

COMMITTEE OF THE WHOLE MEETING

The Common Council of the City of Ashland will meet as the Committee of the Whole on **April 20, 2021** immediately following the City Council meeting which begins at **5:30 PM** .

The following items will be considered:

1. Roll Call
2. Council President's Report
3. Administrator's Report
4. Approval of Agenda
5. Discussion Items
 - A. Discussion and Possible Action Regarding the Emergency Order as it Pertains to Chapter 201.35 Face covering Requirements during the COVID-19 Pandemic, Ashland City Ordinances, as Allowed per Resolution 17582, Approved by Council in July 2020
6. Adjournment

The City of Ashland does not discriminate on the basis of sex, race, creed, color, national origin, sexual orientation, age or disability in employment or provision of services, programs or activities.

NOTE: Upon reasonable notice, the City of Ashland will accommodate the needs of disabled individuals or individuals with limited English proficiency through auxiliary aids or services. For additional information or to request this service, contact Denise Oliphant at 715-682-7071 (not a TDD telephone number) or FAX: 715-682-7048

SUBJECT: Discussion and Possible Action Regarding the Emergency Order as it Pertains to Chapter 201.35 Face Covering Requirements during the COVID-19 Pandemic, Ashland City Ordinances, as Allowed per Resolution 17582, Approved by Council in July 2020

RECOMMENDATION: Maintain status quo per the recommendations of the CDC.

DEPARTMENT OF ORIGIN: Mayor

CLEARANCES: Council President

EXHIBITS:

1. Chapter 201 General Conduct Ordinance.
2. Agenda Item 2020-145 to Approve a Resolution in Support of Ashland County Health Orders regarding Wearing Masks, 7-28-2020
3. Reso. 17582 to Amend Ch 201 (934) General Conduct Ordinance to Enact a Local Ordinance Requiring Face Coverings During the COVID-19 Pandemic

SUMMARY STATEMENT:

In July 2020, the Ashland City Council passed an Ordinance requiring the wearing of masks indoors in public spaces. The Ashland mask ordinance is still in effect due to the continuing national declaration of COVID-19 emergency, despite the recent Supreme Court decision setting aside the state mandate.

The purpose of this item is allow the Committee of the Whole to review and discuss the status of the Ordinance in light of the current status of COVID-19 transmission in our region.

CHAPTER 201. GENERAL CONDUCT ORDINANCE.

201.01. Obstructing Streets and Sidewalks. No person shall stand, sit, loaf or engage in any sport or exercise on any public street, sidewalk, bridge or public ground within the City in such manner as to prevent or obstruct the free passage of pedestrian or vehicular traffic thereon or to prevent or hinder free ingress or egress to or from any place of business or amusement, church, public hall or meeting place.

201.02. Littering and Garbage Disposal.

(a) Definitions. As used in this chapter, the words “garbage,” “refuse,” and “ashes” have the following meanings:

(1) Garbage. Wastes resulting from the handling, preparation, cooking and consumption of food; wastes from the handling, storage and sale of produce.

(2) Refuse. Combustible trash, including, but not limited to, paper, cartons, boxes, barrels, wood, excelsior, tree branches, yard trimmings, wood furniture, bedding; \ noncombustible trash, including but not limited to, metals, tin cans, metal furniture, dirt, small quantities of rock and pieces of concrete, glass, crockery, other mineral waste; street rubbish, including but not limited to, street sweepings, dirt, leaves, catch-basin dirt, contents of litter receptacles. Provided, refuse shall not include earth and wastes from building operations, nor shall it include solid wastes resulting from industrial processes and manufacturing operations such as food processing wastes, boiler house cinders, lumber, scraps and shavings.

(3) Ashes. Residue from fires used for cooking and for heating buildings.

(b) Littering Prohibited. No person shall leave, place, throw or deposit or cause or permit any other person to leave, place, throw or deposit, in or upon any street or public place, or in or upon any vacant or private lot or premises, any ashes, rubbish, garbage, refuse or other like or similar substances or materials.

(c) Garbage Disposal. It shall be unlawful to place or permit to remain anywhere in the city any garbage, or other material subject to decay other than leaves or grass, except in a tightly covered container.

(d) Dust/Ash Disposal. It shall be unlawful to cause or permit to accumulate any dust, ashes or trash of such a material that it can be blown away by the wind anywhere in the city except in a covered container.

(e) Littering from Vehicle. It shall be unlawful to deposit or permit to fall from any vehicle any garbage, refuse, or ashes on any public street or alley in the city; provided, that this section shall not be construed to prohibit placing garbage, refuse, or ashes in a container complying with the provisions of this ordinance preparatory to having such material collected and disposed of in the manner provided herein.

(f) Dumping Without Consent. It shall be unlawful to dump or place any garbage, refuse or ashes on any premises in the city without the consent of the owner of such premises.

201.03. Disorderly Conduct.

(a) Disorderly Conduct Prohibited: Whoever does any of the following shall be guilty of an offense:

(1) The provisions of sec. 947.01 Wis. Stats., pertaining to Disorderly Conduct, exclusive of the penalties provided in said Statute, are adopted and incorporated by reference as if fully set forth herein.

(2) Intentionally engages in fighting or in violent, threatening or tumultuous behavior; or who addresses abusive language or threats to any other person to the extent that it creates a clear and present danger or violence; or in the presence of others encourages others to create disturbance of public order or encourages acts likely to produce violence or create a disturbance of public order; or who causes the likelihood of harm or serious inconvenience by failing to obey a lawful order of dispersal by a police officer, where three (3) or more persons are committing acts of disorderly conduct in the immediate vicinity.

(3) Intentionally damages, befouls, or disturbs public property or the property of another so as to create a hazard, unhealthy, or physically offensive condition.

(4) Intentionally commits a trespass on residential property or on public property.

(b) False Fire Alarms Prohibited. No person shall give or send or cause to be given or sent in any manner any alarm of fire which he knows to be false.

(c) Resisting or Obstructing Law Enforcement Officer.

(1) No person shall knowingly resist or obstruct a law enforcement officer while such officer is doing any act in an official capacity and with lawful authority.

(2) "Obstructs" includes without limitation knowingly giving false information to the officer or knowingly placing physical evidence with intent to mislead the officer in the performance of his or her duty including the service of any summons or civil process.

(d) Obedience to Officers. No person shall, without reasonable cause or justification, resist or in any way interfere with any officer of the City while such officer is doing any act in his official capacity and with lawful authority.

(e) Disorderly Conduct with a Motor Vehicle. No person shall, within the City, on public or private property, by or through the use of a motor vehicle, motorcycle, snowmobile or mini-bike,

under circumstances which tend to cause or provoke a disturbance or annoy one or more persons, engage in violent, abusive unreasonably loud or otherwise disorderly conduct, including but not limited to unnecessary or deliberate or intentional spinning of wheels, squealing of tires, revving of engine, blowing of horns, causing the engine to backfire or causing the vehicle while commencing to move or while in motion to raise one or more of its wheels off the ground.

201.04. Vandalism. It shall be unlawful for any person to commit an act of vandalism in the City of Ashland. Vandalism as used in this chapter shall be defined as follows:

(a) The intentional or willful damaging or defacing of another person's real or personal property without the other person's consent.

(b) The intentional or willful damaging, defacing, concealing or impairing the use of any real estate or personal property in which another has a property interest, without the consent of the other person, firm or corporation or an agent thereof.

201.05. Unlawful Trespassing on Railroad Property.

(a) Trespassing. It shall be unlawful for any person to "trespass" upon any property, real or personally owned or used by any Railroad, within the City limits.

(b) Definition. "Trespass" is defined as entering upon or remaining on the property owned or used by any railroad, after having been notified not to do so.

(c) Notice/Signage. A person has received notice not to enter upon or remain on railroad equipment or property if said person has been notified personally, either orally or in writing or the railroad property is posted with a legible "No Trespassing" sign.

201.06. Trespassing on School Grounds.

(a) Trespassing. It shall be unlawful for any person to "trespass" upon any property used by the School District of Ashland for school purposes.

(b) Definition. "Trespass" is defined as entering, being upon, or remaining on the property used by the School District of Ashland for school purposes after having been notified not to do so by any School District of Ashland principal, administrator, or teacher, or an officer of the Ashland Police Department.

(c) Notice/Signage. A person has received notice from any of the individuals listed in (b) above if said person has been notified personally, either orally or in writing.

201.07. Lewdness. Whoever does any of the following acts in public shall be guilty of an offense:

(a) Indecent Acts. Commits an indecent act of sexual gratification, alone or with another, with knowledge that he is in the presence of others.

(b) Indecent Exposer. Publicly or indecently exposes a sex organ, buttocks, or in case of a woman, her breasts.

201.08. Shoplifting. The provisions of sec. 943.50, Wis. Stats., pertaining to shoplifting exclusive of the penalties provided in said statute are adopted and incorporated by reference as if fully set forth herein.

201.09. Spitting in Public Places. It shall be unlawful for any person to spit or emit any spittle or to discharge or throw any mucus or other secretion from or contents of the mouth or nose or any cigarette or cigar stub, tobacco quid, fruit peeling, or other waste substance, on any public floor, stairway, sidewalk, platform, or other public place or conveyance in the city, and such practice is hereby declared to be a public nuisance and an offense against decency and public morality.

201.10. Compulsory School Attendance and Truancy. The provisions of secs. 118.163 and 948.45, Wis. Stats., are hereby adopted and incorporated by reference as fully set forth herein.

(a) Truancy Prohibited. No person between the ages of 6 and 18 shall be truant from school without an acceptable excuse under secs. 118.15 and 118.16(4), Wis. Stats.

(b) Habitual Truancy Prohibited. No person between the ages of 6 and 18 shall be habitually truant from school without an acceptable excuse under secs. 118.15 and 118.16(4), Wis. Stats.

(c) School Dropout Prohibited. No person at least 16 years of age, but less than 18 years of age, shall be a “dropout” from school without an acceptable excuse under sec. 118.15(1)(b)2(d) or (3), Wis. Stats.

(d) Contributing to Truancy Prohibited. No person 17 years of age or older by any act or omission, knowingly encourage or contribute to the truancy of a person 17 years of age or under.

(e) Enforcement. A Police Officer having probable cause to believe that a child is truant, habitually truant, or a dropout may issue a citation for a violation of this ordinance.

(f) Penalties. For violation of the truancy provisions, the court may impose any of the dispositions listed in sec. 118.163(1m)(a)3(c), Wis. Stats. For habitual truancy, the court may impose any of the dispositions listed in sec. 118.163(2)(a)3(1), Wis. Stats.

(g) Dropout Provisions. For violation of the dropout provisions, the court may impose any of the dispositions under sec. 118.163(2m)(a), Wis. Stats. in addition to all other penalties.

(h) Persons Under 17 years. The provisions of sec. 938.342, Wis. Stats. are adopted by reference and may be imposed in addition to any other penalty provided by this ordinance against any person who is under 17 years of age and the date of disposition.

(i) Forfeitures. For violation of contributing to truancy provisions, a forfeiture of not less than \$100.00 and not more than \$250.00, plus court costs may be ordered.

201.11. Possession and use of Alcoholic Beverages by Underage Persons. The provisions of sec. 125.07, Wis. Stats., and all subsequent amendments thereto are hereby adopted and incorporated by reference as if fully set forth herein.

201.12. Possession and use of Controlled Substances and Drug Paraphernalia.

(a) Possession. It shall be unlawful for any person to have possession of, use, or consume any “controlled substance” within the City of Ashland. “Controlled substance” means a drug, substance or immediate precursor as defined in sec. 961.01(4) Wis. Stats.

(b) Use. It shall be unlawful for any person to use or possess “drug paraphernalia;” to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance or controlled substance analog in the City of Ashland. “Drug paraphernalia” has the definition given in sec. 961.571(1)(a), Wis. Stats.

201.13. Curfew Imposed on Persons Under Eighteen

(a) Hours. It shall be unlawful for any minor under eighteen (18) years to loiter, idle, wander, stroll, or play in or upon the public streets, highways, roads, alleys, parks, playground, wharves, docks, or other public grounds, public places, and public buildings, places of amusement, and entertainment, vacant lots or other unsupervised places between the hours of 10:30 p.m. and 5:00 a.m. It shall be unlawful for any minor under the age of thirteen (13) to loiter, idle, wander, stroll, or play upon the public streets, highways, roads, alleys parks, playgrounds, wharves, docks, or other public grounds, public places, and public buildings, places of amusement and entertainment, vacant lots, or other unsupervised places between the hours of 9:30 p.m. and 5:00 a.m.

(b) Persons Exempt. The provisions of this section shall not apply to a minor accompanied by his parent or guardian, or other adult person having the care and custody of the minor, or where the minor is upon an emergency errand or legitimate business directed by his or her parent, guardian, or other adult person having the care and custody of the minor.

(c) Duties of Parents. It shall be unlawful for the parent, guardian or other adult person having the care and custody of a child under the age of eighteen (18) years to knowingly permit the child to loiter, idle, wander, stroll, or play in or upon the public streets, highways, roads, alley, parks, grounds, public places, and public buildings, places of amusement and entertainment, vacant lots, or other unsupervised places between the hours of 10:30 p.m. and 5:00 a.m. It shall be unlawful for the parent, guardian or other adult person having the care and custody of a child under the age of thirteen (13) years to knowingly permit the child to loiter, idle, wander, stroll, or play in or upon the public streets, highways, roads, alleys, parks, grounds, public places and public buildings, places of amusement and entertainment, vacant lots, or other unsupervised

places between the hours of 9:30 p.m. and 5:00 a.m.

201.14. Operation and Use of Bicycles.

(a) State law adopted. The provisions of secs. 346.77 through 346.81, Wis. Stats., are adopted and incorporated by reference as if fully set forth herein.

(b) Operation. Every person operating a bicycle upon a roadway shall obey each traffic signal or sign facing a roadway.

201.15. Firearms.

(a) City Limits. It shall be unlawful for any person to discharge any firearm within the City limits with the exception of the Dog Warden or a sworn law enforcement officer in the line of duty or at a municipally approved firing range. The provisions of sec. 941.20 (1), Wis. Stats., pertaining to reckless use of weapons, exclusive of the penalties provided in said statute, are adopted and incorporated by reference as if fully set forth herein.

(b) Transportation. The provisions of sec. 167.31, Wis. Stats., pertaining to the safe use and transportation of firearms and bows, exclusive of the penalties provided in said statute, are adopted and incorporated by reference as if fully set forth herein.

(c) Government Building. Pursuant to sec. 943.13(1m)(c)4, Wis. Stats., no person shall enter or remain in any part of a building owned, occupied, or controlled by the State or a local government unit if the State or local government unit has notified the person not to enter or remain in the building while carrying a firearm or a specific type of firearm.

(d) Signage. The City Administrator shall cause signs to be erected at all entrances to all buildings owned, occupied, or under the control of the City of Ashland, providing notice that no person is to enter or remain in any such building while carrying a firearm. Such signs shall be five (5) inches by seven (7) inches or larger.

(e) Exemptions. Nothing in this subsection shall be construed to apply to prohibit a peace officer or armed forces or military personnel armed in the line of duty or any person duly authorized by the Chief of Police to possess a firearm in any public building. Notwithstanding sec. 939.22(22), Wis. Stats., for purposes of this section, peace officer does not include a commission warden who is not a State certified commission warden.

(f) State Statutes. Nothing in this subsection shall be construed to authorize the carrying of any firearm or dangerous weapon contrary to sec. 941.23 or 941.235, Wis. Stats.

201.16. Possession of a Pistol by Minor. The provisions of sec. 941.22 (1), Wis. Stats., pertaining to Possession of a Pistol by Minor, exclusive of the penalties provided in said statute, are adopted and incorporated by reference as if fully set forth herein.

201.17. Carrying Concealed Weapon.

(a) Licensing. The provisions of sec. 175.60, Wis. Stats. (License to Carry a Concealed Weapon) are adopted and incorporated by reference as if fully set forth herein. Violations of the provisions of the statute shall be enforceable by the City of Ashland by issuance of a citation for a civil forfeiture. The City of Ashland civil forfeiture shall be the maximums of any of the state forfeitures provided in the penalty section of sec. 175.60, Wis. Stats.

(b) State Statutes. The provisions of sec. 941.23(1), Wis. Stats., pertaining to carrying concealed weapons, exclusive of the penalties provided in said statute, are adopted and incorporated by reference as if fully set forth herein.

201.18. Possession of Switchblade Knife. The provisions of sec. 941.24, Wis. Stats., pertaining to Possession of Switchblade Knife, exclusive of the penalties provided in said statute, are adopted and incorporated by reference as if fully set forth herein.

201.19. Entry into Locked Vehicle. The provisions of sec. 943.11, Wis. Stats., pertaining to Entry Into Locked Vehicle, exclusive of the penalties provided in said statute, are adopted and incorporated by reference as if fully set forth herein.

201.20. Trespass to Land. The provisions of sec. 943.13 (1) (a-d), Wis. Stats., pertaining to Trespass to Land, exclusive of the penalties provided in said statute, are adopted and incorporated by reference as if fully set forth herein.

201.21. Trespass to Dwelling. The provisions of sec. 943.14, Wis. Stats., pertaining to Trespass to Dwelling, exclusive of the penalties provided in said statute, are adopted and incorporated by reference as if fully set forth herein.

201.22. Theft. The provisions of sec. 943.20, Wis. Stats., (Sub (a) only) pertaining to Theft, exclusive of the penalties provided in said statute, are adopted and incorporated by reference as if fully set forth herein.

201.23. Fraud on Hotel or Restaurant Keeper. The provisions of sec. 943.21, Wis. Stats., pertaining to Fraud on Hotel or Restaurant Keeper, exclusive of the penalties provided in said statute, are adopted and incorporated by reference as if fully set forth herein.

201.24. Use of Cheating Tokens. The provisions of Sec. 943.22, Wis. Stats., pertaining to Use of Cheating Tokens, exclusive of the penalties provided in said statute, are adopted and incorporated by reference as if fully set forth herein.

201.25. Operating Vehicle Without Owner's Consent. The provisions of sec. 943.23 (2), Wis. Stats., pertaining to Operating Vehicle Without Owner's Consent, exclusive of the penalties provided in said statute, are adopted and incorporated by reference as if fully set forth herein.

201.26. Issue of Worthless Check. The provisions of sec. 943.24 (1), Wis. Stats., pertaining to Issue of Worthless Check, exclusive of the penalties provided in said statute, are adopted and

incorporated by reference as if fully set forth herein.

201.27. Receiving Stolen Property. The provisions of sec. 943.34 (1), Wis. Stats., pertaining to Receiving Stolen Property exclusive of the penalties provided in said statute, are adopted and incorporated by reference as if fully set forth herein.

201.28. Unlawful Use of Telephone or Computer. The provisions of secs. 947.012 and 947.0125, Wis. Stats., pertaining to the unlawful use of telephone and the unlawful use of computerized communication systems, exclusive of the penalties provided in said statutes, are adopted and incorporated by reference as if fully set forth herein.

201.29. Contributing to the Delinquency of Children. The provisions of sec. 948.40, Wis. Stats., pertaining to Contributing to the Delinquency of Children, exclusive of the penalties provided in said statute, are adopted and incorporated by reference as if fully set forth herein.

201.30. Prohibiting Swimming Outside of Designated Swimming Areas at Kreher Park.

(a) Safety Line. The designated swimming area at Kreher Park shall be defined by a safety line with floats which shall be place annually during swimming season as defined by the Department of Parks and Recreation.

(b) Designated Swim Area. Swimming at Kreher Park shall only be permitted in this designated swimming area. Anyone swimming outside this area shall be guilty of an offense.

201.31 Prohibiting the Use of Tobacco Products or E-cigarettes in City-Owned Buildings and Vehicles and on School Grounds.

(a) Use in City-Owned Building or Vehicle. It shall be unlawful to use tobacco products in any form, including smoking, chewing or other consumption, in any city-owned building or vehicle. Under the provisions of this subsection, vehicles shall include cars, trucks and any equipment or machinery which has an enclosed cab.

(b) Vaughn Library Building. It shall be unlawful for any person to smoke tobacco within ten feet of the Vaughn Library building. Signs shall be posted in a conspicuous place or places on the outside of the building to give notice of this restriction.

(c) It shall be unlawful for any person to use tobacco products in any form, including smoking, chewing, or other consumption on premises owned or rented by or under the control of the Ashland School District except as the School District allows pursuant to Sec. 120.12(20), Wis. Stats.

(d) For purposes of this section, “smoking” or “to smoke” shall mean:

(1) Inhaling, exhaling, burning or holding any lighted cigar, cigarette, pipe or other lighted tobacco product in any manner or in any form, or

(2) Inhaling or exhaling from, holding, or operating any lighted or activated electronic device which produces and/or delivers nicotine in a vaporized form, or is designed, advertised, or marketed to do so, including, but not limited to, devices commonly known as electronic cigarettes or e-cigarettes.

201.32. Purchase or Possession of Tobacco Products by Underaged Persons. The provisions of sec. 254.92, Wis. Stats., pertaining to the purchasing or possession of tobacco products by underaged persons are adopted and incorporated by reference as if fully set forth herein.

201.33. Clean Indoor Air. Provisions of sec 101.123, Wis. Stats., (Clean Indoor Air Act) are hereby adopted by reference.

201.34. Power Loading at City of Ashland Boat Launches. A watercraft owner or operator shall be allowed to load a boat on a trailer using the boat's engine. This section shall remain in effect for one year, expiring on July 31, 2008.

201.35 Face Covering Requirements during the COVID-19 Pandemic

(a) Definitions. As used in this Ordinance, the following terms shall have the meaning indicated:

“Commercial business” means any for-profit business open to the general public for the purchase of goods, entertainment or services, including by way of example but not limited to retail stores (such as grocery stores, convenience stores), restaurants, and service businesses.

“City and public buildings” means any buildings owned by local government or not for profit organizations, including public restrooms.

"Face covering" means a material covering the nose and mouth for the purpose of ensuring the physical health or safety of the wearer or others. A face covering 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 scarfs, T-shirts, sweatshirts, or towels. Acceptable, reusable face covering options for the general public include bandanas, neck gaiters, homemade face coverings, scarves, or tightly woven fabric such as cotton t-shirts and some types of towels.

“Outdoor Spaces” means any outdoor location where people are unable to distance themselves a minimum of six feet.

(b) Mask Required. While indoors in any commercial business or City office, and in an Outdoor Space that is open to the general public, all customers, employees, and any other occupants or users of such area shall wear a face covering. While wearing a face covering, social distancing (6') shall still be maintained so far as possible as described by the Center for Disease Control and Prevention.

(c) Exceptions. Exceptions for face coverings will be made under the following circumstances:

i. A person who cannot wear a face covering due to a medical or behavioral health condition, including but not limited to anyone who has trouble breathing, or is unconscious, incapacitated or otherwise unable to remove the mask without assistance;

ii. Children who are under (5) years of age;

iii. A customer dining in a restaurant, while that customer is sitting at his or her table;

iv. A law enforcement officer or any emergency responder who reasonably deems it necessary to remove a face covering in the course of his or her duties;

v. A person who reasonably deems it necessary to remove his or her face covering for safety reasons or in order to carry out his or her job duties.

vi. Persons in settings where it is not practical or feasible to wear face coverings, including when obtaining or rendering goods or services, such as the receipt of dental services or medical treatments.

(d) Penalty. Any violation of this Ordinance will be subject to the issuance of a citation as provided in City of Ashland Ordinances, Chapter 279, and penalties imposed shall be as described in Section 201.91 of the City's ordinances.

(e) Expiration. Unless abolished at an earlier date by the City of Ashland Common Council, this Ordinance shall be effective for so long as any national, state, or local health official and/or health department continues to declare a public health emergency regarding COVID-19.

201.36 Enforcement of Public Health Order

(a). Authority. Pursuant to the authority of Chapters 252, Wisconsin Statutes, the City of Ashland Common Council does hereby establish an ordinance regarding enforcement of orders issued by Local Health Officers. The provisions and definitions of §§ 252.01 to 252.25, Wis. Stats., and DHS Ch. 145, Wis. Adm. Code, as they may be from time-to-time amended, are adopted by reference and incorporated into this section as if fully set forth herein.

(b) Violations. Any person who willfully violates or obstructs the execution of any Local Health Officer Order issued under Ch. 252, Wis. Stats., and/or DHS Ch. 145, Wis. Adm. Code, relating to the public health, for which no other penalty prescribed, shall, in addition to being subject to all other legal and equitable actions and relief available to the City of Ashland, be subject to a forfeiture of not more than \$200 for each violation.

201.37 Enforcement of Emergency Orders.

(a) Authority. Pursuant to the authority of Chapters 323, Wisconsin Statutes, the City of Ashland Common Council does hereby establish an ordinance regarding enforcement of orders issued by the Governor or the designate agency to lead emergency response and emergency orders issued by the City of Ashland. The provisions and definitions of Ch. 323, Wis. Stats, as they may be from time-to-time amended, are adopted by reference and incorporated into this section as if fully set forth herein.

(b) Violations. Whoever intentionally fails to comply with an order issued by an agent of the state or of a local unit of government who is engaged in emergency management activities under this chapter is subject to a forfeiture of not more than \$200 for each violation.

201.91. Penalties. Any person who shall violate any provision of this chapter for which a penalty is not otherwise provided shall upon conviction thereof be punished as follows:

(a) Forfeiture. He or she shall forfeit not less than \$25 nor more than \$500 plus the costs of prosecution and in default of payment of such forfeitures and costs of prosecution shall be imprisoned in the County Jail until the forfeiture and costs of prosecution are paid, but not exceeding ten (10) days, provided however, that for children fourteen (14) or older who shall be found violating the provisions of said section, said child shall be dealt with according to the provision of sec. 48.17 (2), Wis. Stats.

(b) Penalties otherwise provided. For a violation of any other provision of this chapter, he or she shall be subject to a penalty as provided in this chapter.

(c) Liability. In addition to any penalty imposed under subsections (a) or (b) of this section, any person who shall cause physical damage to or destroy any public property shall be liable for the costs of replacing or repairing such damaged or destroyed property. The parent or parents of any unemancipated minor child who violates any provision of this chapter may also be held liable for the costs of replacing or repairing the damaged or destroyed property in accordance with sec. 895.035 Wis. Stats.

Adopted: 201 (934) 2/28/1980

Amendments: **This Ordinance was previously Codification 301, then this ordinance was changed to Codification 201 by Codification Ordinance 1372**
301 (956) 10/14/1980; 301 (1024) 1/10/1984; 301 (1032) 6/12/1984;
301 (1035) 8/14/1984; 301 (1054) 9/24/1985; 301 (1072) 6/10/1986;
301 (1214) 12/12/1989; 301 (1227) 5/8/1990; 301 (1232) 6/12/1990;
301 (1247) 1/15/1991; 301 (1261) 9/10/1991; 301 (1264) 11/12/1991;
301 (1284) 11/10/1992; 301 (1287) 2/9/1993; 301 (1288) 5/11/1993;

301 (1356) 9/26/1995; 301 (1361) 11/28/1995

201 (1372) 4/16/1996; 201 (1407) 8/26/1997; 201 (1476) 7/27/1999;
201 (1551) 9/10/2002; 201 (1565) 4/15/2003; 201 (1607) 6/14/2005;
201 (1634) 7/11/2006; 201 (1660) 6/26/2007; 201 (1663) 7/31/2007;
201 (1726) 4/20/2010; 201 (1757) 10/25/2011; 201 (1761) 1/10/2012;
201 (2015-1842) 4/21/2015; 201 (1936) 08/04/2020

SUBJECT: Approve a Resolution in Support of Ashland County Health Orders Regarding Wearing Masks (*Passed unanimously by Committee of the Whole 7-14-2020*) Mayor

RECOMMENDATION: Approval

DEPARTMENT OF ORIGIN: Mayor

CLEARANCES: City Attorney
City Administrator
Council President

EXHIBITS: 1. Proposed Resolution

EXPENDITURES REQUIRED: NA

AMOUNT BUDGETED: NA

APPROPRIATION REQUIRED: NA

TREASURER'S CERTIFICATE:

COMPLIANCE WITH ORDINANCE 51:

STATEMENT OF CONFORMANCE WITH COMPREHENSIVE PLAN OF RECORD:

SUMMARY STATEMENT:

At the Committee of the Whole meeting on July 14, 2020, the City Council voted to direct Administration to bring back a Resolution for the City Council in Support of Ashland County Health Officer Efforts to Control the Community Spread of COVID-19.

RESOLUTION No. 17582

RESOLUTION TO AMEND CHAPTER 201 (934) GENERAL CONDUCT ORDINANCE, ASHLAND CITY ORDINANCES (A) TO ENACT A LOCAL ORDINANCE REQUIRING FACE COVERINGS DURING THE COVID-19 PANDEMIC, (B) ENFORCEMENT OF SUCH ORDINANCE UNDER EMERGENCY ORDERS, AND (C) TO ESTABLISH MUNICIPAL PENALTIES FOR VIOLATION

WHEREAS, COVID-19 cases have been on the rise in Wisconsin, Ashland County, and the South Shore in recent weeks; and

WHEREAS, public spaces and businesses are open for in-person operations in the City of Ashland, increasing the potential for community spread of COVID-19; and

WHEREAS, COVID-19 is primarily spread via respiratory droplets when people are in close proximity with each other and people that are infected speak, sneeze, or cough. People can be infected and have no symptoms (asymptomatic) and they are still able to transmit the virus; and

WHEREAS, according to the Centers for Disease Control (CDC), there is emerging evidence from clinical and laboratory studies that demonstrates cloth face masks reduce the spray of respiratory droplets; and

WHEREAS, wearing a face mask is one of the most effective ways to reduce person to person transmission of COVID-19. Face masks serve as a protection to prevent droplets from entering the air, which is known as source control. When combined with other preventive measures, including physical distancing and proper hygiene practices, wearing face masks is a simple and effective way to reduce the risk of COVID-19 transmission; and

WHEREAS, the risk of COVID-19 transmission remains high, particularly in indoor settings with an increased likelihood of close contact and the sharing of air that may contain coronavirus contaminated respiratory droplets and/or aerosols; and

WHEREAS, evidence cited by the Centers for Disease Control and Prevention (CDC) indicates that a significant portion of individuals with the coronavirus are asymptomatic, and that pre-symptomatic persons can transmit the virus to others before showing symptoms; and

WHEREAS, the City of Ashland is a destination for travelers and visitors from all over Wisconsin and the United States, including from states with higher per capita rates of COVID-19 infection than the State of Wisconsin or Ashland County; and

WHEREAS, Wisconsin Statutes Chapter 252 authorizes and requires Local Health Officers to perform certain duties and take certain action; and

WHEREAS, pursuant to Wis. Stat. §252.25, orders rendered by a Local Health Officer are enforceable by adoption of municipal ordinances; and

WHEREAS, pursuant to Wis. Stat. § 323.10, authorizes the Governor of Wisconsin to declare a state of emergency via executive order, including public health emergencies and may designate the Department of Health Services as the lead agency to respond to the emergency; and

WHEREAS, pursuant to Wis. Stat. §323.12, if the Governor declares an emergency the Governor has several powers that may be exercised including but not limited to the authority to "Issue such orders as he or she deems necessary for the security of persons or property"; and

WHEREAS, pursuant to Wis. Stat. §323.11 and §323.14, local governments may declare emergencies and may make orders as necessary for the health, safety, protection, and welfare of person and property within the local unit of government.

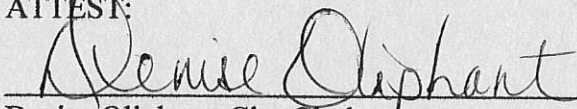
THEREFORE, BE IT RESOLVED THAT the City of Ashland Common Council hereby amends Chapter 201 General Conduct Ordinance, Ashland City Ordinances to add Section 201.35 Face Covering Requirements during the COVID-19 Pandemic, 201.36 Enforcement of Public Health Order and Section 201.37 Enforcement of Emergency Orders as made by local health officers and the Governor during a declared emergency.

PASSED: August 4, 2020



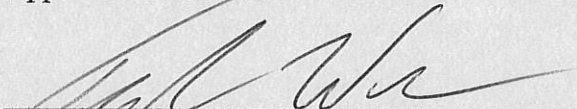
Councilperson

ATTEST:


Denise Oliphant, City Clerk

Debra S. Lewis, Mayor

Approved as to Form:


Tyler W. Wickman, City Attorney