



## OFFICE OF THE GOVERNOR

### EMERGENCY ORDER #1

#### Relating to Requiring Face Coverings

**WHEREAS**, Wisconsin is in the midst of a pandemic that is growing at a near-exponential rate, causing illness and death that is devastating Wisconsin families, straining our health care system, and crippling our economy;

**WHEREAS**, the only way Wisconsinites can stay safe, save our health care system, and revitalize our economy is to slow the spread of COVID-19;

**WHEREAS**, without a vaccine or more effective means of treating the disease, the only tools we have to slow the spread of the disease is to stay apart and wear a mask when we cannot stay apart;

**WHEREAS**, college and university students are driving the increase in cases, with the highest rate of new COVID-19 cases in 18-24 year-olds;

**WHEREAS**, face coverings are a proven, effective way to slow the spread of COVID-19 without having a significant impact on people's day-to-day lives;

**WHEREAS**, without measures to slow the spread of COVID-19, especially among the college-age population, Wisconsin and Wisconsinites will suffer from more unnecessary illness, vulnerability from an overwhelmed health care system, and insecurity from an unstable economy;

**WHEREAS**, "Our Constitution principally entrusts '[t]he safety and the health of the people' to the politically accountable officials of the States 'to guard and protect.'" *S. Bay United Pentecostal Church v Newsom*, 140 S. Ct. 1613, (Mem)-1614 (2020) (quoting *Jacobson v. Massachusetts*, 197 U.S. 11, 38 (1905));

**WHEREAS**, Section 323.12(4)(b) of the Wisconsin Statutes authorizes the Governor to issue "such orders as he or she deems necessary for the security of persons and property" during an emergency; and

**WHEREAS**, based on input from state and local public health officials, medical professionals, and business leaders, I have determined that a statewide face covering requirement is necessary to protect persons throughout

- b. "Face covering" means a piece of cloth or other material that is worn to cover the 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.
- c. "Physical distancing" means maintaining at least six feet of distance from other individuals who are not members of your household or living unit.

**2. FACE COVERING REQUIRED.** Every individual, age five and older, in Wisconsin 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.

**3. EXCEPTIONS.**

- a. Individuals who are otherwise required to wear a face covering may remove the face covering in the following situations:
  - i. While eating or drinking.
  - ii. When communicating with an individual who is deaf or hard of hearing and communication cannot be achieved through other means.
  - iii. While obtaining a service that requires the temporary removal of the face covering, such as dental services.
  - iv. While sleeping.
  - v. While swimming or on duty as a lifeguard.
  - vi. 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.
  - vii. When engaging in work where wearing a face covering would create a risk to the individual, as determined by government safety guidelines.

- i. Children between the ages of 2 and 5 are encouraged to wear a mask when physical distancing is not possible. The CDC does not recommend masks for children under the age of 2.
- ii. Individuals who have trouble breathing.
- iii. Individuals who are unconscious, incapacitated, or otherwise unable to remove the face covering without assistance.
- iv. Individuals with medical conditions, intellectual or developmental disabilities, mental health conditions, or other sensory sensitivities that prevent the individual from wearing a face covering.
- v. Incarcerated individuals. The Wisconsin Department of Corrections shall continue to comply with COVID-19 protocols to ensure the health and safety of its staff and individuals in its care. Local governments are strongly encouraged to continue or create COVID-19 protocols to ensure the health and safety of their staff and individuals in their care.

**4. LEGISLATURE AND JUDICIARY.** State facilities or offices under the control of the Wisconsin State Legislature or the Wisconsin Supreme Court are exempt from this Order. The Wisconsin State Legislature and the Wisconsin Supreme Court may establish guidelines for face coverings that are consistent with the specific needs of their respective branches of government.

**5. 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.

**6. LOCAL ORDERS.** This Order supersedes any local order that is less restrictive. Local governments may issue orders more restrictive than this Order.

**7. ENFORCEMENT.** This order is enforceable by civil forfeiture of not more than \$200. Wis. Stat. § 323.28.

**8. SEVERABILITY.** If any provision of this Order or its application to any person or circumstances is held to be invalid, the remainder of the Order, including the application of such part or provision to other individuals or circumstances, shall not be affected and shall continue in full force and effect. To this end, the provisions of this Order are severable.

**9. DURATION.** This Order shall enter into effect immediately. This Order shall expire on November 21, 2020, or by a subsequent superseding emergency order.