

RESOLUTION NO. 20-11-234

RESOLUTION ADOPTING A FACE MASK MANDATE FOR THE CITY OF FORT DODGE

WHEREAS, we, the elected representatives of the City of Fort Dodge, took an oath to uphold and defend the Constitution of the United States and the Constitution of the State of Iowa, and

WHEREAS, the emergence of the novel coronavirus, SARS-CoV-2, that causes the disease COVID-19, can result in serious illness or death and can easily be spread from person to person, and

WHEREAS, on January 31, 2020, the United States Department of Health and Human Services declared a national public health emergency related to the dangers posed by COVID-19, and

WHEREAS, on March 9, 2020, the Governor of the State of Iowa, Kim Reynolds, signed a proclamation of disaster emergency of the entire State of Iowa based on the increasing numbers in the State of Iowa testing positive for COVID-19, and

WHEREAS, on March 11, 2020, the World Health Organization declared the COVID-19 outbreak to be a worldwide pandemic, and

WHEREAS, on March 13, 2020, the President of the United States signed an emergency declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act authorizing emergency response measures in all fifty states in response to COVID-19, and

WHEREAS, the most current local data relating to COVID-19 as provided by the Iowa Department of Public Health ("IDPH") and the Webster County Department of Public Health ("WCPH") shows that the State of Iowa and Webster County continues to experience significant community spread of this disease, and

WHEREAS, the White House Coronavirus Task Force ("WHCTF") indicated that Iowa had 991 cases per 100,000 population compared to a national average of 294. The WHCTF has described the spread in Iowa as "exponential and unyielding" that do not show signs of improvement, but rather further deterioration.

WHEREAS, hospitals across the state have indicated the pandemic is at the breaking point in terms of adequate beds and staffing to deal with the rising number of hospitalizations, and

WHEREAS, the WHCTF has stated that "current mitigation strategies are inadequate and must be increased to flatten the curve to sustain the health system for both COVID and non-COVID emergencies", and

WHEREAS, the Centers for Disease Control ("CDC") recommends all individuals over the age of 2 wear masks in public settings and the WHCTF recommends mask mandates be expanded to include all public settings, and

WHEREAS, our hospitals, care centers, physicians, and those on the front line of this pandemic continue to plead for a mask mandate, and

WHEREAS, the City of Fort Dodge has a compelling interest to protect the lives of its residents, and

WHEREAS, Article III, Section 38A of the Iowa Constitution grants municipalities the power to determine their local affairs and government not inconsistent with the laws of the general assembly, and

WHEREAS, Chapter 364 of the Iowa Code reaffirms the constitutional grant of home rule authority to municipalities “to exercise any power and perform any function it deems appropriate to protect and preserve the rights, privileges, and property of the city of its residents, and to preserve and improve the peace, safety, health, welfare, comfort and convenience of its residents”, and

WHEREAS, a city “may exercise its general powers subject only to limitations expressly imposed by state or city law,” and the exercise of a city power “is not inconsistent with a state law unless it is irreconcilable with the state law.” Iowa Code section 364.2(2) and (3), and

WHEREAS, a city may set standards and requirements which are higher or “more stringent than those imposed by state law, unless a state law provides otherwise.” Iowa Code Section 364.3(3)(a); City of Des Moines v. Gruen, 457 N.W.2d 340, 343 (Iowa 1990); Bryan v. City of Des Moines, 261 N.W.2d 685, 687 (Iowa 1978), and

WHEREAS, the CDC, IDPH, WCPH, and WHCTF have all determined and encouraged that face coverings are one of the simplest and most critical tools in the fight against COVID-19 that could reduce the spread of the virus particularly when used universally within a community, and

WHEREAS, a requirement that persons in the City of Fort Dodge, Iowa wear acceptable face coverings is essential to reducing the risk of transmission of COVID-19, necessary to continue to ensure local businesses stay open, and necessary to protect the health, welfare, and safety of residents and visitors and to accelerate local recovery efforts, and

WHEREAS, a requirement that persons wear a face covering is not irreconcilable with the Governor’s proclamations and the guidance of the IDPH, and

WHEREAS, this resolution is not meant to be stigmatizing or punitive and is in the best interest of the health, welfare, safety, and economic recovery of the City of Fort Dodge, Iowa and its residents.

NOW THEREFORE, be it resolved by the City of Council of the City of Fort Dodge, Iowa, as follows:

Section 1. Every person in the City of Fort Dodge, Iowa must wear a face covering when:

- a) Inside any indoor public settings, including but not limited to:
 1. Grocery Stores
 2. Pharmacies
 3. Retail Stores
 4. Common areas of businesses that are accessible to the public and where six (6) feet of social distancing is not possible.
 5. Other public settings that are not one’s place of residence and when among other people who do not live in the same household
 6. City buildings
- b) Using public transportation or private car services (including taxis, ride share, or carpooling)

Section 2. No business that is open to the public may provide service to a customer or allow a customer to enter its premises, unless the customer is wearing a face covering as required by this resolution, and businesses that are open to the public are encouraged to post notice signs at the entrance(s) instructing customers of their obligations to wear a face covering while inside.

Section 3. Those who are exempt from wearing a face covering are:

- a) Persons younger than 3 years of age.
- b) Anyone who has a medical condition which would be impaired by the use of a face covering or an individual with a breathing condition, on oxygen therapy, or a ventilator.
- c) Anyone who is unconscious, incapacitated, or otherwise unable to remove their face covering without assistance.
- d) Any athlete participating in an organized sporting or recreational event and any person exercising unless otherwise required by other local, state, or federal entities.
- e) Anyone who has been told by a medical, legal, or behavioral health professional not to wear face coverings.
- f) Anyone actively engaged in a public safety role, including but not limited to law enforcement, firefighters, or emergency medical personnel when a mask would seriously interfere in the performance of their responsibilities.
- g) Anyone asked to remove their face covering to verify their identity for any lawful purpose.

Section 4. Places and times where persons are exempt from wearing a face covering:

- a) While traveling in a personal vehicle
- b) While a person is alone or only with household members.
- c) While exercising at moderate or high intensity, e.g. swimming, jogging, biking.
- d) While seated at a food establishment in the process of eating and drinking.
- e) While obtaining a service that would require temporary removal of the person's face covering.
- f) When federal or state law prohibits wearing a face covering or requires the removal of a face covering.

Section 5. Face covering shall be defined as any mask or other face covering that includes a snug fit, completely covers the nose and mouth, is secure. Any cloth face covering shall include multiple layers of fabric, allow for breathing, and allow for washing and drying without damage.

Section 6. This resolution shall be in effect until 11:59pm on January 1, 2021. Prior to the expiration, the City Council of the City of Fort Dodge, Iowa may extend the mandate by adopting a new resolution. In the event any such provision of this resolution shall at any time become less restrictive than any County or State proclamation, then this Resolution shall be preempted as it relates to that specific provision so as to not come in conflict.

Section 7. If any section, provision, or part of this resolution is adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the resolution as a whole or any section, provision, or part of this resolution not adjudged invalid or unconstitutional.

PASSED AND ADOPTED this 23rd day of November, 2020.

AYES: Halter, Conrad, Moehnke and Schuur

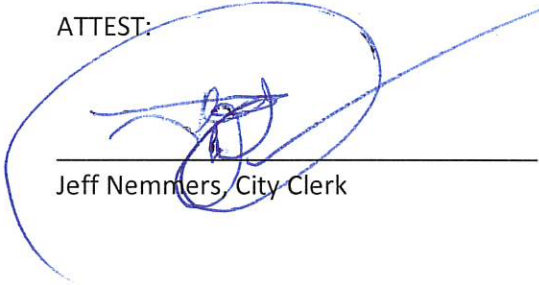
NAYS: Flattery and Alstott

OTHER: None



Matt Bemrich, Mayor

ATTEST:



Jeff Nemmers, City Clerk