

RALSTON BOARD OF HEALTH

Nov. 19th, 2020

ORDER

WHEREAS Neb. Rev. Stat. §16-238 provides that a city of the first class may make regulations to prevent the introduction and spread of contagious, infectious, or malignant disease into the city.

WHEREAS Neb. Rev. Stat. §16-238 further provides that in such cities a board of health shall be created and shall enact rules and regulations, having the force and effect of law, to safeguard the health of the people of such city, enforce the same, and provide fines and punishments for the violation of such rules and regulations.

WHEREAS the City of Ralston, a Nebraska city of the first class, has provided in Ralston Municipal Code §2-104 for the creation of such a Board of Health pursuant to Neb. Rev. Stat. §16-238 and has in fact so appointed this Ralston Board of Health.

WHEREAS the City of Ralston is currently subject to a Directed Health Measure issued by the Nebraska Dept. of Health and Human Services on Nov. 16th, 2020, which found as follows:

That a member or members of the public have been exposed to a communicable disease known as COVID-19; there are now confirmed cases of "community spread" or "community transmission" of COVID-19 in the areas subject to this Directed Health Measure.

That multiple areas of the United States are experiencing "community spread" of the virus that causes COVID-19. Community spread, defined as the transmission of an illness for which the source is unknown, means that isolation of persons traveling from known areas of infection is no longer enough to control spread.

That exposure presents a risk of death or serious long-term disabilities to any person; the exposure is wide-spread and poses a significant risk of harm 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.

WHEREAS the Director of the United States Centers for Disease Control and Prevention (CDC) and doctors and infectious disease experts from the Nebraska Medical Center and Nebraska Medicine have concluded that 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.

WHEREAS this Board of Health has reviewed information provided by the Ralston Board of Health Medical Advisor, Dr. Alan Dworak, regarding the increasing spread of Covid-19 in Douglas County and the effectiveness of community masking to reduce such spread of Covid-19.

WHEREAS the City of Ralston is surrounded by and shares borders with the City of Omaha in three directions, and Omaha has enacted a community mask mandate in Chapter 12, Article III, of the Omaha Municipal Code.

NOW THEREFORE, the Ralston Board of Health finds that the increasing spread of the Covid-19 virus presents a novel risk of death and significant harm to the people of the City of Ralston which justifies the enforcement of community masking consistent with those required in Omaha, and in addition to the provisions of the current Nebraska Dept. of Health and Human Services Directed Health Order, to safeguard the health of the people of Ralston, and hereby enact the following rules and regulations under the authority granted to it by Neb. Rev. Stat. §16-238 and Ralston Municipal Code §2-104:

Definitions.

For purposes of this article, the following terms are defined as follows:

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.

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, 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.

Individual face coverings required.

All individuals age five 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 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:

1. Is seeking federal, state, county, or city governmental services;
2. Is seated at a bar or restaurant to eat or drink, or while immediately consuming food or beverages;
3. Is engaged in an occupation preventing the wearing of a face covering;
4. Is obtaining a service or purchasing goods or services that requires the temporary removal of the face covering;
5. Is asked to remove a face covering to verify an identity for lawful purposes;
6. Is providing a speech, lecture, or broadcast to an audience so long as six feet of distancing from other individuals is maintained; or
7. (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 requiring an individual to wear a face covering during any of the circumstances enumerated above or from implementing a more restrictive face covering policy.

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 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 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:

1. Is seeking federal, state, county, or city governmental services;
2. Is seated at a bar or restaurant to eat or drink, or while immediately consuming food or beverages;
3. Is engaged in an occupation preventing the wearing of a face covering;
4. Is obtaining a service or purchasing goods or services that requires the temporary removal of the face covering;
5. Is asked to remove a face covering to verify an identity for lawful purposes;
6. Is providing a speech, lecture, or broadcast to an audience so long as six feet of distancing from other individuals is maintained; or
7. 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 requiring an individual to wear a face covering during any of the circumstances enumerated above or from implementing a more restrictive face covering policy.

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.

Exceptions.

The provisions of this article shall not apply to:

1. Courts of law; public utilities or 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; airport travel; election offices; polling places on an election day; or to residential dwelling units.
2. Children under the age of five. While children ages three and four may wear a face covering if that child can remove the face covering without assistance, guidance from the CDC states that children two years old and under should never wear a face covering due to the risk of suffocation.
3. 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.
4. 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.
5. Individuals who are alone in an office, room, a vehicle, the cab of heavy equipment or machinery, or an enclosed work area. In such situations, the individual should still carry a face covering to be prepared for person-to-person interactions and to be used when the individual is no longer alone.
6. Individuals who are seated at a desk or standing at a stationary work station, provided that the desk or work station has a solid Plexiglas or plastic barrier installed upon it which cannot be moved.
7. Individuals who are officiating at a religious service.
8. 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 feet or more is maintained to the extent possible between persons who are not members of the same household.
9. Individuals who are engaged in activities, such as swimming or showering, where the face covering will get wet.

10. Individuals who are exercising in an indoor business or indoor space such as a gym or fitness center, while the level of exertion makes it difficult to wear a face covering, provided that minimum social distancing of six feet or more is maintained at all times.
 11. 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 feet or more is maintained at all times.
 12. Individuals actively participating in a team sports activity, while the level of exertion makes it difficult to wear a face covering.
 13. 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 requiring an individual to wear a face covering during any of the circumstances enumerated above or from implementing a more restrictive face covering policy.

Penalty.

Any individual or person who is found to have violated any of the provisions of this article shall be guilty of a misdemeanor for each offense and shall be subjected to a fine of \$25.00. Each instance of violation of this article may be considered a separate offense.

Effective Date and Duration.

These rules and regulations shall become effective at 8:00 am on Wednesday, November 25th, 2020, and shall remain in full force and effect until superseded by a Directed Health Measure issued by the Nebraska Dept. of Health and Human Services or Douglas County Board of Health mandating community masking or until otherwise rescinded by the Ralston Board of Health or Ralston City Council.

Donald A. Groesser, Chairman
Ralston Board of Health

Attested:

Approved as for form:

Rosemarie D. Russell, City Clerk

Donald F. Ficenec, City Attorney