

RESOLUTION NO. #8-3-2020A

A RESOLUTION MANDATING THE USE OF FACE COVERINGS IN PUBLIC PLACES WITHIN THE CITY LIMITS OF MOUNT VERNON, IOWA

WHEREAS, the City of Mount Vernon City Council took an oath to uphold and defend the Constitution of the United States and the Constitution of the State of Iowa; and,

WHEREAS, Article III, Section 38A of the Iowa Constitution grants to 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 or its residents, and improve the peace, safety, health, welfare and convenience of its residents"; and,

WHEREAS, a "city may exercise its general powers subject only to limitations expressly imposed by a 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 "more stringent than those imposed by state law, unless a state law provides otherwise." Iowa Code Section 364.3(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, Mount Vernon Ordinance 15.02(2) expressly allows the Mount Vernon mayor "take command of the police and govern the City by proclamation, upon making a determination that a time of emergency or public danger exists. Within the City limits, the Mayor has all the powers conferred upon the Sheriff to suppress disorders." and,

WHEREAS, on March 17, 2020, the Governor of Iowa issued a Proclamation of Public Health Disaster Emergency after multiple cases of Covid-19 had been confirmed in Iowa and the Iowa Department of Public Health determined that community spread was occurring within the state; and,

WHEREAS, pursuant to the powers vested to him, the Mayor of Mount Vernon joined the Declaration of Disaster approved by the Linn County Board of Supervisors on March 25, 2020, and declared his intention to activate the disaster response and recovery

aspects of the Linn County Comprehensive Emergency Plan and those additional response plans applicable to this disaster emergency and authorizes the use and deployment of all available municipal and county resources, supplies, equipment, and materials as are reasonably necessary to assist in the preparedness, response, recovery, and mitigation of this disaster emergency; and,

WHEREAS, resumption of in-class instruction at Cornell College and the Mount Vernon Community School District in August will increase the risk of community spread of the Covid-19 virus; and,

WHEREAS, the Centers for Disease Control (CDC) has determined that face coverings are a critical tool in the fight against Covid-19 and could reduce the spread of the virus, particularly when used universally within communities; 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 Iowa Department of Public Health (IDPH); 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 face coverings in public places where social distancing measures are difficult (like grocery stores and pharmacies) can help slow the spread of Covid-19, and refers the public to the "local public health agency, the appropriate regulating agency or professional association" with questions about how to implement guidance; and,

WHEREAS, a requirement that persons in Mount Vernon wear a face covering 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 accelerate local recovery efforts; and,

WHEREAS, a requirement that persons wear face coverings is consistent with the Governor's proclamation, and the guidance of the IDPH and Linn County Department of Public Health; and,

NOW, THEREFORE, BE IT RESOLVED by the Mt. Vernon City Council mandates the following:

Section 1. Every person in the City of Mount Vernon must wear a face covering that covers their nose and mouth when in a public place as follows:

1. In public, as opposed to being in one's place of residence, when one cannot stay six (6) feet apart from others.
2. Inside of any indoor public settings, for example, but not limited to:
  - a. Grocery stores

- b. Pharmacies
  - c. Hardware stores
  - d. Retail establishments
  - e. Other public settings that are not one's place of residence and when with people who do not live in the household
3. Outside, if keeping six (6) feet away from others is not possible
  4. Using public transportation or private car service (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 the premises, unless the customer is wearing a face covering as required by this order, and businesses that are open to the public must post signs at entrances instructing customers of their obligation to wear a face covering while inside.

Section 3. Those that are exempt from wearing a face covering, include:

1. Persons younger than 2 years old due to the risk of suffocation.
2. Anyone who has trouble breathing, on oxygen therapy or ventilator.
3. Anyone who is unconscious, incapacitated, or otherwise unable to remove the face covering without assistance.
4. Anyone who has been told by a medical, legal, or behavioral health professional not to wear a face covering
5. 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, include:

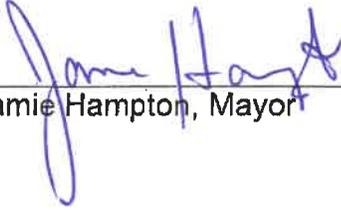
1. While traveling in personal vehicles alone or with household members.
2. While a person is alone or in the presence of only household members.
3. While exercising.
4. While seated at a food establishment in the process of eating or drinking.
5. While obtaining a service that would require temporary removal of the persons face covering.
6. When federal or state law prohibits wearing face coverings or requires the removal of the face covering.

Section 5. All resolutions or parts of resolutions in conflict with the provisions of this resolution are hereby repealed.

Section 6. If any section, provision or part of this resolution shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the resolution as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional.

Section 7. This resolution shall be in effect after its final passage and approval as provided by law and shall remain in effect until an affirmative vote of the Council easing said restrictions.

Passed by the Council the 3rd day of August, 2020, and approved this 3rd day of August, 2020.

  
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Jamie Hampton, Mayor

Attest:

  
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Sue Ripke, City Clerk