

**RESOLUTION NO. 21- 88**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA REQUIRING THE USE OF FACE COVERINGS IN INDOOR AND ENCLOSED PUBLIC SPACES**

**WHEREAS**, California Government Code Section 8630 empowers the City Council to proclaim the existence or threatened existence of a Local Emergency when the City is affected or likely to be affected by a public calamity; and

**WHEREAS**, Government Code Section 8634 empowers the City to promulgate orders and regulations to provide for the protection of life and property; and

**WHEREAS**, pursuant to Benicia Municipal Code Section 2.36.050(A)(1), the Director of Emergency Services has declared the existence of a Local Emergency, which Local Emergency has been ratified by the City Council on March 19, 2020; and

**WHEREAS**, the Director of Emergency Services does hereby find that conditions of extreme peril and a crippling disaster, which severely impairs the safety of persons or property, have arisen within the City, caused by the virus COVID-19 and its rapid transmission, as reported by various local, state and national health organizations; and

**WHEREAS**, the aforesaid conditions of extreme peril warranted and necessitated the proclamation of the existence of a Local Emergency; and

**WHEREAS**, the novel Coronavirus is highly contagious and poses a threat to the wellbeing of every person; and

**WHEREAS**, in order to slow the spread of COVID-19, the U.S. Center for Disease Control and Prevention (CDC) recommends that face coverings be worn in all circumstances when distancing of at least six feet is not possible; and

**WHEREAS**, on July 27, 2021, the CDC issued a recommendation that fully vaccinated people wear coverings in public indoor settings located in areas of substantial or high transmission of COVID-19, to reduce the spread of COVID-19; and

**WHEREAS**, on July 28, 2021, the California Department of Public Health issued its Guidance for the Use of Face Coverings, recommending that fully vaccinated people to wear face coverings in indoor public settings statewide; and

**WHEREAS**, in early August 2021, health officers in the Counties of Alameda, Contra Costa, Marin, Napa, San Francisco, San Mateo, Santa Clara, Sonoma and the City of Berkeley announced a mask mandate requiring every resident to wear a face mask indoors in public settings, regardless of vaccination status; and

**WHEREAS**, the County of Solano has not issued an order mandating the wearing of face coverings; and

**WHEREAS**, the City has an important governmental interest in protecting the health, safety, and welfare of its citizens and businesses; and

**WHEREAS**, in order to protect the health and safety of the City and in order to follow the sound guidance and recommendations of the CDC and the California Department of Public Health, the City will impose a requirement that face coverings be worn indoors and in enclosed spaces in order to curtail the spread of COVID-19; and

**WHEREAS**, in the interest of public health and safety, as affected by the emergency caused by the spread of COVID-19, the City Council of the City of Benicia finds it necessary to issue and implement this Resolution to protect life, health and safety of its citizens and the community at large.

**NOW, THEREFORE, BE IT RESOLVED THAT** the City Council of the City of Benicia does hereby order as follows:

**SECTION 1. Face Coverings Required.**

**1. Face Covering Requirement.** Except as otherwise set forth in this Resolution, all persons, regardless of whether they are fully vaccinated against COVID-19 or not fully vaccinated, shall wear well-fitted face coverings over the nose and mouth in all indoor public settings in the City. For the purposes of this Resolution, public settings include, but are not limited to, business offices, retail stores, restaurants and bars, theaters, family entertainment centers, conference and event centers, and State and local government facilities where services are provided to the public.

**2. Operator and Host Requirements.** Businesses, government agencies and other persons that operate inside indoor public settings, or host events inside indoor public settings, shall:

a. At all points of entry to the indoor public setting, promptly post conspicuous signage that communicates the face covering requirement of this Resolution; and

b. To the greatest extent practicable, require persons subject to the face covering requirement in this Resolution to wear face coverings upon entry into and while inside the indoor public setting.

**3. Exceptions.** The face covering requirement of this Resolution does not apply to individuals in the following circumstances:

a. When alone in a room.

b. When actively eating and/or drinking.

c. When swimming or showering in a fitness facility.

d. When receiving care or other service that requires removal of the face covering, including by way of example and without limitation, medical care requiring exposure of the nose or mouth, cosmetic services involving the face, and dental procedures.

e. Performers at indoor live events such as theater, opera, symphony, religious choirs, and professional sports may remove masks while actively performing or practicing, though such individuals should maximize physical distancing as much as practicable.

f. Participants in indoor religious gatherings may remove masks when necessary to participate in religious rituals.

g. Persons younger than four years old.

h. When exempt from wearing face coverings under the State Face Covering Guidance or other applicable CDPH guidance. The State Face Covering Guidance exempts the following individuals from wearing masks:

(1) Persons younger than two years old. Very young children must not wear a mask because of the risk of suffocation.

(2) Persons with a medical condition, mental health condition, or disability that prevents wearing a mask, including persons with a medical condition for whom wearing a mask could obstruct breathing or who are unconscious, incapacitated, or otherwise unable to remove a mask without assistance.

(3) Persons who are hearing impaired, or communicating with a person who is hearing impaired, where the ability to see the mouth is essential for communication.

(4) Persons for whom wearing a mask would create a risk to the person related to their work, as determined by local, state, or federal regulators or workplace safety guidance.

**4. Conflicts.** Where a conflict exists between this Resolution and more permissive standards pertaining to the wearing of face coverings set forth in any other Order of the Solano County Health Officer in effect, or between this Resolution and any State Public Health Officer order in effect or CDPH guidance in effect pertaining to the wearing of face coverings in response to the COVID-19 pandemic, the more restrictive provision controls.

**SECTION 2. Effective Date.** This Resolution shall take effect immediately upon adoption by the City Council of the City of Benicia and shall remain in effect for six weeks, and thereafter, until the City is not in a substantial or high transmission of COVID 19 as defined by the CDC for a thirty-day period. This Resolution shall be reviewed by the Council after six weeks and thereafter upon referral by the City Manager.

**SECTION 3.** The City Clerk shall certify the adoption of this Resolution and shall cause a certified Resolution to be filed in the Office of the City Clerk.

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On motion of **Mayor Young**, seconded by **Council Member Strawbridge**, the above Resolution was adopted by the City Council of the City of Benicia at a regular meeting of said Council held on the 24<sup>th</sup> day of August, 2021 by the following vote:

Ayes: **Council Members Campbell, Largaespada, Macenski, Strawbridge, and Mayor Young**

Noes: **None**

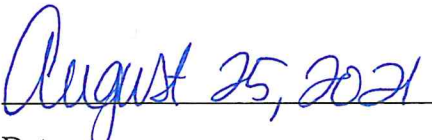
Absent: **None**

Abstain: **None**

  
\_\_\_\_\_  
Steve Young, Mayor

Attest:

  
\_\_\_\_\_  
Lisa Wolfe, City Clerk

  
\_\_\_\_\_  
Date