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**EMERGENCY PUBLIC HEALTH ORDER OF THE
SEDGWICK COUNTY LOCAL HEALTH OFFICER
AMENDING AND REPLACING THE EMERGENCY
PUBLIC HEALTH ORDER ISSUED ON OCTOBER 16, 2020**

October 20, 2020

Applicable within the entirety of Sedgwick County, Kansas

This Emergency Public Health Order is effective the 22nd day of October, 2020, at 12:01 A.M. to slow the spread of COVID-19 in Sedgwick County, Kansas pursuant to the authority provided in K.S.A. 65-119, K.S.A. 65-202, and other applicable laws or regulations.

WHEREAS, the Local Health Officer is authorized and required, pursuant to K.S.A. 65-119 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

WHEREAS, the Local Health Officer is appointed by Sedgwick County pursuant to K.S.A. 65-201 and is authorized, pursuant to K.S.A. 65-119(a), to prohibit public gatherings when necessary for the control of any and all infectious or contagious diseases, and to use all known measures to prevent the spread of any infectious, contagious, or communicable disease pursuant to K.S.A. 65-202; and

WHEREAS, the United States Department of Health and Human Services declared a public health emergency for COVID-19 beginning January 27, 2020, with now more than 8,258,000 cases of the illness and more than 220,000 deaths as a result of the illness across the United States; and

WHEREAS, the World Health Organization declared a pandemic on March 11, 2020; and

WHEREAS, a State of Disaster Emergency was proclaimed for the State of Kansas on March 12, 2020; and

WHEREAS, on March 13, 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, as of this date, in Kansas there have been 72,968 reported positive cases of COVID-19 spread among all 105 counties, including 872 deaths; and

WHEREAS, on March 16, 2020, the Chairman of the Board of County Commissioners of Sedgwick County issued a state of local disaster emergency declaration, which remains in place at the time of this Order; and

WHEREAS, COVID-19 is a respiratory disease that spreads easily from person to person and may result in serious illness or death; and

WHEREAS, COVID-19 has resulted in 10,197 reported positive cases of COVID-19 in Sedgwick County and the deaths of 121 Sedgwick County residents; and

WHEREAS, the spread of COVID-19 endangers the health, safety, and welfare of persons and property within Sedgwick County, Kansas; and

WHEREAS, to reduce the spread of COVID-19, measures that are recommended and considered effective by the Centers for Disease Control and Prevention (“CDC”) include, among other measures, avoiding close contact with other people and covering one’s mouth and nose with a cloth face cover when in public settings; and

WHEREAS, the increased spread of COVID-19 also presents a serious threat to the continued effective operation of the local economy within Sedgwick County; and

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

WHEREAS, Sedgwick County must remain flexible to account for the evolving nature and scope of the public health emergency posed by COVID-19, while also simultaneously safely, strategically, and incrementally reopening businesses and facilitating economic recovery and revitalization; and

WHEREAS, in July, the White House Coronavirus Task Force released a report that identified Sedgwick County as being in the “red zone” of heightened spread of COVID-19, and such report recommended that public officials in red zones close bars; and

WHEREAS, the nature of activity that occurs within bars, night clubs, and other drinking establishments results in a significant amount of close social interaction between patrons, reduced wearing of masks, reduced social distancing, and reduced compliance with best practices when patrons may become intoxicated; and

WHEREAS, as compared with the earliest months of COVID-19 within Sedgwick county, the demographics for individuals who are positive for COVID-19 changed in Sedgwick County to where younger adults have increasingly tested positive for COVID-19; and

WHEREAS, information within Sedgwick County has indicated that bars and night clubs have commonly been locations frequented by younger adults who tested positive for COVID-19; and

WHEREAS, in general, large public gatherings also lead to heightened risks of large-scale COVID-19 person-to-person transmission; and

WHEREAS, the intent of this Order is not to deprive any person or entity of any rights protected by the United States Constitution, the Kansas Constitution, or any other law, but merely to set forth restrictions which would best protect Sedgwick County residents against the community spread of COVID-19; and

WHEREAS, the consumption of alcohol is known to impair human judgment and functioning; and

WHEREAS, activity occurring at establishments serving alcohol is recreational and many other recreational activities have also been limited due to inherent risks of COVID-19 community spread within such recreational activities; and

WHEREAS, limiting the hours of such recreational activities is small in scope relative to the health risk involved with allowing the activities to continue further into the early morning hours when additional consumption will occur at a time when judgment may already be impaired; and

WHEREAS, the CDC states: “[d]rinking alcohol weakens your body’s ability to fight infections, increasing the risk of complications and making it harder to get better if you are sick;” and “[a]lcohol use can increase the risk of acute respiratory distress syndrome and pneumonia, which are sometimes associated with COVID-19”; and

WHEREAS, for the aforementioned and other reasons, and in recognition and furtherance of the County’s responsibility to provide for and ensure the health, safety, security, and welfare of the people of Sedgwick County, requiring that masks or other face coverings be worn in public, limiting the size of public gatherings, and placing certain restrictions on bars night club facilities, and drinking establishments are measures that can be taken to slow and reduce the spread of COVID-19.

NOW, THEREFORE, BE IT ORDERED by the Sedgwick County Local Health Officer, pursuant to the above authorities that:

Section I. Wearing of Masks or Other Face Coverings.

1. Individuals. Any person within Sedgwick County shall cover their mouths and noses with a mask or other face covering when they are in the following situations:

- a. Present in any public space where distancing of 6 feet at all times is not possible (not including individuals who reside together);
 - b. In line and waiting to enter an indoor public space;
 - c. Obtaining services from the healthcare sector in settings, including but not limited to, a hospital, pharmacy, medical clinic, laboratory, physician or dental office, veterinary clinic, or blood bank, unless directed otherwise by an employee or healthcare provider; or
 - d. Riding on public transportation or while in a taxi, private car service, or ride-sharing vehicle.
2. Businesses and Organizations. All businesses, organizations and non-profit associations in Sedgwick County must require all employees, customers, visitors, members, or members of the public to wear a mask or other face covering when:
- a. Employees are working in any space visited by customers or members of the public, regardless of whether anyone from the public is present at the time;
 - b. Employees who are working in any space where food is prepared or packaged for sale or distribution to others;
 - c. Customers, members, visitors, or members of the public are in a facility managed by the business or organization; or
 - d. Employees are in any room or enclosed area where other people (except individuals who reside together) are present and unable to maintain a 6-foot distance except for infrequent or incidental moments of closer proximity.
3. Exemptions. The following individuals are exempt from wearing masks or other face coverings in situations described in Paragraphs 1 and 2:
- a. Persons age five years or under and, at the discretion of the school, children in kindergarten classes; children age two years and under in particular should not wear a face covering because of the risk of suffocation;
 - b. 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;
 - c. 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;
 - d. 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;
 - e. 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;

- f. 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;
 - g. Athletes who are engaged in an organized sports activity that allows athletes to maintain a 6-foot distance from others with only infrequent or incidental moments of closer proximity, and individuals who are participating in strenuous exercise that allows such individuals to maintain a 6-foot distance from others with only infrequent or incidental moments of closer proximity;
 - h. 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;
 - i. Persons engaged in a court-related proceeding held or managed by the Kansas Judiciary;
 - j. Persons engaged in any lawful activity during which wearing a mask or other face covering is prohibited by law;
 - k. Persons who have one or more physical barrier(s) between them and any other persons; and
 - l. Voters at election polling places.
4. Definitions. As used within Section I of this Order, the following terms shall have the following meanings:
- a. “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 secured to the head by other means or devices or 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 should have two or more layers. A mask or other face covering may be factory-made, sewn by hand, or can be improvised from the household items such as scarfs, bandanas, t-shirts, sweatshirts, or towels. The definition of “mask or other face covering” includes a face shield. The definition of “mask or other face covering” does not include a covering that is equipped with a one-way valve or vent through which air can be exhaled.
 - b. “Public space” means any indoor or outdoor space or area that is open to the public; this does not include private residential property or private offices or workspaces that are not open to customers or public visitors.

Section II. Adoption of Phase 2 of *Ad Astra*: a Plan to Reopen Kansas, as previously issued by the Governor within Executive Order No. 20-34, with modifications.

1. The terms, conditions, and restrictions contained within Sections 2 and Sections 5 through 8 of the Governor’s Executive Order No. 20-34 (available at <https://governor.kansas.gov/wp-content/uploads/2020/05/EO-20-34-Implementing-Phase-2-Executed.pdf>), which had enacted Phase 2 of *Ad Astra: a Plan to Reopen Kansas*, are adopted and incorporated into this Order, except to the extent this Section II indicates any modification to such terms, conditions, and restrictions.
2. Section 2 of Executive Order No. 20-34 is amended to state as follows: Mass gatherings of more than 15 individuals are prohibited. “Mass gatherings” are defined as instances in which individuals are in one location and are unable to maintain 6-foot distance between individuals (not including individuals who reside together) with only infrequent or incidental moments of closer proximity. Individuals in mass gatherings are required to wear masks or face coverings as indicated within Section I of this Order.
3. Exemptions: The following are exempt from the mass gatherings limitations Section II.2. of this Order, and are instead encouraged to maintain social distancing as much as is feasible:
 - a. Religious institutions;
 - b. Election polling places;
 - c. Licensed childcare facilities;
 - d. Schools; and
 - e. Court facilities.
4. Masks and face coverings are required as indicated within Section I of this Order.
5. Section 5.d.i. of Executive Order No. 20-34 is amended to state as follows: Bars, night clubs, and any other businesses licensed to sell alcohol for on-premises consumption must abide by a curfew and close by 1:00 A.M. These businesses may remain open past 1:00 A.M. solely for curbside and carryout services. Bars, night clubs, and any other businesses licensed to sell alcohol for on-premises consumption must also limit their total capacity to not more than 50 percent of the capacity permitted under the applicable fire code. This 50 percent of capacity limitation does not remove or amend the requirements for businesses and individuals to comply with this Order’s social distancing, mass gathering, and mask requirements.
6. Section 6.a. of Executive Order No. 20-34 entitled “Educational Facilities” is not incorporated into this Order.
7. Section 6.c.iii. of Executive Order No. 20-34 is amended to state as follows: Recreational, youth, or other non-professional organized sports facilities, sports tournaments, sports games, and sports practices may open or occur.

8. Section 6.d.i. is amended to state as follows: Outdoor and indoor entertainment venues shall be permitted to operate as long as they comply with mass gatherings requirements within Section 2 of Executive Order No. 20-34 and the total number of attendees for the venue does not exceed 2,000 people. The Local Health Officer may grant an exception to the 2,000 person attendance limit pursuant to his approval of a written plan from the venue.
9. Section 6.d.iii. of Executive Order No. 20-34 regarding swimming pools is not incorporated into this Order, meaning that public swimming pools may remain open.

Section III. 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 also a “public health directive” as identified within Section 9 of 2020 Special Session House Bill No. 2016. Individuals and organizations within Sedgwick County are required to comply with this Order.

Section IV. Possible 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.

Section V. 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 VI. Effect on Prior Order. This Order amends and replaces the Emergency Public Health Order issued on October 16, 2020.

Section VII. Effective Date; Conclusion. This Order is effective at 12:01 A.M. on the 22nd day of October, 2020, and shall remain in effect through 11:59 P.M. on Wednesday, the 9th day of December, 2020, unless it is amended, revoked, or replaced.

IT IS SO ORDERED THIS 20th day of October, 2020.



Garold Minns
Sedgwick County Local Health Officer, M.D.