

RESOLUTION NO. 3675.2

A RESOLUTION ADOPTING A TEMPORARY POLICY REQUIRING VISITORS TO WEAR MASKS WHILE IN CITY BUILDINGS.

WHEREAS, the novel coronavirus (COVID-19), is a highly contagious respiratory disease that can lead to serious and sometimes fatal illness; and

WHEREAS, on January 27, 2020, the United States Department of Health and Human Services Secretary Alex Azar declared a national public health emergency because of COVID-19; and

WHEREAS, on January 30, 2020, the World Health Organization Director General declared the outbreak of COVID-19 as a Public Health Emergency of International Concern, advising countries to prepare for the containment, detection, isolation and case management, contact tracing, and prevention of onward spread of the disease; and

WHEREAS, on March 11, 2020, the World Health Organization declared COVID-19 a global pandemic; and

WHEREAS, on March 13, 2020, President Donald Trump issued a declaration of a national emergency due to the growing COVID-19 crisis in the United States; and

WHEREAS, on March 13, 2020, Governor Doug Burgum issued a declaration of a state emergency in response to the public health crisis resulting from COVID-19; and

WHEREAS, on March 16, 2020, the Minot City Council approved an emergency declaration relating to the COVID-19 crisis, which continues to be in effect; and

WHEREAS, on August 17th, 2020, the Minot City Council approved a resolution implementing a mask directive to strongly encourage all Minot residents, visitors and businesses to actively participate in the mitigation of COVID-19; and

WHEREAS, on August 17, 2020, the Minot City Council approved a temporary employment policy requiring all City employees to wear face masks while at work or interacting with the public when social distancing guidelines cannot be maintained; and

WHEREAS, as of October 14, 2020, the Centers for Disease Control and Prevention (CDC) reported that nationwide, there are more than 7,835,007 confirmed cases, including 15.5 new cases in the last 7 days per 100,000 people, and more than 215,194 deaths attributable to COVID-19; and

WHEREAS, as of October 13, 2020, the North Dakota Department of Health (NDDoH) reported there were more than 28,947 confirmed cases in the State of North Dakota, including 4759 active cases, 713 of those new cases having been reported on October 13, 2020. Additionally the NDDoH reported that 365 people have died in North Dakota, while diagnosed with COVID-19; and

WHEREAS, as of October 13, 2020, the NDDoH reported that Ward County has had a total of 1,633 confirmed cases, including 324 active cases, and at least 22 citizens have died while diagnosed with COVID-19; and

WHEREAS, as of October 14, 2020, the NDDoH Smart Restart Map has Ward County classified as a “moderate risk” County, meaning there are between 20-29 active cases of COVID-19 per 10,000 residents; and

WHEREAS, the CDC and the NDDoH have confirmed that masks help stop the spread of COVID-19, and recommend that the public wear masks in public settings, when around people that do not live in their household, and when individuals cannot stay 6 feet away from others; and

WHEREAS, the State of North Dakota is promoting a “MaskUpND” initiative, encouraging North Dakota residents and visitors to wear masks in an effort to assist in keeping North Dakota citizens safe; and

WHEREAS, North Dakota Governor Doug Burgum has not issued a state wide mask mandate, but has emphasized individual responsibility and local decision making; and

WHEREAS, the City Council finds that the threat of the spread of COVID-19 continues in the City of Minot, with no date certain for which a vaccine will be released; and

WHEREAS, the City of Minot has adopted a home rule charter in accordance with Chapter 40-05.1 of the North Dakota Century Code (N.D.C.C.); and

WHEREAS, the City of Minot’s home rule charter authorizes the City to enact policies and prescribe the function of government to be performed under the charter by the City; and

WHEREAS, the City of Minot’s home rule charter authorizes the City to provide for the adoption, amendment, and repeal of ordinances, resolutions and regulations to carry out its governmental and propriety powers and to provide for public health, safety, morals, and welfare, and penalties for a violation thereof; and

WHEREAS, the City of Minot’s home rule charter authorizes the City Council to enact and make all proper and necessary ordinances, resolutions, and orders to carry out and give effect to the express and implied powers granted by the charter to the end that a complete, harmonious and effective municipal government may be initiated, installed, operated, and maintained in the City, and thereby the rights, interests, safety, morality, health, and welfare of the City and its habitants are protected and safeguarded; and

WHEREAS, N.D.C.C. § 40-05.1-06 provides that the City has the right to implement home rule powers by ordinance; and

WHEREAS, the City of Minot has adopted Minot City Ordinance Section 2-38, which authorizes the Mayor of the City of Minot to declare a local disaster or emergency, and then take certain procedural actions and issue orders, including, but not limited to closing or cancelling the use of any municipally owned or operated building or other public facility, and to issue any and all such orders or take such other functions and activities as the Mayor reasonably believes is required or appropriate to protect the health, safety, and welfare of persons or property within the City; and

WHEREAS, the City Council of the City of Minot finds that it is in the best interest of the public peace, health, welfare, and safety to implement a temporary policy to require members of the

public to wear a mask while inside City Buildings, to reduce the spread of COVID-19 and to keep citizens, visitors, and the employees of the City safe.

NOW, THEREFORE, BE IT RESOLVED the City of Minot adopts the following resolution establishing a temporary policy requiring Visitors to wear masks while in City Buildings

1. Intent: This temporary policy is implemented with the intent of reducing the spread of COVID-19, keeping City of Minot citizens, employees, and visitors safe.
2. For purposes of this Resolution, the following terms shall be defined as follows:
 - a. City Building – any structure owned and operated by the City of Minot. City Building includes the spaces operated by the City within the Minot Municipal Auditorium, but does not include the spaces operated by the Minot Park District within the Minot Municipal Auditorium.
 - b. Face Covering or Mask – a paper or cloth face mask that covers the nose and mouth completely, and includes a paper or disposable face mask, a cloth face mask, a scarf, a bandanna, a neck gaiter, or a religious face covering. Masks that incorporate a valve designed to facilitate easy exhaling, mesh masks or masks with openings, holes, visible gaps in the design or materials, or vents are not sufficient face coverings because they allow exhaled droplets to be released into the air.
 - c. Visitors – any person over the age of six (6) years who is not an employee of the City of Minot. (Employees shall follow the temporary employee policy)
3. In accordance with CDC and NDDoH recommendations, and for the purposes of reducing the risk of transmission of the COVID-19, every Visitor entering a City Building shall wear a face mask over their nose and mouth for the entire time he or she remains in the City Building, including in lobbies, elevators, hallways, rooms, or any other situation within a City Building.
4. Any Visitor who attempts to enter a City Building without a mask will be provided one. If the mask is refused, entry may be denied.
5. The following people shall be exempt from this temporary policy:
 - a. people younger than 6 years of age, although parents and guardians are encouraged to have such younger children wear face mask when and where appropriate;
 - b. people with a medical condition or disability that prevents them from wearing a face mask;
 - c. people performing job duties where a mask is inhibitory to the ability to safely and effectively perform their job duty;

- d. people participating in athletic activities where a mask is inhibitory to the activity;
 - e. people actively consuming food or drink;
 - f. people receiving services that require access to the face for security, surveillance, or other purposes that may temporarily require the removal of a face mask while receiving those services;
 - g. people delivering a speech or performance for broadcast or to an audience; however these individuals must safely maintain a six (6) foot distance from nearby individuals; and
 - h. people receiving services in a City Building where they are separated from City employees by a physical barrier (e.g., window, plexiglass) while receiving those services.
6. The City shall ensure an adequate amount of supplies are available to all employees to help the public to comply with this temporary policy.
 7. To the extent the temporary policies are inconsistent, City Employees shall adhere to the “Temporary Employment Policy Regarding Mask Usage” which was adopted on August 17, 2020 with an effective date of August 24, 2020.
 8. Visitors who require a related reasonable accommodation to this temporary policy should notify the Interim City Manager if accessing City Hall, the Public Works Director if accessing Public Works, the Fire Chief if accessing a fire station, or the Police Chief if accessing the Police Department. Questions about access to other City Buildings can be directed to the Interim City Manager.
 9. Mask usage may be discontinued if there is a safety concern or situation that is immediately dangerous to life, safety, or health.
 10. If a situation arises that is not addressed specifically by this temporary policy, Visitors should work with the Interim City Manager or a member of the City Council to determine a solution which complies with the spirit and intent of this temporary policy to the greatest extent possible.
 11. Visitors may address any concerns with this temporary policy and/or compliance with this temporary policy by others with the Interim City Manager.
 12. This Resolution shall be read to avoid inconsistency with any amended CDC and NDDoH guidelines or any orders, rules, or regulations promulgated by the Governor of North Dakota or the President of the United States.

13. If any part of this Resolution, or application of this Resolution, is held to be invalid or unconstitutional by a decision of a court of competent jurisdiction, then such decision shall not affect the validity or the remaining portions or applications of this Resolution.

14. This Resolution shall remain in effect until underlying state of emergency ends, unless modified or terminated sooner by the City Council.

This Amended Resolution was approved by the Minot City Council on February 1, 2021.

ATTEST:

APPROVED:

Kelly Matalka, City Clerk

Shaun Sipma, Mayor