

RESOLUTION NO. 2020R12

**RESOLUTION REQUIRING MASKS OR OTHER FACE COVERINGS WITHIN
ELLSWORTH COUNTY, KANSAS**

WHEREAS, on the 13th day of March, 2020, the President of the United States pursuant to Sections 201 and 301 of the National Emergencies Act, 50 U.S.C. § 1601, et seq. and consistent with Section 1135 of the Social Security Act, as amended (42 U.S.C. § 5121-5207 the "Stafford Act"); and

WHEREAS, on the 16th day of March, 2020, the Board of County Commissioners of Ellsworth County, Kansas found that a disaster had occurred, or the threat thereof was imminent within Ellsworth County, Kansas as a result of the Coronavirus (COVID-19) pandemic and the confirmed outbreak and person-to-person spread of COVID-19 in the United States, Kansas, and counties adjoining Ellsworth County; and

WHEREAS, on the 1st day of June, 2020, the Board of County Commissioners of Ellsworth County, Kansas through Resolution 2020R08 extended the state of local disaster emergency declared in Resolution 2020R03 and 2020R04, and

WHEREAS, the Local Health Officer is authorized and required, pursuant to K.S.A. 65-119, K.S.A. 65-129b and K.S.A. 65-202 to immediately exercise and maintain a supervision over known or suspected cases of any infectious or contagious disease during its continuance, and to issue orders seeing that all such cases are properly handled and that the provisions of the Kansas public health laws as to isolation, quarantine and disinfection are duly enforced; and

WHEREAS, COVID-19 is a respiratory disease that spreads easily from person to person and may result in serious illness and/or death, has been confirmed in Ellsworth County, resulting in serious illness and death; and

WHEREAS, such conditions endanger the health, safety and welfare of persons and property within the border or Ellsworth County, Kansas; and

WHEREAS, to reduce the spread of COVID-19, the United States Centers for Disease Control and Prevention (CDC), the Kansas Department of Health and Environment (KDHE) and the Ellsworth County Health Officer all recommend implementation of community mitigation strategies to increase containment of the virus; and

WHEREAS, wearing a mask in public is the easiest and most effective way to protect each other, help keep our businesses open and our economy running, and get and keep children in school; and

NOW, THEREFORE, the following procedures are hereby ordered regarding mask wearing within Ellsworth County, Kansas:

Section I. Wearing of Masks or Other Face Coverings

Definitions:

"Mask or other face covering" means a covering of the nose and mouth that is secured to the head with ties, straps, or loops over the ears or is simply wrapped around the lower face. A mask or other face covering can be made of a variety of synthetic and natural fabrics, including cotton, silk or linen. Ideally, a mask or other face covering has two or more layers. A mask or other face covering may be factory-made, sewn by hand, or can be improvised from household items such as scarfs, bandanas, t-shirts, sweatshirts or towels

1. General

a. Masks or other face coverings shall be required for all indoor property open to the public within Ellsworth County, Kansas. This does not include private residential property or private offices or workspaces that are not open to customers or public visitors.

b. Masks or other face coverings shall be required for outdoor activities or events within Ellsworth County, Kansas in which social distancing of a minimum of six (6) feet cannot be maintained between non-household members.

2. Enforcement, violations and penalties. Pursuant to K.S.A. 19-101d, the following fines are imposed:

a. Any person, business, organization, or non-profit association violating the provisions of this Resolution shall be guilty of an unclassified misdemeanor, punishable by:

1. A fine of no less than twenty-five dollars (\$25.00) upon a first violation

2. A fine of no less than fifty dollars (\$50.00) upon a second violation and

3. A fine of no less than one hundred (\$100.00) upon a third or subsequent violation

b. Law Enforcement Officers are hereby authorized in their discretion to issue notice to appear citations for violation of this resolution. Arrests shall not be made on the sole basis of violation of this resolution.

3. Exemptions:

a. Persons meeting the criteria for exemption found in Executive Order 20-52 issued by Governor Laura Kelly, effective July 3, 2020 are exempt from the requirement to wear a mask or other face covering. These exemptions are as follows:

1. Persons age five years or under. Children age two years and under in particular are warned not to wear a face covering because of the risk of suffocation;

2. Persons with a medical condition, mental health condition, or disability that prevents wearing a face covering-this includes persons with a medical condition for whom wearing a face covering could obstruct breathing or who are unconscious, incapacitated, or otherwise unable to remove a face covering without assistance;
3. Persons who are deaf or hard of hearing, or communicating with a person who is deaf or hard of hearing, where the ability to see the mouth is essential for communication;
4. Persons 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 guidelines;
5. Persons who are obtaining a service involving the nose or face for which temporary removal of the face covering is necessary to perform the service;
6. Persons who are seated at a restaurant or other establishment that offers food or beverage service, while they are eating or drinking, provided they maintain a 6-foot distance between individuals (not including individuals who reside together or are seated together) with only infrequent or incidental moments of closer proximity;
7. Athletes who are engaged in an organized sports activity⁷ that allows athletes to maintain a 6-foot distance from others with only infrequent or incidental moments of closer proximity;
8. Persons who are engaged in an activity that a professional or recreational association, regulatory entity, medical association, or other public-health-oriented entity has determined cannot be safely conducted while wearing a mask or other face covering;
9. Persons engaged in an activity or event held or managed by the Kansas Legislature;
10. Persons engaged in a court-related proceeding held or managed by the Kansas Judiciary; and
11. Persons engaged in any lawful activity during which wearing a mask or other face covering is prohibited by law.

Section II. Lawful Order. This Order is a lawfully issued order pursuant to K.S.A. 65-202 and K.S.A. 65-119(a), and is a "public health directive" as identified within Section 9 of 2020 Special Session House Bill No. 2016.

Section III. Review, Amendment, or Revocation. Pursuant to Sections 37 and 38 of 2020 Special Session House Bill No. 2016, which amended K.S.A. 65-201 and 65-202, the Board of County Commissioners may review, amend, or revoke this Order. The Board of Ellsworth County Commissioners shall review this resolution bi-weekly for any amendments and/or revocations.

Section IV. Severability. If any portion of this Order is found or determined to be invalid, such finding or determination shall only affect the portion of the Order that is at issue and shall not affect the validity of the remainder of the Order.

Section V. Nothing in this order shall restrict, limit or supersede the Secretary of Health and Environment, Kansas Department of Education, and/or local School Board's authority to make isolation, quarantine, or other orders restricting movement as necessary to respond to escalating or worsening conditions in any local jurisdiction.

IT IS SO ORDERED this 9th day of November, 2020, effective as of 12:01 am on Wednesday November 11th, 2020 and shall remain in effect until such time that this order is rescinded.

**BOARD OF COUNTY COMMISSIONERS
OF ELLSWORTH COUNTY, KANSAS**

Stephen A. Dlabal, Chairman

Reunita Pearson, Member

_____, Member

ATTEST: *JR. [Signature]*, County Clerk

