

## *Chapter Six - How To Muzzle The Masses*

The great mask debate of 2020. We should not have to even address this topic but because of how politically charged it has become, we will. This is not meant to offend or even start further debate, but to illuminate how the mask mandates spiralled so far out of control.

The game started almost right away, and yes I mean game. As early as May of 2020 Governor Burgum began pandering to the masses to be wearing masks when in public. They are worn to protect others not to protect yourself. Emotional performances from the podium at the press conferences. The media soaking up every word, even on a national scale<sup>1</sup>. The fighting on social media. The public shaming.

*North Dakota, Gov. Doug Burgum became emotional Friday as he pleaded with residents not to divide themselves over mask wearing amid [the coronavirus pandemic](#) or shame those who choose to wear masks, but to instead be empathetic.*

*"I would really love to see in North Dakota that we could just skip this thing that other parts of the nation are going through, where they're creating a divide -- either it's ideological or political or something -- around mask versus no mask," Burgum, a Republican, said during a news conference Friday in Bismarck. "This is a, I would say, senseless dividing line."*

*He urged people to "try to dial up your empathy and your understanding."*

*"If someone is wearing a mask, they're not doing it to represent what political party they're in or what candidates they support," he said as his voice began to waver. "They might be doing it because they've got a 5-year-old child who's been going through cancer treatments. They might have vulnerable adults in their life, who currently have Covid and they're fighting."*

*Burgum argued that if somebody wants to wear a mask, there should be no shaming.*

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<sup>1</sup> <https://www.cnn.com/2020/05/23/politics/doug-burgum-north-dakota-face-masks/index.html>

*"You should look at them and say that person's wearing a mask because for them, there's additional risk in their life," he added.*

- Governor Doug Burgum, May 23rd, 2020 CNN.com

The first time masks were directly referenced in an Executive Order was 2020-08.2<sup>2</sup> issued on July 8th, 2020.

*Whereas, citizens who were unemployed due to COVID-19 are returning to work under the ND Smart Restart guidelines, adopting social distancing, wearing masks, frequent hand-washing and other measures to mitigate the spread of coronavirus; and,*

Social media exploded every article that referenced masks, COVID-19, the vaccine, became a politically charged debate as to who was more right. Suddenly if you didn't wear a mask you were part of the problem, you were risking other people's lives, you were a pro-Trumper (which I don't understand). If you wear a mask you are sheep, you are ignorant, you are part of the problem.

Neither side was really right or wrong.

The people who were truly forgotten in all this were those who for various reasons could not wear a mask. Those who had physical disabilities that caused breathing issues from lack of oxygen, like hypoxia. Those who had emotional disabilities such as rape victims, or those who suffered as victims of abuse. Those who had mental disabilities such as autism, depression.

The people who, in a lot of cases remained silent, because they could not find the strength to speak for themselves over the shouting of the masses. Governor Burgum played the media perfectly throughout the summer. Building his case towards what he really wanted. A divided population, so politically charged that they would not fight back as their spirits were broken.

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<sup>2</sup> <https://www.governor.nd.gov/sites/www/files/documents/executive-orders/Executive%20Order%202020-08.2.pdf>

*"We can debate on who does it and who makes the decision, but let's end the debate on whether or not it's a positive thing. It doesn't affect you if somebody else wears a mask - it actually helps you if somebody else wears a mask. So if you're someone who can't wear a mask for any reason, let's join in the chorus of thanking people that are, and having empathy to understand that they may have a reason, a family member, a child, someone else in close working conditions at work - that they have to do that."*

- Governor Doug Burgum July 23rd, 2020<sup>3</sup>

August 10th, 2020 Governor Burgum announced the social media campaign #MaskUpND<sup>4</sup>, encouraging citizens to post photos of themselves wearing masks and posting them to their social media accounts. It was the first press conference that Governor Burgum approached the podium wearing a mask.

*"In North Dakota, we're known as a state that takes care of each other. Masks are another way for us to show we care for others and our community. My mask protects you and your mask protects me," Burgum said.*

- Governor Doug Burgum August 10th, 2020<sup>5</sup>

In August, two Vogel Law Firm employees posted a piece to the firm website entitled: COVID-19 Updates: Mask, Quarantine, And School Restart Guidance For North Dakota Employers<sup>6</sup>

*...While Governor Burgum has not gone as far to mandate the wearing of masks, the Governor's ND Smart Restart Plan, issued in conjunction with the North Dakota Department of Health*

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<sup>3</sup> <https://news.prairiepublic.org/post/burgum-no-statewide-mask-mandate-time>

<sup>4</sup>

<https://www.grandforksherald.com/newsmd/coronavirus/6610725-Burgum-announces-new-mask-campaign-as-active-COVID-19-cases-hit-all-time-high-in-North-Dakota>

<sup>5</sup>

<https://www.governor.nd.gov/news/burgum-extends-drivers-license-renewal-deadlines-announces-precision-online-learning-tool-k-12>

<sup>6</sup>

<https://www.vogellaw.com/blog/2020/08/covid-19-updates-mask-quarantine-and-school-restart-guidance-for-north-dakota-employers/>

*(DoH), generally recommends that employers “[i]ncrease the availability of face masks and personal protective equipment to employees” and “[a]lways instruct employees to wear a face mask/cloth face cover while in the workplace.” This general guidance within the ND Smart Restart Plan is not a legal requirement at this time, but nonetheless shows best practices for employers to follow, unless employers in certain industries would be subject to more specific face covering requirements...*

- August 23rd, 2020

Six days later Dr. Deborah Brix visited North Dakota and took part in a round table discussion with Governor Burgum and others at North Dakota State University Alumni Center in Fargo. Masks were on the table for discussion with some of the following sentiment shared.

*‘Brix urged North Dakotans to practice social distancing, wash their hands, avoid large gatherings and wear masks where social distancing isn’t possible, noting those mitigation measures, combined with restrictions on indoor dining capacity and bars, have helped to reduce cases dramatically in southern states that saw outbreaks earlier this summer. Masks are especially important heading into the fall and flu season, she said.*

*“They’re very critical right now in this area,” she said. “It’s important for us to wear masks to protect each other.”*

*Burgum echoed the call to action, saying slowing the spread of the virus by following the ND Smart Restart<sup>7</sup> guidelines is essential if North Dakotans want schools and businesses to remain open and activities such as sporting events to continue.*

*“Masks aren’t a limit on our freedom, they’re our path toward freedom,” he said.’*

- KCSi News, August 29th, 2020<sup>89</sup>

7

[https://ndresponse.gov/sites/www/files/documents/covid-19/ND%20Smart%20Restart/Additional%20Resources/ND\\_SmartRestartPlan.pdf](https://ndresponse.gov/sites/www/files/documents/covid-19/ND%20Smart%20Restart/Additional%20Resources/ND_SmartRestartPlan.pdf)

<sup>8</sup> <https://csinewsnow.com/?p=206856>

9

<https://www.governor.nd.gov/news/governor-first-lady-welcome-dr-deborah-brix-nd-discussion-coronavirus-response-efforts>

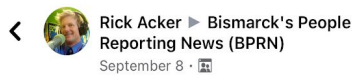
On September 4th, 2020 masks officially hit the table in North Dakota. Under the guidance of acting State Health Officer Paul Mariani, the COVID Taskforce presented a powerpoint indicating that masks needed to be brought forth at a city and county level. They were suddenly front and center. The presentation slide had gone viral online over the weekend and people started contacting the Bismarck Mayor, Steve Bakken, regarding whether it would be on the docket or not for the meeting on September 8th, 2020.



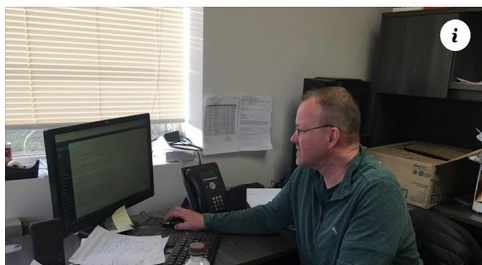
Keep in mind that on August 4th, 2020, Mayor Bakken launched a mask awareness campaign. His picture adorned walls and restrooms in every city owned building, reminding people to mask up.

*“There are things we can do now and wearing masks is one of them that can help keep businesses open. My biggest concern is trying to keep the community of Bismarck financially viable and maintain the economics we have right now. While not great at least it’s working,” shared Bakken.*

- Bismarck Mayor Steve Bakken, August 4th, 2020 source KX-NET<sup>10</sup>



RUMOR: A "mask mandate" discussion at TONIGHT'S Bismarck City Commission Meeting. I got the Mayor to set the record straight. [<https://1033uscountry.com/mask-mandate-coming-to-bismarck/>](<https://1033uscountry.com/mask-mandate-coming-to-bismarck/>)



1033USCOUNTRY.COM  
Mask Mandate Coming To Bismarck???  
Rumor were flying over social media over the weekend of a...

*In a conversation with Bismarck Mayor Steve Bakken earlier Tuesday morning, he told me he has NO intention of implementing a mask mandate. It's not a point of discussion in tonight's city commission meeting. He also went on to say, "It's not even on the agenda and people should know the facts rather than just believing what's on social media." Over the weekend, Mayor Steve Bakken had over 70 plus residents reach out to him on city emails and social media, asking him to vote "NO" on a*

*mask mandate. According to Mayor Bakken there is no agenda item or vote on a mask mandate on tonight's city commission meeting at 5:15 pm.*

- *Interview conducted September 8th, 2020 source 103.3<sup>11</sup>*

The night of September 8th<sup>12</sup> turned into something else altogether though as Renae Moch, Director of Bismarck-Burleigh Public Health, and the lead on Burleigh-Morton COVID Taskforce (BMCT)<sup>13</sup>, brought the request of a mandate to the commissioners. Citizens had spoken out about it previous to her presenting the material even though it was not “on the agenda”. Ultimately the vote was made to table the discussion until a later date.

This same tactic was used two days later, September 10th, 2020<sup>14</sup>, at the Morton County Commissioners Meeting. Commissioner Cody Schulz stated before the topic came up “*This is not an official public hearing*”. Within Erina Ourada<sup>15</sup> an Administrator with Custer Health and another task force member requested that the commissioner voted on it that night.

The same meeting right after Mrs. Ourada spoke, Dr. David Fields also of the BMCT said “*You cannot stop a virus.*<sup>16</sup>” he went on to publicly admit that we are no longer dealing with the Wuhan strain of the coronavirus, and that it had mutated. That he had no idea what the long term effects of COVID-19 would be.

So how are we to know when this will end, or how many times citizens of North Dakota will be locked down to prevent the spread?

Before being brought to a motion in Morton County, Chairman Schulz made the following statement to those in attendance regarding the mask mandates:

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<sup>11</sup> <https://1033uscountry.com/mask-mandate-coming-to-bismarck/>

<sup>12</sup> <https://dakotamediaaccess.net/CablecastPublicSite/show/7502?channel=2> VIDEO

<sup>13</sup> <https://www.bismarcknd.gov/covidtaskforce>

<sup>14</sup> <https://dakotamediaaccess.net/CablecastPublicSite/show/7509?channel=2> VIDEO

<sup>15</sup> Morton County Commissioners Meeting - Video 50:43

<sup>16</sup> Morton County Commissioners Meeting - Video 1:11:20



*“Liberty and freedom are the foundation of our nation, and liberty and freedom in this context I believe means choice. I cannot support the mask mandate. I steadfastly have been a supporter of these concepts whether in the context of private property rights to my friends on the planning and zoning commission know, or in personal conduct. I do believe the virus does pose a real risk, especially to our vulnerable population, and that mask wearing can reduce transmission. But if government officials want to accomplish a desired outcome they should convince the public, and what I mean is persuasion rather than regulation. I am a mask wearing advocate but a mask mandate opponent. But wherever you come down on the issue of wearing masks I ask that you have empathy for those on the other side of the issue. Freedom and liberty also apply to those who may disagree with us.”*

Commissioner Zachmeier also stated *“I don’t think that anything presented tonight rose to the level of a state of emergency that the county should be asking on this.”*, *“This is a formal request and we should not take action on it.”* and finally, *“A mandatory mask mandate should be proposed by the North Dakota Governor.”*

Ultimately the motion to deny enacting a mask mandate was unanimously passed. On November 9th, 2020<sup>17</sup> Chairman Schulz would enact a mandate in Morton County without a commission vote on his way out of office as he chose not to run for reelection. This was one of the final two counties to press the threshold for Governor Burgum’s metrics to issue a statewide mask mandate.

September 14th, 2020 Governor Burgum announced that the state would spend 1.8 million dollars to create a PSA ad campaign to encourage masking in North Dakota. The plan was

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17

<https://www.kxnet.com/news/local-news/morton-county-enacts-mask-requirement-for-anyone-on-county-property-effective-nov-9/>

widely criticized as a waste of funds, even leading to him being heckled by political opponent, Dr. Shelley Lenz<sup>18</sup>.

*“COVID is not a problem that can be solved by marketing. It really needs to be part of a comprehensive plan to address COVID. I think public education is important, but it can’t exist in a vacuum. Clearly, they’ve been marketing and that’s been his strategy and it’s not working,” said Democratic Candidate for Governor Shelley Lenz.*

The outcry from the citizens across the state silenced the debate until October 5th, 2020 when two proposed mandates came forward in Fargo at the City Commission Meeting<sup>19</sup>. The two mandates that were brought to the table for a vote included one with a penalty for non-compliance and one without a penalty<sup>20</sup>. The problem with both of these mandates is if the council would have passed them as worded they would have instantly become illegal. Since they were drafted referencing NDCC 40-05.1-05<sup>22</sup>, which requires a city wide vote passed by a majority of qualified voters, not the city council.

*40-05.1-05. Ratification by majority vote - Supersession of existing charter and state laws in conflict therewith - Filing of copies of new charter. If a majority of the qualified voters voting on the charter at the election vote in favor of the home rule charter, the charter is ratified and is the organic law of the city, and extends to all its local and city matters. The charter and the ordinances made pursuant to the charter in such matters supersede within the territorial limits and other jurisdiction of the city any law of the state in conflict with the charter and ordinances and must be liberally construed for such purposes. One copy of the charter ratified and approved must be filed with the secretary of state and one with the auditor of the city to remain as a part of its permanent records. Thereupon the courts shall take judicial notice of the new charter*

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<sup>18</sup> <https://www.kfyrtv.com/2020/09/15/nd-looking-for-18-million-mask-wearing-psa-partner/>

<sup>19</sup> <https://download.fargond.gov/a/151-1-1.m4v> - Video Fargo City Commission Meeting 10/05/2020

<sup>20</sup> <https://download.fargond.gov/0/oct5regularagenda.pdf> Pages 157-163

<sup>21</sup> Appendix C - Fargo Mask Mandates

<sup>22</sup> <https://www.legis.nd.gov/cencode/t40c05-1.pdf#nameddest=40-05p1-05>



October 19th, 2020 the Fargo Mayor, Dr. Tim Mahoney went around the Fargo City Council implementing his own mask mandate<sup>23</sup>, effective immediately. Dr. Mahoney utilized emergency powers to enact the order which created a rift within the city council<sup>24</sup>, with members actively trying to end his emergency powers.

*“We need to get back to normal government where five commissioners debate, decide on the issues and then we have to answer to the people who voted us in,” said Commissioner Tony Gehrig. “Not one man. Not the man who is crowned king for a day. I won’t be an elected standbeyer quite frankly. I move the City Commission end Fargo’s emergency declaration effective immediately.”*

- Commissioner Tony Gehring, November 16th, 2020 SOURCE KVRR

October 19th, 2020 Minot Mayor, Shaun Simpa, instated a mask mandate almost identical to the one issued in Fargo by Dr. Mahoney. Again listing exemptions for those unable to wear masks for health or medical reasons<sup>25</sup>.

- a. *Persons younger than school age, although parents and guardians are encouraged to have such younger children wear face coverings when and where appropriate;*
- b. *Persons with a medical condition or disability that prevents wearing a face covering;*
- c. *Persons performing job duties where a six (6) feet distance is not achievable, but a mask is inhibitory to the ability to safely and effectively perform the job duty;*
- d. *Persons participating in athletic activities where a six (6) feet distance is not achievable, but a mask is inhibitory to the activity;*
- e. *Persons actively consuming food or drink;*
- f. *Persons driving a motor vehicle alone or with passengers from the driver's household;*
- g. *Persons receiving services that require access to the face for security, surveillance, or other purposes may temporarily remove a face covering while receiving those services;*
- h. *Persons engaged in religious worship activities; however, face coverings are strongly encouraged;*

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<sup>23</sup> [https://download.fargond.gov/0/mayoral\\_mask\\_mandate.pdf](https://download.fargond.gov/0/mayoral_mask_mandate.pdf)

<sup>24</sup> <https://www.kvrr.com/2020/11/16/city-commissioners-try-to-strike-down-mayor-mahoneys-covid-19-order/>

<sup>25</sup> <https://www.minotnd.org/DocumentCenter/View/5705/Mayoral-Mask-Mandate>

- i. *Persons giving a speech or performance for broadcast or to an audience; however, those persons shall safely distance from nearby individuals.*

October 21st, 2020 West Fargo implements mask mandate<sup>26</sup>.

October 25th, 2020 I had reached out to all of the legislative leaders in an email thread regarding the state of emergency. On October 26th, 2020, Senator Anderson had responded back to be again saying I should not be concerned. In my response that went to him as well as the legislative leaders, Lt. Governor Brent Sanford, and Jace Beehler I said the following, warning them of the matrix that was being used by the Governor.

*“...All while watching everything come together within a few days of when I expect them to. There is a predictable pattern in play based on metrics, and I'm averaging within 5 days of when I figure it will be enacted. God save us if we hit 15% positive per capita.*

*If Bismarck, Dickinson, and Williston pass a mask ordinance it will be issued statewide through executive order as 3 of the 6 most populated cities already have one in place. 2020-13<sup>27</sup> is proof of that as it cites 33 of 53 counties. The whole process is being controlled by manipulating the numbers to incite fear.”<sup>28</sup>*

October 26th, 2020 was a very busy day in North Dakota. First there was the second visit from Dr. Deborah Birx where she went on to blame the high spread of COVID-19 on the lack of mask wearing and social distancing while indoors.

*North Dakota is doing a “superb” job of testing and finding COVID-19 cases, Birx said.*

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<sup>26</sup> <https://www.westfargond.gov/AgendaCenter/ViewFile/Item/151?fileID=7561>

<sup>27</sup>

<https://www.governor.nd.gov/sites/www/files/documents/executive-orders/Executive%20Order%202020-13%20Electitions.pdf>

<sup>28</sup> See Lighting up the Legislators for full text.

*“But there’s a whole other set of cases underneath those cases, of asymptomatic young people who are still getting together, or even 40-, 50- and 60-year-olds who I saw throughout Bismarck not wearing masks and not physically distancing yet being indoors,” she added.<sup>29</sup>*

- *North Dakota Department of Health*

Everyone had their own thoughts regarding the issue with Governor Burgum and Mayor Bakken regarding the mask mandates, again deflecting it away from themselves.

*“We know we don’t have the enforcement mechanisms in North Dakota where someone is gonna be forced to wear a mask. So it all comes back to individuals choosing,” Burgum said.*

*Some cities already have issued mask mandates. Birx said if enough cities get onboard the data shows improvement in their case numbers.*

*“In some situations, counties and individual mayors have created a matrix that is essentially resulted in a statewide mandate when you add them all together,” she said.*

*But not all North Dakota cities are joining this matrix. Bismarck Mayor Steve Bakken has repeatedly spoken out against voting for a mask mandate in his city. However, he hinted at a mandate being more useful if it were statewide.*

- *KFYR-TV October 26th, 2020<sup>30</sup>*

Dr. Birx would resign her position a few days before Christmas amidst public outcry after she went against her own standards to visit with family over the Thanksgiving weekend.

*WASHINGTON - A health expert who often shares the spotlight with her Coronavirus Task Force colleague, Dr. Anthony Fauci, is resigning following public criticism of her decision to attend a family gathering during an especially troublesome period of the pandemic.*

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<sup>29</sup>

<https://www.health.nd.gov/news/burgum-welcomes-dr-deborah-birx-back-north-dakota-discuss-coronavirus-challenges-response>

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<https://www.kfyrtv.com/2020/10/26/birx-visits-nd-state-and-local-govt-disagree-on-where-mask-mandate-should-come-from/>

*While Dr. Fauci and the CDC outspokenly recommended avoiding holiday gatherings with individuals outside of one's household, his fellow Task Force member, Dr. Deborah Birx, attended a family Thanksgiving Dinner with family members who are not members of her personal household.<sup>31</sup>*

By this point though the havoc she created in North Dakota with her visits had already done its damage.

October 26th, 2020 the Devils Lake City Commission approved the mandate, which does not include a penalty, during a special meeting Monday, Oct. 26. The mandate went into effect at 8 a.m. Thursday, Oct. 28. The mandate itself was still being written<sup>32</sup>.

October 26th, 2020 the Grand Forks City Commission passed mask mandate<sup>33</sup> on a 7-0 vote. One of the commissioners wondered as to why they went through the procedure when the mayor could enact one on his own.

October 27th, 2020 the Standing Rock Sioux Tribal Chairman, Mike Faith issued an Executive Order mandating masks to be worn<sup>34,35</sup>.

On October 27th, 2020<sup>36</sup> the showdown in Bismarck began as people lined the halls and stood in front of the City Building protesting the mask mandate that had been proposed. Drafted by City

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<sup>31</sup>

<https://www.wbrz.com/news/member-of-white-house-s-covid-task-force-announces-resignation-plans-amid-controversy/>

<sup>32</sup>

<https://www.grandforksherald.com/news/government-and-politics/6734723-Devils-Lake-City-Commission-approve-s-mask-mandate-starting-Thursday-morning>

<sup>33</sup>

<https://www.grandforksherald.com/news/government-and-politics/6734761-Grand-Forks-City-Council-unanimously-passes-mask-mandate>

<sup>34</sup>

<https://www.kxnet.com/news/local-news/executive-order-issued-requires-use-of-face-masks-on-standing-rock-reservation/>

<sup>35</sup> <https://www.kxnet.com/wp-content/uploads/sites/16/2020/10/EO-Mask-Mandate.pdf>

<sup>36</sup> <https://www.bismarcknd.gov/AgendaCenter/ViewFile/Item/5560?fileID=13351>

Attorney Janelle Combs and Commissioner Nancy Guy, the original drafting of the Pandemic Mitigation Strategy (P.M.S.)<sup>37</sup> Plan did in fact have penalties in place for failure to comply.

Five hours<sup>38</sup>. The meeting from beginning to end went for five hours as citizens pleading their case and doctors stormed into the room on Zoom calls. It was supposed to be in a format where each individual was only allowed three minutes to speak. One of the doctors, Dr. Kathy Anderson, was allowed two additional times to speak, while citizens of the city were asked to finish as their three minutes expired. At the end of the meeting the mandate passed at a vote of 3-2 but only after the fines were removed from it, and wording changed to better accommodate worship services.

November 9th Williston and Morton County issued mask mandates.

November 10th, 2020 Burleigh County Commissioner, Jerry Woodcox issued a mask mandate completing the list of most populated counties in North Dakota having mandates in place. Commission Woodcox was ousted from his seat 7 days prior, being voted out of office.

The morning of November 12th, 2020 saw the state legislators meeting at the capital to begin their planning for the next legislative session. All of them signing their new oaths of office before moving on to the first order of business. Passing rules for the session, including masking while in the chamber. They overwhelmingly voted to muzzle themselves, proving to the constituents of the state where they truly stood.

November 12th, 2020 Grand Forks County talked about enforcing a mask mandate with a fine of 1500 dollars and a class B Misdemeanor. Wear a mask or you're a criminal... Didn't it used to be the other way around?

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<sup>37</sup> <https://www.bismarcknd.gov/DocumentCenter/View/36623/Pandemic-Mitigation-Strategy-Signed>

<sup>38</sup> <https://dakotamediaaccess.net/CablecastPublicSite/show/7583?channel=2> Bismarck Meeting Video

The worst part about all of the mandates was that the mayors were consulting with their city attorneys and being told that everything they are doing is fine to do. That Governor Burgum's Executive Orders were the law, when in fact they were not.

10pm. November 13th, 2020. Two orders dropped within minutes of each other including the statewide mask mandate. This was hours after legislators had gone home with the assurance that there would not be a mandate put into place. Governor Burgum released a video explaining why he was allowing the mandate to be put into effect again spewing propaganda. The fact that in a side by side comparison to the video he released on veterans day wearing the exact same clothes and identically matching microphone placement was not lost on anyone.

#### State Health Officer Order 2020-08<sup>39</sup>

STATE OF NORTH DAKOTA DEPARTMENT OF HEALTH STATE HEALTH OFFICER  
ORDER RELATING TO DISEASE CONTROL MEASURES TO PREVENT THE SPREAD  
OF 2019-nCoV/COVID-19 PURSUANT TO NORTH DAKOTA CENTURY CODE §  
23-01-05(12)  
ORDER # 2020-08

#### SECTION A: FINDINGS

1. The Director General of the World Health Organization has declared that the 2019-nCoV/COVID-19 constitutes a Public Health Emergency of International Concern. The Secretary of the U.S. Department of Health and Human Services has declared that 2019-nCoV/COVID-19 constitutes a public health emergency.
2. On March 13, 2020, President Donald Trump issued a declaration of national emergency due to the growing 2019-nCoV/COVID-19 crisis in the United States.
3. On March 13, 2020, Governor Doug Burgum declared a state of emergency in response to the public health crisis resulting from 2019-nCoV/COVID-19; Executive Order

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39

[https://www.health.nd.gov/sites/www/files/documents/Files/MSS/coronavirus/State%20Health%20Officer%20Orders/2020-08\\_Mask\\_Order.pdf](https://www.health.nd.gov/sites/www/files/documents/Files/MSS/coronavirus/State%20Health%20Officer%20Orders/2020-08_Mask_Order.pdf)

2020-03 activated the State Emergency Operation Plan (SEOP), implementing appropriate response and recovery actions and future mitigation measures.

4. The number of 2019-nCoV/COVID-19 cases in North Dakota has increased rapidly in recent weeks. The health care system in North Dakota is experiencing critical shortages. Increased transmission of 2019-nCoV/COVID-19 poses a substantial threat to public health and the health care system.
5. The virus that causes 2019-nCoV/COVID-19 is spread from person to person through respiratory droplets produced by an infected person. People who are physically near a person with 2019-nCoV/COVID-19, within six feet, or have direct contact with that person are at greatest risk of infection. As such, 2019-nCoV/COVID-19 transmission is elevated in confined indoor spaces and places where physical distancing measures are not always possible.
6. According to the Centers for Disease Control and Prevention (CDC), face coverings are effective in preventing the transmission of respiratory droplet that may spread 2019-nCoV/COVID-19. The Federal Occupational Health and Safety Administration recommends that employers encourage employees to wear face coverings at work to assist in reducing the risk of transmission of 2019-nCoV/COVID-19 by asymptomatic and pre-symptomatic individuals.
7. Research suggests that universal use of face coverings in enclosed public spaces would substantially reduce the spread of 2019-nCoV/COVID-19. As a result, the use of face coverings is necessary to prevent the spread of 2019-nCoV/COVID-19 and reduce the significant burden on the health care system.
8. Pursuant to N.D.C.C. § 23-01-05(12), the State Health Office is authorized to “issue any orders related to disease control measures deemed necessary to prevent the spread of communicable diseases.” Therefore, this Order is authorized pursuant to N.D.C.C. § 23-01- 05(12).

#### SECTION B: REQUIREMENTS

1. Effective November 14, 2020, at 12:01 a.m. through December 14, 2020, at 12:01 a.m., face coverings are required in indoor businesses and indoor public settings, as described in this Order. Face coverings must also be worn in outdoor business and public settings

when it is not possible to maintain physical distancing. This order applies to all workers, patrons, customers, visitors or guests unless exempt under Paragraph 4 of this Order.

2. Definitions. For purposes of this Order, the following terms are defined as follows:
  - a. A “face covering” must be worn to cover the nose and mouth completely and consist of at least two layers. Face coverings can include a paper or disposable face mask, a cloth face mask, a neck gaiter, or a religious face covering. Medical-grade masks and respirators are sufficient face coverings, but to preserve adequate supplies, their purchase and use is discouraged for individuals who do not work in a health care setting or in other occupations that require medical-grade protective equipment (e.g., certain construction occupations). Masks that incorporate a valve designed to facilitate easy exhaling, mesh masks, or masks with openings, holes, visible gaps in the design or material, or vents are not sufficient face coverings because they allow exhaled droplets to be released into the air.
  - b. “Business” and “businesses” are broadly defined to include entities that employ or engage workers, including private-sector entities, public-sector entities, non-profit entities, and state, county, and local governments.
  - c. “Worker” and “workers” are broadly defined to include owners, proprietors, employees, contractors, vendors, volunteers, and interns.
  - d. “Physical distancing” means individuals keeping at least 6 feet of distance from other individuals who are not members of their household.
  - e. “Household” means a group of individuals who share the same living unit.
3. Tribal activities and lands. Activities by tribal members within the boundaries of their tribal reservations are exempt from the restrictions in this Order but may be subject to restrictions by tribal authorities.
4. Exempt individuals. The following individuals are exempt from face covering requirements of this Order:
  - a. Individuals with a medical condition, mental health condition, or disability that makes it unreasonable for the individual to maintain a face covering. This includes, but is not limited to, individuals who have a medical condition that compromises their ability to breathe, and individuals who are unconscious,



incapacitated, or otherwise unable to remove a face covering without assistance. These individuals should consider using alternatives to face coverings, including clear face shields, and staying at home as much as possible.

- b. Children who are four years old and under. Those who are under two years old should never wear a face covering due to the risk of suffocation. Those who are at least two are encouraged to wear a face covering if they can do so in compliance with CDC guidance on How to Wear Cloth Face Coverings, available at <https://www.cdc.gov/coronavirus/2019-ncov/prevent-gettingsick/how-to-wear-clothface-coverings.html><sup>40</sup> (i.e., without frequently touching or removing the covering).
  - c. Individuals at their workplace when wearing a face covering would create a job hazard for the individual or others, as determined by local, state or federal regulators or workplace safety and health standards and guidelines.
5. Situations where face coverings are mandatory. Except for individuals who are exempt under paragraph 7 of this Order, and except for the circumstances described in paragraph 9, individuals are required to wear a face covering:
- a. In an indoor business or public indoor space, including when waiting outdoors to enter an indoor business or public indoor space.
    - i. This requirement does not apply in living units except that workers entering another person's living unit for a business purpose are required to wear a face covering when doing so.
    - ii. This requirement also does not apply in a private vehicle that is being used for private purposes.
  - b. At an outdoor business or public outdoor space in situations where physical distancing cannot be maintained.
  - c. When riding on public transportation, in a taxi, in a ride-sharing vehicle, or with another person, who is not a member of the same household, in a vehicle that is being used for business purposes.

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<sup>40</sup> <https://www.cdc.gov/coronavirus/2019-ncov/prevent-gettingsick/how-to-wear-cloth-face-coverings.html>

6. Circumstances where mandatory face coverings may be temporarily removed. Face coverings required under Paragraph 8 of this Order may be temporarily removed under the following circumstances:
  - a. When participating in organized sports in an indoor business or indoor public space while the level of exertion makes it difficult to wear a face covering.
  - b. When testifying, speaking, or performing in an indoor business or public indoor space, in situations or settings such as theaters, news conferences, legal proceedings, governmental meetings subject to N.D.C.C. ch. 44-04, presentations, or lectures, provided that physical distancing is always maintained. Face shields should be considered as an alternative in these situations.
  - c. During practices or performances in an indoor business or indoor public space when a face covering cannot be used while playing a musical instrument, provided that physical distancing is always maintained.
  - d. During activities, such as swimming or showering, where the face covering will get wet
  - e. When eating or drinking in an indoor business or indoor public space, provided that at least 6 feet of physical distance is maintained between persons who are not members of the same party.
  - f. When asked to remove a face covering to verify an identity for lawful purposes.
  - g. While communicating with an individual who is deaf or hard of hearing or has a disability, medical condition, or mental health condition that makes communication with that individual while wearing a face covering difficult, provided that physical distancing is maintained to the extent possible between persons who are not members of the same household.
  - h. While receiving a service, including a dental examination or procedure, medical examination or procedure, or personal care service, that cannot be performed or would be difficult to perform when the individual receiving the service is wearing a face covering. Workers performing services for an individual who is allowed to temporarily remove their face covering under this provision must comply with the face covering requirements.

- i. When an individual is alone, including when alone in an office, a room, a cubicle with walls that are higher than face level when physical distancing is maintained, a vehicle, or the cab of heavy equipment or machinery, or an enclosed work area.
  - j. When a public safety worker is actively engaged in a public safety role, including but not limited to law enforcement, firefighters, or emergency medical personnel, in situations where face coverings would seriously interfere in the performance of their public safety responsibilities.
  - k. When an individual is participating in a religious service at a faith based organization, provided that physical distancing is maintained to the extent possible between persons who are not members of the same household.
7. Notice of face covering requirements. Businesses must post one or more signs that are visible to all persons—including workers, customers, and visitors—instructing them to wear face coverings as required by this Order.
8. Implementation of face covering requirements by businesses.
  - a. Businesses must require that all persons, including their workers, customers, and visitors, wear face coverings as required by this Order.
  - b. When possible, businesses must provide accommodations to persons, including their workers and customers, who state they have a medical condition, mental health condition, or disability that makes it unreasonable for the person to maintain a face covering, such as permitting use of an alternate form of face covering (e.g., face shield) or providing service options that do not require a customer to enter the business.
  - c. Businesses may not require customers to provide proof of a medical condition, mental health condition, or disability, or require customers to explain the nature of their conditions or disability.
  - d. Businesses must follow the requirements of other applicable laws with respect to whether a business may require a worker to provide documentation of a medical condition, mental health condition, or disability related to their inability to wear a face covering and what the business may ask regarding the condition or disability.

- e. Nothing in this Order requires businesses or their workers to enforce this requirement when it is unsafe to do so, or authorizes them to restrain, assault or physically remove workers or customers who refuse to comply with this Order.
  - f. Nothing in this Order authorizes businesses or their workers to violate other laws, including anti-discrimination laws.
9. More protective policies permitted. Nothing in this Order should be construed to prevent a business from developing a policy that imposes more protective requirements with respect to face coverings, consistent with applicable law, than those in this Order or applicable industry guidance. This Order does not authorize landlords or property managers to require tenants and others to wear face coverings in tenants' living units. Landlords and property managers must provide a clear means for tenants and others to request a reasonable accommodation to face covering requirements in common areas.
10. Enhanced local measures permitted. Nothing in this Order should be construed to prohibit or prevent political subdivisions from implementing, within their jurisdictions and pursuant to applicable law and authority, requirements beyond those contained in this Order. Political subdivisions may not relax or reduce this Order's requirements. In other words, to the extent that they have authority to do so, cities and other political subdivisions may take actions that are more protective of the public health, consistent with applicable law, but may not take actions that are less protective of the public health.

#### SECTION C: FAILURE TO ADHERE TO ORDER

Notice is further given that a person is guilty of an infraction if that person violates or fails to obey any order issued by the State Health Officer. N.D.C.C. § 23-07-21(1).

#### SECTION D: STATE HEALTH OFFICER EXECUTION

Dated this 13 day of November, 2020.

Dirk Wilke, J.D., M.B.A.

State Health Officer North Dakota Department of Health

If you are wondering what your criminal charge is.

23-07-21. Penalties. Except as otherwise provided in this section, a person is guilty of an infraction:

1. Who violates or fails to obey any provision of this chapter, any lawful rule made by the state department of health, or any order issued by any state, district, county, or municipal health officer;
2. Who violates any quarantine law or regulation, or who leaves a quarantined area without being discharged; or
3. Who, knowing that the person is infected with a sexually transmitted disease, willfully exposes another person to infection.

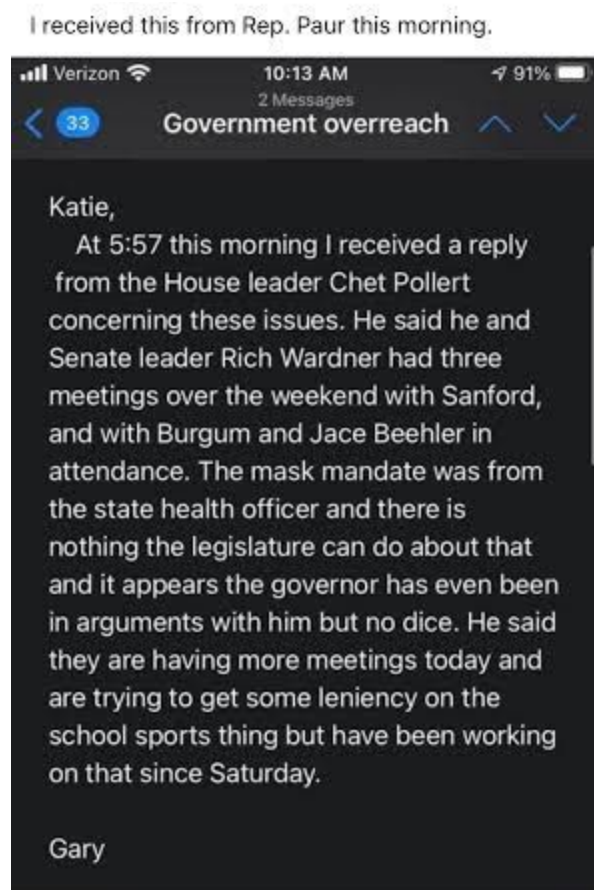
Any person required to make a report under section 23-07-02.1 who releases or makes public confidential information or otherwise breaches the confidentiality requirements of section 23-07-02.2 is guilty of a class C felony

After the Order released in conjunction with Executive Order 2020-43, which will be addressed

later on, there was a massive public outcry.

Legislators inbox exploded with messages from parents enraged by the new orders demanding that they take action. The most telling response though was the lie's that were told to the citizens of North Dakota. That the legislators could not stop Governor Burgum's actions. That the Governor said that he could not end the mask mandate. They went on and on.

The problem with the statement that Governor Burgum stated is that he in fact gave the State Health Officer the ability to issue orders with Executive Order 2020-14. So not only was he caught in a lie, but the Legislative Leaders Chet Pollert and Rich Wardner.



They went so far as to stand on the stage with the Governor less than a week later and spew the same rhetoric that he was.

On the 9th of December 2020, a revised version of the mask mandate came out. The differences between State Health Officer Order 2020-08 and 2020-08.1<sup>41</sup> were almost laughable. The point of it was literally to remove the original expiration date and to extend the mandate into January of 2021.

### *Requirements*

*Line 5, Section C removed ... or with another person, who is not a member of the same household,*

### *Section D: Revocation and Effectiveness*

*This Order revokes and supersedes the Order #2020-08: State Health Officer Order Relating to Disease Control Measures to Prevent the Spread of 2019-nCoV/COVID-19 Pursuant to North Dakota Century Code 23-01-05(12), dated November 13, 2020*

*The requirements of this Order are effective upon execution of this Order by the State Health Officer and until January 18, 2021, at 12:01 AM.*



The final thoughts on this chapter come from the words of the North Dakota Vaccination plan that was released as a draft on October 16th, 2020 through Governor Burgum's Facebook Page. Page 7 of the Vaccination Plan:

*Benefits of a safe and highly effective COVID-19 vaccine that is accepted by a majority of the population above and beyond reductions in morbidity and mortality could include:*

- *Less visitor restrictions at long term care (LTC) facilities;*
- *Students attending school on with less interruptions;*
- *Reduced use of personal protective equipment (PPE);*
- *Reduced need for testing;*
- *Reduced need for masking;*
- *Reduced need for contact tracing;*
- *Increased social interactions, including large gatherings;*

*Economic resiliency and improvement.*

*Ultimately, COVID-19 vaccination will hopefully lead to a better, safer, and healthier future for all North Dakotans.*