



**Office of the City Attorney
City of Yakima**

MEMORANDUM

December 27, 2021

TO: Bob Harrison, City Manager
FROM: Bronson Faul, Senior Assistant City Attorney *BF*
SUBJECT: Mask Mandate at City Council Meetings

With consideration being given to resume live city council meetings, a number of questions have arisen around the application of the state mask mandate. If after reading this memo you have additional questions, please do not hesitate to contact me.

Face Coverings

Governor Inslee issued a proclamation on August 20, 2021 prohibiting any governmental entity from allowing any individual to enter or remain in any indoor space under their control unless the individual is in compliance with the Secretary of Health's face covering order.

The Secretary of Health issued a face coverings order on September 24, 2021 which states:

Every person in Washington State must wear a face covering that covers their nose and mouth when they are in a place where any person from outside their household is present or in a place that is generally accessible to any person from outside their household, subject to the exemptions and exemptions below.

There are a number of listed exceptions where people are not required to wear a face covering but only one that could apply to a city council meeting. People are not required to wear a face covering while engaged in the act of eating or drinking. This is a temporary removal of the face covering while engaged in the activity.

The Department of Health order also provides exemptions where people do not have to wear a face covering . Exemptions from wearing a face covering include children under five years old and people with a medical condition or other disability which prevents them from wearing a face covering.

Face coverings are defined to fit snugly against the sides of the face; completely cover the nose and mouth; be secured with ties, ear loops, elastic bands, or other equally effective method; and include at least one layer of tightly woven fabric without visible holes. The Secretary of State allows public agencies or officials impose more restrictive face covering protective requirements when done lawfully.

The Americans with Disabilities Act (ADA) applies to areas of the city open to the public, including a city council meeting and city council chambers. The City is prohibited from discriminating against people on the basis of a disability. This is relevant regarding the exemption to the face covering requirement based upon medical reasons which would likely also qualify as a disability under the ADA. The City is required to conduct a reasonable accommodation process for medical disabilities.

A reasonable accommodation is to allow members of the public to participate in the City Council meeting remotely, similar to how the meetings have been conducted, by zoom. Allowing a person who cannot wear a face covering because of a disability to participate via zoom is a viable accommodation option.

Meetings

We are not the first government body to hold live meetings during COVID-19. There is a valid concern, as we have seen in other places, that individuals will come to the meeting in person and refuse to wear a face covering. These people have been disruptive to meetings and their actions have prevented public participation by those at the meeting following the face covering order.

A good practice can be having staff make sure any member of the public coming into the building for the meeting has a face covering on. If they have a medical exemption, those individuals can participate remotely via links that are provided.

We could have the situation where a person gets into the meeting and then removes their face covering and refuses to put it back on. It would be the responsibility of the Mayor to remind everyone of the face covering order and that everyone in attendance must follow it, and the Mayor should make a general statement to that effect at the beginning of the meeting as a reminder. This might not be effective where, as we have seen in other places, the member of the public becomes disruptive. The Mayor should be prepared to adjourn the meeting if any disruptive person refuses to keep their face covering on, refuses to leave after being asked to do so, or continues being disruptive.

If a problem develops during the course of the meeting of someone taking off, or not wearing a face covering, that person needs to be reminded to wear the proper item by the Mayor. If that fails, the Mayor can then direct them to participate via zoom or immediately adjourn the meeting

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to avoid an unnecessary disruption. A special meeting can always be called to finish any necessary business if there is a time issue before the next regularly scheduled council business meeting.