THAT:**

WHEREAS, the Constitution of the State of Georgia, approved by the voters of the State in November of 1982, and effective July 1, 1983, provides in Article IX, Section II, Paragraph I thereof, that the governing authority of the County may adopt clearly reasonable ordinances, resolutions and regulations; and

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; and

WHEREAS, the Centers for Disease Control (CDC) have advised 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; and,

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; and,

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; and,

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; and,

WHEREAS, Governor Brian Kemp has ordered that "[O.C.G.A. §] 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; and,

WHEREAS, Governor Kemp has issued an executive order "strongly encouraging" the use of face coverings. See Executive Order 07.15.20.01; and,

WHEREAS, on August 15, 2020, Governor Kemp issued an executive order permitting any local government to impose a “Local Option Face Covering Requirement” in a county that meets the “Threshold Requirement” of more than 100 confirmed COVID-19 cases per 100,000 people, based on Georgia Department of Public Health data for the previous fourteen days. See Executive Order 08.15.20.01; and,

WHEREAS, based on the Department of Public Health’s Daily Status Report (<https://dph.georgia.gov/covid-19-daily-status-report>), last accessed on August 17, 2020, Newton County had 1,813.91 cases per 100,000 people, significantly above the “Threshold Requirement”; and,

WHEREAS, the Board of Commissioners desires to impose a Local Option Face Covering Requirement to reduce the rate of community spread of COVID-19, reduce the number of persons suffering fatalities and serious illness, increase the speed at which local schools can reopen, reduce the burden on local health systems, and reduce negative impacts on the private and public sector workforce and economy; 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:

1. Chapter 31 of the Newton County Code of Ordinances is hereby amended by the addition of a new Section 31-112, consisting of the following language:

A. Definitions. The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

1. *Face Covering* or *Mask* means a fabric that entirely covers the nostrils and mouth using a continuous piece of material with no apparent holes (i.e., with no holes larger than would be found in an ordinary piece of cloth such as a bandana). 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.
2. *Person* shall mean an individual.
3. *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.
4. *Social Distance* means maintaining a distance of at least six feet from any other person who is not a member of the same household (such as cohabitating persons,

family units, or roommates residing together in private homes).

B. Requirement to Wear a Face Covering or Mask.

1. All persons present in unincorporated Newton County, who are over the age of eight (8) years old, are required to utilize a face covering or mask when in any public place, except as exempted herein.
2. Nothing in this section 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 section.

C. Exemptions. No face coverings shall be required:

1. When Social Distancing is both possible and being actively practiced;
2. In personal vehicles;
3. On residential property;
4. On private property where the owner or legal occupant of the property does not consent to enforcement of this Ordinance (there shall be a presumption of consent to enforcement unless the owner/occupant affirmatively indicates otherwise);
5. 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;
6. To the extent removal of the covering is necessary to receive personal services (e.g. haircuts or makeup);
7. To the extent removal of a covering is necessary to treat or examine a person subject to the direction of a medical professional;
8. When consuming food or beverages; however, a face covering shall be required when interacting with others who are not at an individual's immediate table (i.e. fellow patrons, servers, staff, etc.);
9. To the extent 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;
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 or put on the face covering without assistance;
13. If an individual has a bona fide conscientious objection to the wearing of a face

- covering based upon health, ethical, or religious reasons; or
14. At any Polling Place, as defined under O.C.G.A. § 21-2-2(27), and no individual shall be denied ingress or egress to or from a Polling Place for failure to wear a face covering or face mask.

D. Exemptions for children, childcare establishments, and schools.

1. Parents or guardians of children eight (8) years or younger may exercise their own discretion regarding the wearing of masks by such children.
2. All schools, daycares, and other child care establishments should 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. Enforcement.

1. The provisions of this section may be enforced by authorized Newton County employees, including Newton County Sheriff's Office and/or code enforcement officers.
2. No person shall be arrested for a violation of this section.
3. Enforcement measures may only be taken against individuals. Owners, directors, officers, or agents of any business, establishment, corporation, non-profit corporation, or organization may not be held liable for the failure of their customers to comply with any Local Option Face Covering Requirement. This section shall not give rise to any fines, fees, penalties (criminal or otherwise) or other cause of action against any private business, establishment, corporation, non-profit corporation, or organization.
4. Any person who violates the provisions of this section, upon citation by an authorized county employee and conviction of the ordinance violation in a court of competent jurisdiction, shall be subject to the following:
 - a. Upon a first violation, every person shall be given a written warning, which shall include a warning about the health risks posed by not wearing a face mask or face covering.
 - b. After issuance of the written warning, a person who later violates the terms and provisions of this section shall be subject to a fine of up to fifty dollars

(\$50.00) per person per offense. No violation shall be punishable by imprisonment for any term.

- c. A person who is found in violation of this section and who cannot afford a face mask or face covering shall be provided one at the County's expense.

- 2. All other conflicting ordinances and resolutions are hereby repealed.
- 3. This Ordinance is intended to be interpreted, to the maximum extent possible, to be consistent with Governor Kemp's August 15, 2020, executive order.
- 4. The sections, paragraphs, sentences, clauses and phrases of this Ordinance are severable and if any phrase, clause sentence, paragraph, or section of this Ordinance shall be declared unconstitutional or otherwise invalid by a court of competent jurisdiction such unconstitutionality or invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this Ordinance.
- 5. This Ordinance shall become effective at the beginning of the day (12:00 a.m.) on August 20, 2020. This Ordinance shall stand repealed without further official action by the Newton County Board of Commissioners upon the earlier of: (a) 11:59pm on October 31, 2020; or (b) the expiration and nonrenewal of the Governor's executive order permitting Local Option Face Covering Requirements, which date shall be 11:59 p.m. on August 31, 2020, absent renewal of the executive order.

Adopted and approved by the Board of Commissioners this 18th day of August, 2020.

NEWTON COUNTY BOARD OF COMMISSIONERS

Marcello Banes, Chairman

Jackie Smith, County Clerk