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Title:	AN EMERGENCY ORDINANCE AMENDING CHAPTER 34 OF THE DULUTH CITY CODE BY ADDING SECTION 34-45 REQUIRING FACE COVERINGS INDOORS SPACES OF PUBLIC ACCOMMODATION. (REPLACEMENT)		
Sponsors:	Arik Forsman, Janet Kennedy, Joel Sipress, Terese Tomanek		
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AN EMERGENCY ORDINANCE AMENDING CHAPTER 34 OF THE DULUTH CITY CODE BY ADDING SECTION 34-45 REQUIRING FACE COVERINGS INDOORS SPACES OF PUBLIC ACCOMMODATION. (REPLACEMENT)

BY COUNCILORS FORSMAN, TOMANEK, KENNEDY, AND SIPRESS:

The city of Duluth does ordain:

Section 1. That Chapter 34 of the Duluth City Code is hereby amended by adding Section 34-45 as follows:

Sec. 34-45.1. Face Covering Requirement - Purpose

(a) Face coverings are a simple barrier to help prevent respiratory droplets from traveling into the air and onto other people when the person wearing the face covering coughs, sneezes, talks, or raises their voice. This is called source control.

(b) Respiratory droplets spread the virus that causes COVID-19 and recent evidence from clinical and laboratory studies show face coverings reduce the spray of droplets when worn over the nose and mouth.

(c) COVID-19 spreads mainly among people who are in close contact with one another (within about 6 feet), so the use of face coverings is particularly important in settings where people are close to each other or where social distancing is difficult to maintain.

(d) Social distancing is difficult to maintain indoors business establishments.

Sec. 34-45.2. Definitions.

For the purposes of this Article, the following words and phrases shall mean:

(a) A Space of Public Accommodation means a business, or an educational, refreshment, entertainment, or recreation facility, or public transportation, or an institution of any kind, whether licensed or not, whose goods, services, facilities, privileges, advantages, or accommodations are extended, offered, sold, or otherwise made available to the public. Examples include retail stores, rental establishments, Duluth Transit

Authority buses, facilities, and bus shelters, government buildings, the Duluth Skywalk system, places of worship, and service establishments as well as educational institutions, recreational facilities, and service centers.

(b) Face Covering means wearing a face mask, face shield, N95 respirator, neck gaiter, or fitted piece of material that:

(1) Covers the mouth and nose;
(2) Fits snugly against the side of the face; and
(3) Is secured on the face.

Sec. 34-45.3. Face Covering Required Indoors.

(a) A Space of Public Accommodation Shall Require Face Coverings Indoors. It shall be unlawful for a Space of Public Accommodation to allow a person to enter or remain indoors their Space of Public Accommodation without wearing a Face Covering.
(b) Face Covering Required Indoors a Space of Public Accommodation. It shall be unlawful for a person to enter or remain indoors a Space of Public Accommodation without wearing a Face Covering.
(c) Required Notices. Spaces of Public Accommodation shall post notice of this Face Covering requirement in conspicuous locations inside and outside entrances to their Space of Public Accommodation.

(d) Exceptions. Sections (a)-(c) shall not apply to:

(1) Persons under the age of ten years old;
(2) Persons unable to wear Face Coverings for genuine medical reasons;
(3) Persons in a private room of a multi-tenant residence, such as an apartment building, or lodging establishment, such as a hotel, motel, or vacation rental. Face Coverings must be worn in all indoor common areas of said establishments;
(4) Business patrons who are actively eating and/or drinking provided that all individuals wear a Face Covering when walking to or from their seat and while standing in or walking through public areas such as lobbies and restrooms;
(5) Business owners, managers, and employees who are in an area of a business establishment that is not open to customers, patrons, or the public, provided that six feet of distance exist between persons;

(6) Education and child care facilities with written plans in compliance with state guidelines;
(7) Fitness facilities with written plans in compliance with state guidelines;

(8) In settings where it is not feasible to wear a Face Covering, including when obtaining or rendering goods or services such as the receipt of medical or dental services, swimming, or while actively participating in organized athletic competitions or practices; and
(9) Police officers, fire fighters and other first responders when not practical or engaged in a public safety matter.

Sec. 34-45.4. Violations- Penalties

(a) Violations of this Section (34-45) by Spaces of Public Accommodation are punishable by one or more of the following:

(1) Issuance of warning letter(s);

(2) Fines not to exceed those set in accordance with Section 31-8 of this Code for the first and second offenses and a fine as provided in Section 1-7 of this Code for all subsequent offenses; and/or

(3) Misdemeanor criminal prosecution pursuant to Minnesota Statutes Section 12.45.

(b) Violations of this Section (34-45) by persons are punishable by one or more of the following:

(1) Civil trespass from the Space of Public Accommodation;
(2) Prosecution, if applicable, for trespass in violation of Duluth City Code 34-30; and/or
(3) Criminal prosecution, if applicable, for criminal trespass in violation of Minnesota Statutes Section 609.605.

Sec. 34-45.5. Duration and Severability

(a) In the event that the State of Minnesota Governor Timothy Walz ends his Declaration of Local Emergency related to COVID-19 pursuant to Minnesota Statutes Section 12.29, this entire Section (34-45) shall become null and void.

(b) In the event any provision of this Section (34-45) is preempted by executive order of State of Minnesota Governor Timothy Walz, those provisions of Section (34-45) shall become null and void.

Section 2. That pursuant to the Duluth City Charter Chapter III, this emergency ordinance shall require one reading by council and shall take effect immediately upon its passage by the council..

STATEMENT OF PURPOSE: This is an emergency ordinance prohibiting Space of Public Accommodations from allowing a person to enter or remain indoors their Space of Public Accommodation without wearing a Face Covering. The City Attorney confirms that this is an emergency ordinance filed under the authority of Chapter III of the Duluth City Charter. It does not require two readings and shall take effect immediately upon passage of the City Council.

Face coverings are recommended by the US Center of Disease Control and Prevention ("CDC") as a simple barrier to help prevent respiratory droplets from traveling into the air and onto other people when the person wearing the face covering coughs, sneezes, talks, or raises their voice. This is called source control. The CDC's recommendation is based on what is known about the role respiratory droplets play in the spread of the virus that causes COVID-19, paired with emerging evidence from clinical and laboratory studies that shows face coverings reduce the spray of droplets when worn over the nose and mouth. COVID-19 spreads mainly among people who are in close contact with one another (within about 6 feet), so the use of face coverings is particularly important in settings where people are close to each other or where social distancing is difficult to maintain.

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