

WITHDRAWN JAN 18, 2022

IN THE COUNTY LEGISLATURE OF JACKSON COUNTY, MISSOURI

AN ORDINANCE issuing a mask mandate for schools where children grades K-12 attend class and on school buses, for the health and safety of the County's citizens, with an effective date and penalty provision.

ORDINANCE NO. 5591, January 18, 2022

INTRODUCED BY Scott Burnett, Crystal Williams, and Jalen Anderson, County Legislators

WHEREAS, in response to the increased health risk posed to Jackson County citizens evidenced by the Report Supporting Order for Mask Wearing in Public Places provided by the Jackson County Health Department pursuant to section 67.625, RSMo, the Legislature is, by this this Ordinance, issuing a mask mandate order pursuant to the authority granted in article II, section 16.30 of the Constitutional Home Rule Charter of Jackson County; and,

WHEREAS, COVID-19 spreads among people who are in contact with one another or present in shared spaces and a gathering of individuals without necessary mitigation for the spread of infection will pose a risk of the spread of infectious disease; and

WHEREAS, the state of Missouri is experiencing another wave of new COVID-19 cases, fueled by low rates of full vaccination (currently 54.4% of residents), the spread of more pervasive and virulent strain variant (the Omicron Variant), and COVID-19 hot spots in Kansas City and St. Louis; and,

WHEREAS, area hospitals, including Children’s Mercy Hospital, serving the citizens of Jackson County are experiencing high levels of COVID-related admissions, placing them at or near capacity limits; and,

WHEREAS, as of January 13, 2022, the Jackson County Health Department reported 53,074 total cases of COVID-19 and 614 COVID-19-related deaths in Eastern Jackson County (the area outside of Kansas City, Missouri, and Independence, Missouri); and,

WHEREAS, on January 13, 2022, the Jackson County Health Department reported approximately 53.6% of Eastern Jackson County residents were fully vaccinated for COVID-19 and that 60.5% have been administered at least one vaccine dose; and,

WHEREAS, on August 23, 2021, the U.S. Food and Drug Administration fully approved Comirnaty, also known as the Pfizer-BioNTech COVID-19 vaccine, for prevention of COVID-19 disease in individuals sixteen (16) years of age and older, with additional vaccine and booster options available under a prior emergency use authorization; and,

WHEREAS, on October 26, 2021, the U.S. Food and Drug Administration and Centers for Disease Control and Prevention (CDC) issued emergency use authorization for the Pfizer-BioNTech COVID-19 vaccine for individuals five (5) years of age and up; and,

WHEREAS, on November 19, 2021, the Food and Drug Administration and CDC expanded the emergency use authorization eligibility for both the Moderna and Pfizer-

BioNTech COVID-19 vaccine booster for individuals eighteen (18) years of age and older after the completion of primary vaccination protocols; and,

WHEREAS, compelling data demonstrates that community mask wearing is an effective nonpharmacologic intervention to reduce the spread of COVID-19 infection, especially as source control to prevent spread from infected persons, and also as protection to reduce wearers' exposure to infection; and,

WHEREAS, on November 30, 2021, CDC issued new guidance, recommending all vaccinated individuals (in addition to its previous recommendation for unvaccinated individuals) in "substantial" or "high" transmission areas wear masks indoors; and,

WHEREAS, as of January 13, 2022, CDC classifies Jackson County, and every county adjacent to Jackson County in both Missouri and Kansas, as high transmission areas; and,

WHEREAS, as of January 6, 2022, the Mid-America Regional Council (MARC) reports that, within its Missouri jurisdictions, only 14.44% of children 5-11 have been fully vaccinated, whereas 40.06% of children 12-17 have been fully vaccinated; and,

WHEREAS, the MARC report's statistics regarding children are in contrast to 57.57% of adults aged 18-64 who have been vaccinated and 86.24% of adults 65+ who have been vaccinated; and,

WHEREAS, in the absence of widespread vaccination, the best method left to protect the children of Jackson County in school is by requiring the wearing of face coverings and masks; and,

WHEREAS, part of the discrepancy between vaccination rates in children 5-11 and those 12-17 can be explained by the recent U.S. Food and Drug Administration emergency use authorization of the Pfizer COVID-19 vaccine for children 5-11 occurring on October 29, 2021, and endorsed by the CDC on November 2, 2021; and,

WHEREAS, K-12 students benefit from in-person learning and interactions with others; and,

WHEREAS, under Missouri law and in general, children between the ages of 7 and 17 are required to attend school; and,

WHEREAS, safely attending in-person classes and keeping open public and private schools where children in grades K-12 attend class is of the highest priority for students, parents, schools, and the entire community; and,

WHEREAS, CDC recommends universal indoor masking for all students, staff, teachers, and visitors to K-12 schools regardless of vaccination status; and,

WHEREAS, wearing face masks while indoors at school will lower the risk of transmission in the K-12 school setting; and,

WHEREAS, wearing a mask or other face covering in school will help get and keep children in school and is an effective means to lower the risk of transmission and mitigate the spread of COVID-19 while in school; and,

WHEREAS, there is no current masking order in place within eastern Jackson County, with the order imposed by Resolution 20806 having been terminated by Resolution 20814 on November 12, 2021; and,

WHEREAS, on January 13, 2022, the Jackson County Health Department, pursuant to section 67.625, RSMo, submitted an updated report to the Legislature outlining the need for and recommending the re-imposition of a mask mandate; and,

WHEREAS, the substantive provisions of this Ordinance are substantially the same as those enacted by the City of Kansas City, MO, in its Ordinance 220025, effective January 9, 2022; now therefore,

BE IT ORDAINED by the County Legislature of Jackson County, Missouri, as follows:

Section 1. As of the effective date and time of this Ordinance, all individuals, businesses, and government agencies in Jackson County, Missouri, excluding the portions of the

County within the corporate limits of the cities of Kansas City, Missouri, and Independence, Missouri, are required to adhere to the provisions of this Ordinance.

Section 2. Community Health Guidance.

A) All persons are encouraged to limit exposure by obtaining a federally-approved vaccine and properly wearing a face covering or mask when applicable and maintaining social distancing when indoors at a place of public accommodation. The use of face coverings or masks is recommended in indoor private settings and crowded outdoor settings where there is close contact with other people who may not be fully vaccinated.

B) As used herein, the terms below shall have the following meanings:

- i. A “face covering or mask” means a uniform piece of cloth, fabric, or other material that securely covers a person’s nose and mouth. It is properly worn when it remains affixed in place without the use of one’s hands.
- ii. “Social distancing” is maintaining at least six feet of distance from others.

Section 2. Schools.

A) To ensure that schools may operate as safely as possible, a face covering or mask is required for all children, faculty, staff, and visitors while inside a school building where any students through and including 12th grade attend class, unless actively eating or drinking. All persons must wear a face covering or mask when riding on a school bus.

- i. As used herein, schools shall not include those owned or operated on behalf of a religious corporation, association, or society.

ii The following individuals are exempt from wearing face coverings or masks:

a) Persons under 5 years old;

b) Persons with a medical condition, mental health condition, or disability that prevents wearing a face covering or mask that, other than in the case of an emergency, have provided documentation of such condition or disability that has been approved by appropriate school officials pursuant to school guidelines. This includes persons with a medical condition for whom wearing a face covering could obstruct breathing or otherwise unable to remove a face covering without assistance, as well as those who are unconscious or incapacitated;

c) Persons communicating with a person who is deaf or hard of hearing, where the ability to see the mouth is essential for communication; and

d) Persons who are alone in a separate room or office, or on the bus.

iii. The requirement to wear a mask on a school bus is intended to reflect requirements by the U.S. Department of Transportation (DOT) and not preempt federal authority to regulate school busses. Should the DOT rescind the requirement for masks on school busses, this provision will still apply.

Section 4. Violation of any provision of this Ordinance constitutes an imminent threat and immediate menace to public health. It shall be unlawful for any person to fail, neglect or refuse to comply with an provision of this Ordinance, or for any person to otherwise violate or in any manner aid, assist, encourage, or support the commission or perpetration of a violation of this Ordinance, and any such person is subject to the penalty provision in section 11 of this Ordinance.

Section 5. No provision of this Ordinance shall be construed to impair the County's right to pursue any other legal remedy, relief, or cause of action, including injunctive relief, related to any violation of this Ordinance or from any other law.

Section 6. Pursuant to §192.300, RSMo and §192.320, RSMo, the Sheriff, all chiefs of police, Park Rangers in the County, and the Jackson County Environmental Health Administrator are authorized and empowered to ensure compliance with and enforcement of this Ordinance.

Section 7. The Legislature, through the Jackson County Health Department, will consistently monitor data regarding COVID-19 rates in Jackson County and reserves the right to further amend this Ordinance in accordance with infection rates, CDC guidelines, and any other relevant information which indicates the necessity to increase restrictions, or which indicates cause to ease restrictions.

Section 8. Copies of this Ordinance shall promptly be: (a) made available outside the Jackson County Courthouses at 415 E. 12th St., Kansas City, MO 64106 (Downtown Location); (b) posted on the Jackson County Health Department website (www.jacohd.org); and (c) provided to any member of the public requesting a copy of this Ordinance.

Section 9. If any provision of this Ordinance or its application to any person or circumstance is held to be invalid, the remainder of the Ordinance, including the application of such part or provision to other persons or circumstances, shall not be affected and shall continue in full force and effect. To this end, the provisions of this Ordinance are severable.

Section 10. Effective Date.

This Ordinance shall be effective as of 12:00 am on January 19, 2022, or upon adoption by the Legislature and signature by the County Executive, whichever is later, and will continue to be in effect until 6:00 pm on February 3, 2022, or until it is extended, rescinded, superseded, amended, or terminated by the Legislature pursuant to the provisions of § 67.265, RSMo.

Section 11. Penalty Provision.

Whenever, in any section of this Ordinance, the doing of any act is required or is prohibited or is declared to be unlawful or an ordinance violation, any person who shall be convicted of a violation of any such provision of this Ordinance shall, for each offense,

be fined not less than \$100.00 and not more than \$1,000.00, or be punished by imprisonment, not to exceed six months, or be punished by both fine and imprisonment.

Effective Date: This ordinance shall be effective immediately upon its signature by the County Executive.

APPROVED AS TO FORM:

[Signature]
Chief Deputy County Counselor

[Signature]
County Counselor

I hereby certify that the attached ordinance, Ordinance No. 5591 introduced on January 18, 2022, was duly ~~passed~~ **WITHDRAWN JAN 18** on _____, 2022 by the Jackson County Legislature. The votes thereon were as follows:

Yeas _____

Nays _____

Abstaining _____

Absent _____

WITHDRAWN JAN 18, 2022

This Ordinance is hereby transmitted to the County Executive for his signature.

Date

Mary Jo Spino, Clerk of Legislature

I hereby approve the attached Ordinance No. 5591.

Date

Frank White, Jr., County Executive