

## RESOLUTION NO. 22,272

### RESOLUTION EXTENDING A FACE MASK MANDATE FOR THE CITY OF CEDAR FALLS, IOWA

**WHEREAS**, we, the elected representatives of the City of Cedar Falls, 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 for 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 Black Hawk County Department of Public Health ("BHCDPH") show that the State of Iowa and Black Hawk County continue to experience significant community spread of this disease, and

**WHEREAS**, the City of Cedar Falls, Iowa 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 Center of Disease Control (“CDC”), the IDPH, and BHCDPH, have all determined and encouraged that face coverings are an critical tool in the fight against COVID-19 that could reduce the spread of the virus particularly when used universally within a community, and

**WHEREAS**, the Governor’s current proclamation requires that businesses and gatherings ensure social distancing of employees, customers, and attendees, increased hygiene practices, and other public health measures to reduce the risk of transmission of COVID-19 consistent with the guidance of the IDPH, and

**WHEREAS**, the Governor’s current proclamation additionally requires the wearing of masks or face coverings in certain circumstances; and

**WHEREAS**, the IDPH’s reopening guidance advises that members of the public consider the use of cloth face coverings when distancing is not possible because wearing a face covering in public places where social distancing measures are difficult can help slow the spread of COVID-19, and

**WHEREAS**, a requirement that persons in the City of Cedar Falls, Iowa wear face coverings is essential to reducing the risk of transmission of COVID-19, 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 generally not irreconcilable with the Governor’s proclamations and the guidance of the Iowa Department of Public Health, and

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

**NOW THEREFORE**, be it resolved by the City Council of the City of Cedar Falls, Iowa, as follows:

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

- a) In public, as opposed to one’s place of residence, when one cannot stay six (6) feet apart from others.
- b) Inside any indoor public settings, including but not limited to:
  1. Grocery stores
  2. Pharmacies
  3. Hardware stores
  4. Retail stores
  5. Other public settings that are not one’s place of residence and when among people who do not live in the same household
  6. City buildings
- c) Outside if maintaining a distance of six (6) feet apart is not possible
- d) 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 must post signs at 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 5 years of age.
- b) Anyone who has trouble breathing, on oxygen therapy, or ventilator.
- c) Anyone who is unconscious, incapacitated, or otherwise unable to remove their face covering without assistance.
- d) Anyone who has been told by a medical, legal, or behavioral health professional not to wear face coverings.
- e) Anyone actively engaged in a public safety role, including but not limited to law enforcement, firefighters, or emergency medical personnel.

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

- a) While traveling in a personal vehicle alone or with only household members.
- b) While a person is alone or with only 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 or 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. If a cloth face covering is chosen, appropriate use of a cloth face covering includes:

- a) A snug fit, but comfortable against the side of the face.
- b) Completely covers the nose and mouth.
- c) Is secured with ties or ear loops.
- d) Includes multiple layers of fabric.
- e) Allows for breathing without restriction.
- f) Can be laundered and machine dried without damage or change in shape.

Section 6. This resolution shall be effective immediately upon signing by the Mayor and expires at 11:59 PM on the 7<sup>th</sup> day of April, 2021. Upon its effective date this resolution replaces and supersedes Resolution #22,097 dated September 8, 2020, and extended by Resolution #22,140 dated October 19, 2020, Resolution #22,193 dated December 7, 2020, and Resolution #22,227 dated January 19, 2021. Prior to the expiration of this resolution, the City Council of the City of Cedar Falls, Iowa may extend the mandate by adopting a new resolution.

Section 7. If any provision of this resolution is in irreconcilable conflict with a specific directive in the Governor's proclamation then in effect as it pertains to the wearing of a mask or face covering, the Governor's proclamation shall prevail.

Section 8. 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 1<sup>st</sup> day of March, 2021.

**ATTEST:**

  
Jacqueline Danielsen, MMC, City Clerk

  
Robert M. Green, Mayor