



## FAQ Resolution 20-059, Mask Mandate

*Effective at 12:01 a.m. on October 27, 2020 and will be in effect for 90 days, unless there is Council action sooner.*

*Question 1. Can the City of Coeur d'Alene legally require people to wear masks in public?*

Answer. Yes. The City's power to pass a Resolution requiring the wearing of masks is based on Idaho Code § 50-304 which provides: "Cities may establish a board of health and prescribe its powers and duties; pass all ordinances and make all regulations necessary to preserve the public health; prevent the introduction of contagious diseases into the city; make quarantine laws for that purpose and enforce the same within five (5) miles of the city." The mask mandate was considered by the City Council to be necessary to preserve the public health. Some have pointed to a press release from the Governor's office dated October 1, 2020, which suggests that cities cannot impose a mask mandate. A press release, however, is not law nor is it an authoritative interpretation of the law. More importantly, paragraph 7 of the Governor's Order of October 26, 2020 states: "To decrease the spread of COVID-19, the cities, counties, public health districts, school districts, and institutions of higher education within the State of Idaho may enact more stringent public health orders than those set out in this Order." Therefore, the Resolution is entirely consistent with the Governor's most recent Order.

*Question 2. What is a "public place"?*

Answer. Section 2 of the Resolution states: "For purposes of this Resolution, the term 'public place' shall mean any place open to members of public without specific invitation, including but not necessarily limited to, retail business establishments, government offices, medical, arts and recreational institutions, and public transportation, including taxi cabs and ridesharing vehicles." A public place, therefore, is any place a member of the public can go without the necessity of receiving a special invitation. In other words, if you can go to a place without being specifically and individually invited, that place is a public place. Businesses open to the public do not extend specific or individual invitations, but instead impliedly invite the public at large to shop. People don't need a special, individual invitation to use a park or recreational area and so such places are "public places." On the other hand, your front yard is not open to the public without your specific permission. Therefore, your front yard is not a "public place."

*Question 3. What is the definition of "face coverings"?*

Answer. Section 1 of the Resolution states: "Every person shall, when in any indoor or outdoor public place, wear a cloth or surgical face covering that completely covers the nose and mouth, which includes a disposable face mask, a disposable or reusable cloth mask or covering, a surgical mask, or a face shield..." unless one of the exceptions applies. Thus, any covering that completely covers the nose and mouth would constitute a "face covering."

*Question 4. Does the mask mandate apply to businesses as well as individuals?*

Answer. The mask mandate applies only to individuals in public places. However, many businesses are open to the public. Customers not wearing a mask inside a business open to the public would be subject to citation if they do not fall within one of the exceptions. The businesses themselves would not be subject to citation nor are businesses required to enforce the Resolution. Enforcement is a police function. However, the employees of businesses open to the public as subject to the mask mandate.

*Question 5. What if I have a medical condition that prevents me from wearing a mask?*

Answer. When asked, you may say that you have a medical condition that prevents you from wearing the mask. You do not have to provide proof and you cannot be cited for not wearing a mask under those circumstances.

*Question 6. What are the exceptions to the face covering requirement?*

Answer.

- A. Children under the age of ten (10) years.
- B. Persons who cannot medically tolerate wearing a face covering. Such persons may not be asked for documentation to support the medical condition.
- C. Persons who are hearing impaired, or who are communicating with a person who is hearing impaired, where the ability to see the mouth is essential for communication.
- D. Persons, including on-duty first responders, for whom wearing a face covering would create a risk to the person related to their work, as determined by local, state, or federal regulators or workplace safety.
- E. Persons who are obtaining a service involving the nose, face, or head during which temporary removal of the face covering is necessary to perform the service.
- F. Persons who are eating or drinking at a restaurant or other establishment that offers food or beverage service, so long as the person is able to maintain a distance of 6 feet away from persons who are not members of the same household or party as the person.
- G. Outdoor public places where people can employ social distancing as recommended by CDC.
- H. Indoor facilities where people can employ social distancing as recommended by the CDC.

*Question 7. What is the penalty if one is issued a ticket?*

Answer. While Officers will initially seek to educate citizens, Section 4 of the Resolution states: “Individuals and businesses within the City of Coeur d’Alene are urged to voluntarily comply with this Resolution. The City will make efforts to educate individuals and businesses to achieve compliance. Violations of this Resolution shall constitute an infraction and will be subject to a fine of One hundred dollars (\$100.00).”