

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF KIRKSVILLE, MISSOURI ESTABLISHING THE REQUIREMENT TO SOCIAL DISTANCE AND/OR WEAR FACE COVERINGS IN CERTAIN LOCATIONS IN ORDER TO PREVENT OR LIMIT THE SPREAD OF THE COVID-19 DISEASE AND ESTABLISHING AN EFFECTIVE DATE.**

**WHEREAS**, the novel coronavirus disease (COVID-19) is a highly infectious and dangerous disease that on March 11, 2020 was declared by the World Health Organization to be a pandemic; and

**WHEREAS**, due to the COVID-19 pandemic there have been declarations of emergency enacted by the President of the United States, and the Governor of the State of Missouri; and

**WHEREAS**, due to the rapid spread and the existence of community transmission of COVID-19 within the City, the spread of COVID-19 could continue to grow at an exponential rate for the foreseeable future unless additional measures are implemented to reduce the spread of the disease in the City; and

**WHEREAS**, in addition to overwhelming the medical system and threatening the health and lives of residents, the spread of the disease will cause economic damage, disruption and hardship in the event the City and Adair County Health Department finds it necessary to return to the former stay at home orders to reduce the spread of the disease; and

**WHEREAS**, due to the escalating spread of the COVID-19 pandemic it is necessary for the immediate preservation of public health, safety and welfare of the residents of the City to take steps to mitigate the spread of the disease; and

**WHEREAS**, the key transmission method for the COVID-19 virus is through respiratory droplets that people expel when they breathe, speak, cough or sneeze; and

**WHEREAS**, people can be infected with the COVID-19 virus and be asymptomatic or pre-symptomatic but still be contagious to others; and

**WHEREAS**, numerous epidemiologists have found that widespread use of a face covering or masks is necessary to prevent the more rapid spread of the COVID-19 virus, and thereby necessary for the safety and health of all Kirksville residents, and visitors; and

**WHEREAS**, the United States Centers for Disease Control and Prevention has recommended that members of the public, when they need to interact with others outside the home, and especially in indoor settings should cover their mouth and nose to prevent inadvertently spreading COVID-19; and

**WHEREAS**, the wearing of a face covering or mask by patrons and employees to the greatest extent possible, may allow businesses to remain open while protecting the health and safety of the public and employees, and keeping the local economy strong, and our schools open during the period in which the disease is being brought under control in the community; and

**WHEREAS**, strict use of face coverings or masks may limit the spread of COVID-19 to such an extent that further Stay at Home Orders may not be needed; and

**WHEREAS**, the Adair County Health Center finds that wearing a Face Covering or Mask is an appropriate and necessary method of reducing the spread of COVID-19 with the least amount of restrictions imposed with the greatest benefit to reduce community spread and has encouraged concurrence from the City of Kirksville to assist them in emphasizing the importance of their Order in protecting the health of residents in and visitors to our community; and

**WHEREAS**, the City Council through its Health Official has the authority pursuant to 19 CSR 20-20.040(2) (G) To...“Establish appropriate control measures which may include...the creation and enforcement of adequate orders to prevent the spread of the disease and other measures considered by the department and/or local health authority as appropriate disease control measures based upon the disease...and any other available information related to the... disease or infection: and (E) Establish and maintain quarantine, isolation or other measures as required; and

**WHEREAS**, the City Council of the City of Kirksville finds and declares that the purpose of this Ordinance is to protect public health and welfare by encouraging all to practice social distancing and use the additional precaution of face coverings while in public contact with other persons and finds it is necessary for the immediate preservation of an EMERGENCY DECLARATION on this 24<sup>th</sup> day of November so that such rules may go into effect on November 25, 2020.

**NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF KIRKSVILLE AS FOLLOWS:**

Section 1. Emergency clause, effective date and duration.

Due to the community spread of the COVID-19 pandemic within the City of Kirksville and for the immediate preservation of public health, safety and welfare, this Ordinance is enacted as an Emergency Ordinance within the meaning of RSMo 610.020 4. This ordinance shall go into effect 12:01 a.m., Wednesday, November 25, 2020 and shall remain in effect until rescinded by the City Council.

Section 2. Definition.

As used in this ordinance, a "Face Covering" means a covering that covers the nose and mouth. It can be:

1. A sewn mask secured with ties or straps around the head or behind the ears;
2. Multiple layers of fabric tied around the head;

3. Made from a variety of materials such as fleece, cotton, or linen, etc.;
4. Factory made or made from household items

A face covering also includes a mask or covering that provides a higher level of protection than a cloth face covering, such as an N95 mask or surgical mask, although it is generally encouraged to use cloth face coverings to preserve access to these higher-grade face coverings for health care providers and responders, who are assisting individuals during this virus crisis. Individuals who are medically unable to wear a face covering may wear a full-face shield covering the mouth, nose and eyes as an alternative to a face covering.

### Section 3. Wearing of Face Masks Required.

1. When in a place of public accommodation or public indoor space (including but not limited to workplace, business, hotel, restaurant, place of worship, gym, childcare facility or public facility, such as a community center or library), individuals are required to wear a face covering that covers the nose and mouth simultaneously unless they can absolutely maintain a distance of six feet.
  - a. Face coverings should be positioned carefully over the mouth and nose and should not be touched or readjusted until such time as the face covering is removed. Hand hygiene is encouraged before taking face coverings off and prior to re-masking.
  - b. Face coverings are not required inside a solitary, enclosed work space such as an office.
  - c. Face coverings may be removed in restaurants and bars when individuals are actively eating or drinking, but must be worn at all times otherwise.
  - d. Face coverings are not required when individuals (including but not limited to pastors of places of worship, key note speakers, and instructors), are speaking to a group, but only when those individuals can absolutely guarantee that they will be able to maintain social distancing of at least 6 feet apart from all others during presentation.
  - e. An owner, manager, operator, or employee of an area regulated by this order may refuse service to any individual who refuses to wear a face covering in compliance with this Order, however, an owner, manager, operator, or employee of an area regulated by this Order shall neither require an individual to produce medical documentation verifying a medical condition or disability, nor ask about the nature of a medical disability.
2. When in a public outdoor space or when using public transportation, taxis, or ride-sharing services, individuals are required to wear a face covering that covers the nose and mouth simultaneously.
  - a. A public outdoor space includes, but is not limited, to all outdoor public gathering places such as bus stops, sidewalks, parks, playgrounds, farmer's markets and restaurant/bar patio seating areas.
  - b. Face coverings are not required in public outdoor spaces
    - i. when individuals are driving alone or with others they live with; or
    - ii. when individuals are exercising alone or with others they live with.

- c. Face coverings are not required in public outdoor spaces when individuals can absolutely guarantee that they will be able to maintain social distancing of at least 6 feet apart from all others.
- d. Face coverings are not required when actively engaged in a sporting activity, but face coverings are required when players are seated on the bench, listening to coaches, or engaged in other activities that do not permit maintaining a 6 feet distance between participants. Coaches are required to wear a face mask.

Section 4. Exceptions.

- 1. Those who are deaf or hard of hearing;
- 2. Children younger than 5 years old; and
  - a. Children younger than 2 years of age should never wear face coverings due to the risk of suffocation.
  - b. Children who are under the age of six (6) while at a daycare or school facility.
  - c. Adjustments to the age requirements may be made based upon updated research indicating that younger children are not common sources of transmission.
- 3. Individuals with a medical condition, mental health condition, or disability that prevents them from wearing a face covering. This includes, but is not limited to, individuals 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.

Section 5. Responsibilities of proprietors, owners and managers.

- 1. Any person(s) who owns, manages, operates, or otherwise has control of an area where masks are required by the provisions of Section 3, shall not permit, cause, suffer or allow any person to violate the provisions of this ordinance in that place.
- 2. It shall be an affirmative defense to an alleged violation of this subsection if the person who owns, manages, operates or otherwise controls a public place listed in Section 3 does the following:
  - a. Immediately requests that the person not wearing the mask wear the mask as required; and
  - b. If the person who is asked to wear a mask refuses, immediately requests that the person not wearing the mask leave the area where a mask is required by the provisions of this Ordinance; and
  - c. If the person not wearing the mask does not leave the area where a mask is required by the provisions of this Ordinance, immediately notifies the City enforcement officers of the violation of Section 3.

An owner, manager, or operator of any area regulated by this Order shall clearly and conspicuously post the requirements of this Order, including the requirement that face coverings are required for entry and must continuously be worn while present, subject to the exemptions and provisions stated herein.

Section 6. Responsibility of Persons.

Any person(s) who sees another individual not adhering to the provisions of this Ordinance may file a complaint with the City enforcement officers, providing witness statement to the violation.

Section 7. Enforcement.

1. A person who has been convicted of a violation of this ordinance or an order implementing this ordinance may be sentenced to pay a fine which does not exceed fifteen dollars (\$15.00) for an individual and one hundred dollars (\$100.00) for a business, government or non-profit entity of any kind. For a business, government or non-profit entity, each violation of the requirements of this ordinance by an individual within or working for the entity shall be a separate violation. By way of example, where two people who are not members of the same household are in a business vehicle and are not wearing masks, each individual is subject to a fine of \$15.00 and the business is subject to two fines of \$100.00 each for a total of \$200.00.
2. Any person(s), who owns, manages, operates, or otherwise has control of an area where masks are required to be worn as required by the provisions of Section 3, who fails to comply with the provisions of this Ordinance shall be guilty of an ordinance violation, punishable by:
  - a. A fine not less than one hundred dollars (\$100) for a first violation.
  - b. A fine not less than two hundred dollars (\$200) for a second violation within a period of twelve (12) consecutive months.
  - c. A fine in the amount of five hundred dollars (\$500) for a third or subsequent violation within a period of twelve (12) consecutive months, or by imprisonment for a period not exceeding ninety (90) days, or by both such fine and imprisonment.
3. Each incident for which a violation of this Ordinance occurs shall be a separate and distinct violation.

Section 8. Severability Clause.

If any provisions, sections or portion of this Ordinance are found or determined by a court for any reason to be invalid or unenforceable, those provisions shall be severed from the remaining portions of this Ordinance, which shall remain effective in the absence of any invalid or unenforceable provisions.

Passed by the City Council, and signed by the Mayor this 24th day of November, 2020.

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Zac Burden, Mayor

ATTEST:

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Wanda J. Cagle, City Clerk

Ordinance # \_\_\_\_\_