

# **CITY OF FAIRBURY, NEBRASKA**

## **BOARD OF HEALTH**

### **RULES AND REGULATIONS TO PREVENT THE INTRODUCTION AND SPREAD OF SEVERE ACUTE RESPIRATORY SYNDROME CORONAVIRUS 2, SARS-COV-2 (COVID-19) IN THE CITY OF FAIRBURY**

#### **REGULATION NO. 001**

#### **EFFECTIVE IMMEDIATELY UPON PASSAGE BY THE BOARD OF HEALTH**

WHEREAS, pursuant to Nebraska law, the City of Fairbury, Nebraska is a city of the second class;

WHEREAS, pursuant to Neb. Rev. Stat. § 17-121 (1), a city of the second class shall have the power to make regulations to prevent the introduction and spread of contagious, infectious, or malignant diseases into the City, to make quarantine laws for that purpose, and to enforce such regulations;

WHEREAS, pursuant to Neb. Rev. Stat. § 17-121 (4), the Board of Health of a city of the second class shall enact rules and regulations, which shall have the force and effect of law, to safeguard the health of the people of such city, may enforce them, and may provide fines and punishments for the violation of such rules and regulations, and Fairbury City Code § 32.003 provides the same for the City of Fairbury;

WHEREAS, pursuant to Neb. Rev. Stat. § 17-121 (4), the Board of Health of a city of the second class shall have control of hospitals, dispensaries, places for treatment of sick, and related matters under such restrictions and provisions as may be provided by ordinance of such city, and Fairbury City Code § 32.003 provides the same for the City of Fairbury;

WHEREAS, pursuant to Neb. Rev. Stat. § 17-121 (4), the Board of Health of a city of the second class may regulate, suppress, and prevent the occurrence of nuisances and enforce all laws of the state and ordinances of the city relating to nuisances or to matters of sanitation of such city;

WHEREAS, the Severe Acute Respiratory Syndrome Coronavirus 2, SARS-CoV-2 ("COVID-19") has dramatically impacted, and is increasingly so, the citizens of the City of Fairbury;

WHEREAS, the City of Fairbury Board of Health has taken into consideration the latest information from the U.S. Department of Health and Human Services Centers for Disease Control and Prevention ("CDC"), the White House Coronavirus Task Force, doctors and

infectious disease experts from the University of Nebraska Medical Center, Public Health Solutions serving the region containing the City of Fairbury, local health care providers and health care facilities including but not limited to Jefferson Community Health and Life, law enforcement officials, and other sources relevant to the COVID-19 threat;

THE BOARD OF HEALTH MAKES THE FOLLOWING FINDINGS:

1. Information from the sources noted above indicates that citizens of Fairbury have been and will continue to be exposed to COVID-19 due to community transmission of the disease.
2. Exposure to COVID-19 presents a risk of death or serious long-term disabilities, the exposure is wide-spread, and poses a significant risk of harm (including death) to people in the general population, there is a particular subset of the population that is more vulnerable to the threat and thus at increased risk, and the threat is from a novel infectious disease.
3. Regulations of the Health Board exist to effectively prevent, limit, and slow the spread of COVID-19 amongst the citizens of Fairbury and implementation will continue to curtail unnecessary in-person interaction, which is the main means of transmission of COVID-19.
4. The manner in which the spread of COVID-19 cases in the City of Fairbury has occurred poses unacceptable risks to the health and welfare of the citizens of Fairbury.
5. The number of COVID-19 infections within the City of Fairbury continues to increase and is widespread in the community.
6. Not having effective Regulations targeted at current circumstances would significantly jeopardize the ability to prevent or limit the transmission of COVID-19 or pose unacceptable risks to members of the community.
7. Maintaining practices to mitigate the spread of COVID-19 including, but not limited to, maintaining six (6) feet of physical distancing between individuals, and wearing a face covering which cover the mouth and nose, are necessary to slow the spread of COVID-19.
8. Director Dr. Robert R. Redfield of the CDC, as well as the weight of reliable medical information, have concluded the wearing of face coverings by every individual while in public is one of the best methods to slow and stop the spread of COVID-19.
9. Nebraska's Chief Medical Officer Dr. Gary Anthone has indicated during the month of November 2020 that the State of Nebraska has seen an increase in hospitalizations which is stressing the state's healthcare workforce.

10. Hospital capacity, as defined by both available inpatient beds and adequate staffing, has consistently decreased within Jefferson County in the preceding weeks.
11. The following Regulations have been identified as effective against public health threats by the CDC and other similar public health authorities to effectively prevent, limit, or slow the spread of COVID-19.

WHEREFORE, BE IT ORDAINED BY THE BOARD OF HEALTH OF THE CITY OF FAIRBURY, JEFFERSON COUNTY, NEBRASKA:

Section:

001: This Regulation No. 001 shall be effective immediately upon passage and continue until December 15, 2020, at 11:59 p.m. unless renewed, extended, or terminated by subsequent regulations.

002: Definitions.

.001 **Face Covering.** A face covering is defined as a covering which, when worn properly, must cover the nose and mouth completely and can include a paper or disposable face mask, a cloth face mask, a scarf, a bandanna, a neck gaiter, or a religious face covering. Medical-grade masks and respirators are sufficient face coverings, but to preserve adequate supplies, their purchase and use is discouraged for those who do not work in a health care setting or in other occupations that require medical-grade personal protective equipment. Masks that incorporate a valve designed to facilitate easy exhaling, mesh masks, or masks with openings, holes, visible gaps in the design or material, or vents are not sufficient face coverings because they allow exhaled droplets to be released into the air.

.002 **Premises That Are Open to the General Public.** Premises that are open to the general public are broadly defined to include entities that employ or engage workers, including private-sector entities, public-sector entities, non-profit entities, regular commercial or business establishments, private clubs, sports clubs, religious centers or buildings, public transportation (including buses, taxis, ride-sharing vehicles, or vehicles used for business purposes), and any place which is generally open to the public, including educational institutions and daycare facilities.

003: Individual Facial Coverings Required.

All individuals age five (5) and older shall wear a face covering over their mouth and nose while indoors in a premises that is open to the general public



including, but not limited to, educational institutions, unless the individual maintains a minimum of six (6) feet of separation or social distance at all times from anyone who is not a member of the individual's household, except face coverings will not be required if the individual:

- .001 is seated at a bar or restaurant to eat or drink, or while immediately consuming food or beverages;
- .002 is engaged in an occupation preventing the wearing of a face covering;
- .003 is obtaining a service or purchasing goods or services that requires the temporary removal of the face covering;
- .004 is asked to remove a face covering to verify an identity for lawful purposes;
- .005 is giving a speech, lecture, or broadcast to an audience so long as six (6) feet of distancing from other individuals is maintained and only while said speech, lecture, or broadcast is being delivered, though wearing a face covering even in these circumstances is highly encouraged;
- .006 cannot otherwise wear a face covering because of a medical condition, a mental health condition, or a disability that makes it unreasonable for the individual to wear a face covering.

Nothing in this section shall prohibit the owner or person in charge of a premises that is open to the general public from implementing a more restrictive face covering policy.

#### 004 Premises That Are Open to the Public - Duty to Require Facial Coverings.

Any individual or entity which maintains premises that are open to the general public including, but not limited to, educational institutions, shall require all individuals age five (5) and older to wear a face covering over their mouth and nose while indoors in said premises, unless the individual maintains a minimum of six (6) feet of separation or social distance at all times from anyone who is not a member of the individual's household, except face coverings will not be required if the individual:

- .001 is seated at a bar or restaurant to eat or drink, or while immediately consuming food or beverages;
- .002 is engaged in an occupation preventing the wearing of a face covering;
- .003 is obtaining a service or purchasing goods or services that requires the temporary removal of the face covering;
- .004 is asked to remove a face covering to verify an identity for lawful purposes;
- .005 is giving a speech, lecture, or broadcast to an audience so long as six (6) feet of distancing from other individuals is maintained and only while said speech, lecture, or broadcast is being delivered, though wearing a face covering even in these circumstances is highly encouraged;
- .006 cannot otherwise wear a face covering because of a medical condition, a mental health condition, or a disability that makes it unreasonable for the individual to wear a face covering.

Nothing in this section shall prohibit the owner or person in charge of a premises that is open to the general public from implementing a more restrictive face covering policy.

005 Notice of Face Covering Requirements.

Any individual or entity which maintains premises that are open to the general public, including but not limited to educational institutions, must post one or more signs that are visible to all persons - including workers, customers, and visitors - instructing them to wear face coverings as required by this Article. The signs required by this Section must be printed on a poster or paper that is a minimum size of 8.5 inches by 11 inches, and be written or typed in a legible font or typeface that is no smaller than 12 points of leading or 12-point type.

006 Exceptions

The provisions of this Article shall not apply to:

- .001 Courts of law; public utilities or essential federal, state, county, or city operations; medical providers, facilities, or pharmacies; congregate living centers or facilities; group homes and residential drug and/or mental health treatment facilities; shelters; or to residential dwelling units. However, these excepted settings shall, to the extent possible, observe physical distancing practices by providing for the maintaining of at least six (6) feet of separation between individuals and all other applicable local, state, and federal guidelines for disease prevention and disinfection of surfaces.
- .002 Children under the age of five (5). While children ages three (3) and four (4) may wear a face covering if that child can remove the face covering without assistance, guidance from the CDC states that children two (2) years old and under should never wear a face covering due to the risk of suffocation.
- .003 Federal and state activities: Nothing in this Article shall be construed to limit, prohibit, or restrict in any way the operations of the federal or state government or the movement of federal or state officials in the city while acting in their official capacity, including federal and state judicial, legislative, and executive staff and personnel.
- .004 Individuals at their workplace when wearing a face covering would create a job hazard for the individual or others, as determined by federal, state, or local regulators or workplace safety and health standards and guidelines.
- .005 Individuals who are officiating at a religious service.
- .006 Individuals communicating with other individuals who are deaf or hard of hearing or who have a disability, medical condition, or mental health condition that makes communication with that individual while wearing a face covering difficult, provided that minimum social

distancing of six (6) feet or more is maintained to the extent possible between persons who are not members of the same household.

- .007 Individuals in an indoor premises that is generally open to the public while playing a musical instrument that cannot be played when a face covering is worn, provided that a minimum social distancing of six ( 6) feet or more is maintained at all times.
- .008 Public safety workers actively engaged in a public safety role, including but not limited to law enforcement personnel, fire fighters, or emergency medical personnel, in situations where wearing a face covering would seriously interfere in the performance of the individual's public safety responsibilities.

Nothing in this section shall prohibit the owner or person in charge of a premises that is open to the general public from implementing a more restrictive face covering policy.

#### 007 Public Nuisance Declared

Any premises that is open to the general public that fails to comply with the requirements of this Regulation No. 001 is hereby declared to be a nuisance and a danger to the public health, safety, and welfare.

#### 008 Enforcement

- .001 The City of Fairbury Code Enforcement Officer and the Jefferson County Sheriff's Department will provide education to individuals and premises that are open to the general public for first offenses of this Regulation No. 001.
- .002 Violations of this Regulation No. 001 are subject to the General Penalty provision of the Fairbury City Code, Section 10.99.
- .003 In addition to any other penalty sought or obtained under this Regulation No. 001, Fairbury City Code, or other applicable law, the City Attorney may institute injunctive or other appropriate civil proceedings necessary to obtain compliance with this Regulation No. 001 or to abate any nuisance resulting from violations of this Regulation No. 001.

#### 009 Severability

The sections, subsections, paragraphs, sentences, clauses, and phrases of this Resolution No. 001 are severable, and if any section, subsection, paragraph, sentence, clause, or phrase of this Resolution No. 001 shall be declared invalid, unenforceable, or unconstitutional by the valid judgment or decree of a court of competent jurisdiction, such invalidity, unenforceability, or

unconstitutionality shall not affect any of the remaining sections, subsections, paragraphs, sentences, clauses, or phrases of this Resolution No. 001.

PASSED, APPROVED, AND EFFECTIVE IMMEDIATELY THIS 19th DAY OF NOVEMBER, 2020.

CITY OF FAIRBURY BOARD OF HEALTH

BY: Homer L. Ward  
Homer L. Ward, Mayor  
Chair of the Board of Health

ATTEST:

D. Lufkin  
Secretary, Board of Health

