

EMERGENCY EXECUTIVE ORDER
OF THE MAYOR OF THE CITY OF FARGO

November 16, 2020

Amending and Restating the Mayor's November 13, 2020 Emergency Executive Order Relating to the Establishment of Occupancy Limits

WHEREAS, by Emergency Executive Order of Timothy J. Mahoney, M.D., Mayor of the City of Fargo, North Dakota, issued on Friday, November 13, 2020, certain limitations of Occupancy of gatherings of people and of buildings and structures within the City of Fargo were established [referred to herein as the "**Fargo Occupancy Limits Order**"]; and,

WHEREAS, on or after the Mayor's issuance of the Fargo Occupancy Limits Order, the State of North Dakota announced the release of the following orders:

- The North Dakota State Health Officer issued his Order 2020-08, issued on November 13, 2020, requiring face coverings to be worn in all indoor public spaces, and all outdoor spaces where physical distancing of six feet or more is not possible; and,
- Also on November 13, 2020, North Dakota Governor Doug Burgum issued North Dakota Executive Order 2020-43 which also established throughout the state of North Dakota certain occupancy limits and other requirements, which order, by its terms, expires at 12:00 p.m., December 13, 2020; and,

WHEREAS, it is the desire of Fargo Mayor Mahoney to modify the terms of Fargo Occupancy Limits Order so that it aligns with the Governor's Executive Order 2020-43 with respect to occupancy limits within the City of Fargo, in the interest of consistency throughout the State of North Dakota; and,

WHEREAS, it is the desire of Fargo Mayor Mahoney to leave intact the original expiration date of the Fargo Occupancy Limits Order, so that the matter may be discussed and, perhaps acted upon, at the regular meeting of the board of city commissioners of the City of Fargo scheduled for December 14, 2020;

NOW, THEREFORE, based upon the foregoing premises and being duly authorized, **IT IS HEREBY DECLARED AND ORDERED**:

The Emergency Executive Order of the Mayor of the City of Fargo, issued November 13, 2020, establishing certain occupancy limits and other restrictions, the above-described Fargo Occupancy Limits Order, is hereby amended and restated to read as follows.

1. **Findings and Background.** The Findings and Background set forth in the Fargo Occupancy Limits Order are incorporated by reference as if fully set forth herein. This Order shall be referred to herein as the “**Revised Emergency Executive Order**”.

2. **Banquets, Ballrooms, Weddings and Event Venues:**

a. Effective November 16, 2020, occupancy of banquet, ballroom and event venues is limited to 25% of occupancy not to exceed the capacity limits identified within the ND Smart Restart Large Gathering Tiered Capacity document, the current version of which is 201113-1.0-19:00, dated November 13, 2020, as the same may be modified or amended from time to time by the North Dakota State Health Department.

b. Event organizers are encouraged to provide a health plan to their local elected leaders and local public health units for review.

c. Food and beverage service must be provided to seated patrons; no "stand-up" service, or service to patrons in a waiting area is permitted;

d. Dance areas must be closed;

e. Seating arrangements and tables must allow at least six feet of physical distance between individual parties;

f. Face coverings must be worn by all owners, managers and employees at all times and face coverings must be worn by all patrons except when consuming food or beverages to the extent so required by any other lawful order of the local or state health officer, of the Governor of North Dakota, of the Mayor of the City of Fargo or of the board of city commissioners of the City of Fargo, including North Dakota State Health Officer Order 2020-08, so long as such order or orders remain in effect;

g. Signs must be posted in conspicuous public areas of the establishment that:

i. Display face covering and physical distancing requirements;

ii. Include symptoms of COVID-19;

iii. Instruct anyone experiencing symptoms to stay at home.

h. **Governmental Meetings and Other.** Governmental meetings and academic instructional delivery settings are exempt from this order.

i. **Religious events, weddings and funerals:** Religious organizations, weddings and funerals are required to utilize COVID-19 mitigation strategies from the ND Department of Health and the Centers for Disease Control (CDC), in coordination with Fargo Cass Public Health personnel. This includes the usage of masks at all times when in public, proper social distancing and hand hygiene. The CDC denotes exceptions for mask wearing in certain individual circumstances.

3. Bars, Restaurants and Food Service Establishments.

- a. Effective November 16, 2020, at 8:00 a.m., occupancy of bars, restaurants and food service establishments is limited to 50% of the licensed seating capacity, not to exceed a maximum of 150 patrons;
- b. Food and beverage service must be provided to seated patrons; no "stand-up" service or service to patrons in a waiting area is permitted;
- c. Seating arrangements and tables must allow at least six feet of physical distance between individual parties;
- d. Face coverings must be worn by owners, managers and employees at all times; face coverings must be worn by all patrons except when consuming food or beverages to the extent so required by any other lawful order of the local or state health officer, of the Governor of North Dakota, of the Mayor of the City of Fargo or of the board of city commissioners of the City of Fargo, including North Dakota State Health Officer Order 2020-08, so long as such order or orders remain in effect;
- e. In-person dining and service may be conducted between the hours of 4:00 a.m. and 10:00 p.m.;
- f. Take-out, curbside and delivery services may continue to be provided outside of the 10:00 p.m. to 4:00 a.m. time restrictions, recognizing that, with respect to the sale of alcoholic beverages, delivery, drive-through, curbside service of sealed alcoholic beverages, when served with food orders, is permitted for on-sale licensees for alcoholic beverages pursuant to a City of Fargo Moratorium initially approved by the board of city commissioners of the City of Fargo on the 23rd day of March, 2020, and most recently extended by said commissioners so that it terminates at the same time as the City's COVID-related State of Emergency, by resolution approved the 19th day of October, 2021;
- g. Signs must be posted in conspicuous public areas of the establishment that:
 - i. Display face covering and physical distancing requirements;
 - ii. Include symptoms of COVID-19;
 - iii. Instruct anyone experiencing symptoms to stay at home.

4. Enforcement -- Masks -- Interpretation of Separate Face Covering Requirements.


- a. Face covering requirements referenced in this Revised Emergency Executive Order are a requirement of the Governor's Executive Order 2020-43 and, therefore, violations of face covering requirements shall not be deemed to be a violation of the this Revised Emergency Executive Order of the Fargo Mayor.

- b. **Contact Information for Reports of Violations.** Persons wishing to report violations of Occupancy Limits violations or Face Covering (Mask) violations occurring within the City of Fargo should use the following telephone number to reach the COVID Business Response Team at Fargo Cass Public Health: 701.241.1346 and leave a message. The voicemail box will be monitored during regular business hours and any follow up needed will also take place during regular business hours.
 - c. The Fargo Police Department is encouraged to exercise discretion customarily utilized by law enforcement officers in the enforcement of Occupancy Limits violations or Face Covering (Mask) violations, recognizing the available needs of the community with respect to all the demands for service of law enforcement and the available resources of the Department.
5. **Effect of this Amendment.** This Revised Emergency Executive Order shall amend and restate the Fargo Occupancy Limits Order issued November 13, 2020, and the terms hereof shall replace the terms of said prior order, except as otherwise provided herein.
 6. **Severability.** A determination that any provision of this Revised Emergency Executive Order is invalid will not affect the enforceability of any other provision of this Revised Emergency Executive Order. Rather, the invalid provision will be modified to the extent necessary so that it is enforceable.
 7. **Penalty.** I urge all residents to voluntarily comply with this Revised Emergency Executive Order; however, pursuant to Fargo Municipal Code §10-0318 any person who willfully violates this Revised Emergency Executive Order is guilty of an infraction and upon conviction may be punished by a fine not to exceed \$1,000.


Alcoholic Beverage Licensees. This Revised Emergency Executive Order is a lawful order of the City of Fargo, that is appropriate and necessary to protect the health, safety, morals and general welfare of the people of the city of Fargo and, therefore, licenses for the sale and dispensing of alcoholic beverages issued under the provisions of Article 25-15 of the Fargo Municipal Code may be suspended or revoked by the city commission, subject to the right of any such licensee to a public hearing as provided by city ordinance. F.M.C. §25-1512(C) and (D). Therefore, a person, or firm that is holds an alcoholic beverage license may be subject to both the criminal (infraction) violation and a period of suspension or termination of such license.

8. **Effective Date and Term.** This Revised Emergency Executive Order shall take effect immediately upon issuance hereof and shall continue through the hour of 2:01 a.m. on Tuesday, December 15, 2020, unless it is sooner modified or terminated by the mayor or unless it is modified or terminated sooner by motion or resolution approved by the Fargo board of city commissioners.

This ORDER, is hereby issued this 16th day of November, 2020, at 12:30 o'clock p.m.



Timothy J. Mahoney, M.D.
Mayor, The City of Fargo



Steve Sprague (Attest)
City Auditor, The City of Fargo