

**AGENDA REQUEST FORM**

**FOR: Council Meeting of October 5, 2021**

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**FROM: Council Member Matthew Petty**

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**ORDINANCE OR RESOLUTION TITLE AND SUBJECT:**

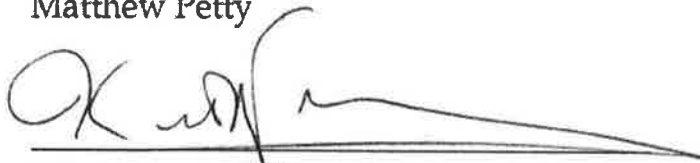
AN ORDINANCE TO AMEND THE SUNSET CLAUSE OF ORDINANCE 6465 TO  
EXTEND THE MASK MANDATE

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**APPROVED FOR AGENDA:**

Approved by email  
City Council Member  
Matthew Petty

\_\_\_\_\_  
Date

  
\_\_\_\_\_  
City Attorney Kit Williams  
Approved as to form

October 5, 2021  
Date

## Williams, Kit

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**From:** Batker, Jodi  
**Sent:** Tuesday, October 05, 2021 4:22 PM  
**To:** Williams, Kit  
**Subject:** FW: Agenda Request

Please see below from Council Member Petty.

### Jodi Batker

Paralegal  
113 W. Mountain St., Suite 302  
Fayetteville, Arkansas 72701  
Telephone: (479) 575-8313  
[jbatker@fayetteville-ar.gov](mailto:jbatker@fayetteville-ar.gov)



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CITY ATTORNEY



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**From:** Petty, Matthew  
**Sent:** Tuesday, October 05, 2021 4:20 PM  
**To:** Batker, Jodi <[jbatker@fayetteville-ar.gov](mailto:jbatker@fayetteville-ar.gov)>  
**Cc:** Petty, Matthew <[matthew.petty@fayetteville-ar.gov](mailto:matthew.petty@fayetteville-ar.gov)>  
**Subject:** Re: Agenda Request

Thank you,.please consider this approved via this email

On Oct 5, 2021 11:41 AM, "Batker, Jodi" <[jbatker@fayetteville-ar.gov](mailto:jbatker@fayetteville-ar.gov)> wrote:  
Matthew,

Attached is the Agenda Request Form for you review and signature.

Thank you.

### Jodi Batker

Paralegal  
113 W. Mountain St., Suite 302  
Fayetteville, Arkansas 72701  
Telephone: (479) 575-8313  
[jbatker@fayetteville-ar.gov](mailto:jbatker@fayetteville-ar.gov)



## DEPARTMENTAL CORRESPONDENCE



OFFICE OF THE  
CITY ATTORNEY

**TO: Mayor Jordan**  
**City Council**  
**Kara Paxton, City Clerk/Treasurer**

**Kit Williams**  
*City Attorney*

**Blake Pennington**  
*Assistant City Attorney*

**Jodi Batker**  
*Paralegal*

**CC: Susan Norton, Chief of Staff**

**FROM: Kit Williams, City Attorney**

**DATE: October 5, 2021**

**RE: Extension of Mask Mandate Ordinance**

Ordinance 6465 requiring a mask mandate for most indoor places of public accommodation was enacted by the City Council in a Special City Council Meeting held on August 6, 2021. The City Council had just gained statutory authority to pass this mask mandate because the Pulaski County Circuit Court had preliminarily enjoined Act 1002.

The Sunset Clause stated that upon "the termination of the Governor's current Proclamation of pandemic emergency ... this ordinance shall automatically terminate within 14 days unless the City Council passes an ordinance to extend this Ordinance's effect." Council Member Petty is sponsoring such an ordinance which needs to be passed tonight or Ordinance 6465 will terminate before the next City Council meeting. Attached is the proposed ordinance.

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE TO AMEND THE SUNSET CLAUSE OF ORDINANCE 6465 TO EXTEND THE MASK MANDATE

**WHEREAS**, in response the surge of unvaccinated persons requiring much increased hospitalization, intensive care and ventilators because of the Delta variant which was straining Fayetteville's hospital and medical resources, the City Council passed Ordinance 6465 on August 6<sup>th</sup> after Act 1002 of 2021, which had banned mask mandates, had been declared unconstitutional and been preliminarily enjoined; and

**WHEREAS**, the Arkansas Supreme Court recently refused to dissolve the preliminary injunction issued by the Circuit Court which therefore remains in full force and effect; and

**WHEREAS**, the City Council also acted upon the recommendation of the City Board of Health that masks should be required (even for the fully vaccinated) again in most indoor places of public accommodation until the pandemic surge of the unvaccinated substantially subsides; and

**WHEREAS**, Governor Hutchinson did not renew his July 29, 2021 Pandemic Emergency Proclamation which automatically expired at the end of September.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE, ARKANSAS:**

Section 1 : That the City Council of the City of Fayetteville, Arkansas hereby amends Section 3 Sunset Clause of Ordinance 6465 to extend the mask mandate's continuing effectiveness by removing the following: "the termination of the Governor's current Proclamation of pandemic emergency," and affirms the continuing need for the mask mandate to protect the health, safety, and welfare of our citizens at this time.

**PASSED and APPROVED** this 5<sup>th</sup> day of October, 2021.

APPROVED:

ATTEST:

By: \_\_\_\_\_  
**LIONELD JORDAN**, Mayor

By: \_\_\_\_\_  
**KARA PAXTON**, City Clerk/Treasurer

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Fayetteville, threatening to overwhelm hospital resources and staff, and causing grievous infections, hospitalizations and deaths of even young and previously healthy unvaccinated persons.

Section 2: That the City Council of the City of Fayetteville, Arkansas hereby determines that the health and safety of Fayetteville residents require that all persons within public service areas in all places of public accommodation including City buildings are required to constantly wear face masks covering the nostrils and mouth of such persons, subject to the following exceptions:

- A. Masks may be removed while consuming food or drinking a beverage if social distancing and disinfection best practices are also followed.
- B. Settings with ten (10) or fewer persons present, such as small business offices which do not serve the public in person, and areas without normal public access, such as semi-private offices and workshops, do not require masks, unless persons cannot follow social distancing best practices.
- C. Reasonable accommodations may be made for individuals with a disabling condition that prevents wearing a face mask.
- D. Masks may be removed in outdoor settings generally while best practices to maintain social distance are followed. Masks shall be worn at managed events when attendance and format prevent social distancing.
- E. Children of less than two years of age shall not be required to wear face masks.

Section 3: Sunset Clause. Upon the dissolution of the preliminary injunction or any succeeding permanent injunction against Act 1002, the termination of the Governor's current Proclamation of pandemic emergency, or the reduction of the hospitalizations and deaths of Fayetteville residents now being caused by the Delta Variant of Covid-19 drops below levels which the City Board of Health has determined should require masks of even vaccinated persons, this ordinance shall automatically terminate within 14 days unless the City Council passes an Ordinance to extend this Ordinance's effect.

Section 4: Penalty. Persons violating this ordinance's requirement to properly wear face masks pursuant to this ordinance's terms shall be subject to the penalties allowed in §10.99 **General Penalty** of the *Fayetteville Code*.

Section 5: Emergency Clause. That the City Council of the City of Fayetteville, Arkansas hereby determines that this ordinance should become effective without delay because widespread use of a face mask is necessary to prevent the more rapid spread of the Delta Variant of the Covid-19 virus, especially when unvaccinated persons gather in indoor areas. Therefore, for the public peace as well as the health and safety of Fayetteville residents, the City Council hereby declares an emergency exists such that this ordinance shall become effective immediately upon its passage and approval.

AN ORDINANCE TO AMEND THE SUNSET CLAUSE OF ORDINANCE 6465 TO EXTEND THE MASK MANDATE

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