

**ORDINANCE NO. 1322**

**AN ORDINANCE CREATING REQUIREMENTS PERTAINING  
TO REQUIRING THE WEARING OF MASKS OR OTHER FACE  
COVERINGS.**

WHEREAS, The Elected Governing Body of the City of Hillsboro, Kansas have determined the adoption of a Code of Procedure is beneficial and advisable for the citizens, employees, elected officials, and participants in the local governmental process.

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF HILLSBORO, KANSAS:

WHEREAS, securing the health, safety, and economic well -being of residents of the City of Hillsboro is the priority of the City Council; and

WHEREAS, the United States Departments of Health and Human Services declared a public health emergency for COV ID -19 beginning January 27, 2020, with now more than 11,465,722 cases of the illness and more than 249,670 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 declared the ongoing COVID -19 pandemic of sufficient severity and magnitude to warrant an emergency declaration for all states, tribes, territories, and the District of Columbia pursuant to Section 50 1 (b) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S. C. § 5121 -5207 (the Stafford Act"),- 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 1 135 of the Social Security Act, as amended (42 U.S.C. § 1320b -5), declared a national emergency that the COVID-19 outbreak in the United States constitutes a national emergency beginning March 1, 2020; and

WHEREAS, as of this date; in Kansas there have been 128,594 reported positive cases of COVID -19 spread among all 105 counties, including 1,326 deaths; and

WHEREAS, after a steady trend of increasing metrics, recent weeks have seen the numbers of COVID-19 cases, hospitalizations, and deaths spike in Kansas and across the nation;

and

WHEREAS, in Marion County, there is a recent increase in cases as is reported on the Marion County COVID dashboard; and

WHEREAS; this of increased COVID-19 spread is a danger to the health and safety of every person in the City of Hillsboro and also presents a serious threat to reopening and reviving the Hillsboro economy; and

WHEREAS, wearing a mask in public is the easiest and most effective way to protect each other and help keep our businesses open and our economy running; and

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

WHEREAS, for the aforementioned and other reasons, and in recognition and furtherance of our responsibility to provide for and ensure the health, safety, security, and welfare of the people of the City of Hillsboro, requiring that masks or other face coverings be worn in public spaces is necessary to promote and secure the safety and protection of the civilian population.

#### SECTION 1:

**Definitions.** As used in this Article, 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 is simply wrapped around the lower face. A mask or other face covering can be made of a variety of synthetic and natural materials, including cotton, silk, or linen. Ideally, a mask or other face covering has two or more layers. A mask or other face covering may be factory -made, sewn by hand, or can be improvised from household items such as scarfs, bandanas, t- shirts, sweatshirts, or towels.
- 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 2:

- a. **Persons.** All persons in the City of Hillsboro shall cover their mouths and noses with a mask or other face covering when they are in the following situations:

- A. Inside any indoor public space where distancing of 6 feet (not including individuals who reside together) at all times is not possible;
  - 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;
  - D. Waiting for or riding on public transportation or while in a taxi, private car service, or ride - sharing vehicle; or
  - E. While outdoors in public spaces and unable to maintain a 6 -foot distance between individuals (not including individuals who reside together) with only infrequent or incidental moments of closer proximity.
- b. **Businesses and organizations.** All businesses, organizations, and non - profit associations in the City of Hillsboro must require all employees, agents, and contractors to wear a mask or other face covering when:
- A. Employees, agents, or contractors are working in any space visited by customers or members of the public, when anyone from the public is present at the time;
  - B. Employees, agents, or contractors are working in any space where food is prepared;
  - C. Customers, members, visitors, or members of the public are in a facility managed by the business or organization; or
  - D. Employees, agents, or contractors are in any room or enclosed area where others (except for individuals who reside together) are present and are unable to maintain a 6 -foot distance except for infrequent or incidental moments of closer proximity.
- c. **Exemptions.** The following individuals are exempt from wearing masks or other face coverings in the situations described in Paragraphs 1 and 2:
- A. Persons age five years or under; 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;
- 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; and
- J. Persons engaged in any lawful activity during which wearing a mask or other face covering is prohibited by law.

SECTION 3:

- a. Any person, violating the provisions of Section 2(a) or any business, organization or non-profit who violates Section 2(b) of this ordinance shall be guilty of an infraction and shall be punished as follows:
  - A. For a first conviction, the entity shall be punished with a fine of twenty-five (\$25.00) dollars;
  - B. For a second conviction, the entity shall be punished with a fine of fifty (\$50.00) dollars; and
  - C. For a third or subsequent conviction, the entity shall be punished with a fine of one hundred dollars (\$100.00) dollars.
- b. The person responsible for any business or organization that does not comply with

Section 2(b), including, but not limited to, a sole proprietor, any officer, partner, member, manager, director, or other supervisor for the business or organization, may be held jointly and severally responsible for such violation with respect to any enforcement of the violation.

SECTION 4:

The provisions of Ordinance Number 1322 of the Code of the City of Hillsboro shall be in effect until January 26, 2021.

SECTION 5:

- a. This Ordinance shall be published following its passage in the City's official newspaper.
- b. This Ordinance shall take effect and be in full force from and after its adoption by the governing body of the City, approval by the Mayor and publication of a summary hereof certified as legally accurate and sufficient by the City Attorney in the Official Newspaper of the City.
- c. This Ordinance shall be included in the Code of the City of Hillsboro.

**ADOPTED AND PASSED** by the governing body of the City of Hillsboro, Kansas on November 24, 2020 and **APPROVED** by the governing body **AND SIGNED** by the Mayor.

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Lou Thurston, Mayor

ATTEST:

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Janice K. Meisinger, City Clerk