

On Tuesday, November 24, 2020, the Hillsboro City Council voted to enact a facemask ordinance. Please read the frequently asked questions below to learn more about the ordinance and how it pertains to you.

Please do not call 911 to report an ordinance violation or with questions regarding the ordinance. You can call the HPD Non-emergency line at (620) 947-3440, City Hall at (620) 947-3162 or email: masks@cityofhillsboro.net.

An individual must wear a mask when:

- You're in either indoor or outdoor public spaces, including offices, shops, churches, stores or offices, where 6 feet of safe social distance cannot be maintained;
- You're in a healthcare setting such as hospitals, pharmacies, physician or dental offices, veterinary clinics;
- You're using public transportation including ride shares, buses, other shared transportation;
- You're an employee working in food service, retail sales, health care, cosmetology or massage therapy.

What is the definition of a public space?

“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.

There are exceptions for wearing a mask:

- 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;
- 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;
- 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;

- 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;
- 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;
- 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;
- 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;
- 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;
- Persons engaged in a court-related proceeding held or managed by the Kansas Judiciary;
- Persons engaged in any lawful activity during which wearing a mask or other face covering is prohibited by law.

Where can I read the City's mask ordinance?

You can read the mask ordinance here: <http://www.cityofhillsboro.net/story-a.html>

When did the mask ordinance go into effect? When does it expire?

The mask ordinance went into effect on **Wednesday, December 2, 2020**, and will remain in effect until **January 26, 2021**, unless the City Council cancels or extends the ordinance. You can check upcoming City Council agenda items at <http://www.cityofhillsboro.net/city-council-meeting.html>

What is the definition of a mask?

Mask or other face coverings; definitions. The following words or phrases when used in this article shall have the following meanings: "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 fabrics, 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.

What are the fines associated with violating the City of Hillsboro ordinance?

The ordinance has a graduated fine structure. According to the Ordinance, fines shall be as follows:

- For a first conviction, the entity shall be punished with a fine of twenty-five (\$25.00) dollars;
- For a second conviction, the entity shall be punished with a fine of fifty (\$50.00) dollars; and
- For a third or subsequent conviction, the entity shall be punished with a fine of one hundred dollars (\$100.00) dollars.

An additional court cost of \$90 is added to all Hillsboro City ordinance violation citations as set by ordinance.

I read that masks can be unsafe and ineffective. Won't wearing mask make the problem worse?

This has been proven incorrect by multiple scientific sources. Evidence has proven that wearing face masks can dramatically limit the spread of the virus by blocking virus from traveling in aerosol particles for those who may not know they are infected. When you wear a mask you are protecting others. In addition, a recent scientific paper released by the Centers for Disease Control and Prevention (CDC) also showed that wearing a face mask also provides some protection to the others. It has been proven that wearing a mask does not make a COVID-19 infection worse. According to the CDC, the only time mask wearing can make a person ill is when the mask has not been cleaned or disinfected after multiple uses.

There is a lot of disinformation about COVID-19 and masks. The best way to check the facts on masks is to visit the Centers for Disease Control and Prevention website at www.cdc.gov.

What are the best practices for masks? How often should I wash or replace?

If you have questions about how to maintain a mask, please visit the CDC page about face coverings: <https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/about-face-coverings.html>

Didn't the City already put a mask mandate in place?

The City issued a proclamation on August 4, 2020 asking the public and visitors to wear masks. A proclamation does not have any enforcement elements and relies on cooperation. The ordinance also relies on cooperation, but provides some penalty for noncompliance. At the time the proclamation was passed, it was discussed that an ordinance would be the next logical step if the health situation dictated further action.

Masks are already widely worn now and the virus continues to spread. What good would this ordinance do?

It is true that many people do wear masks, but the virus continues to spread. Masks are only part of the solution for controlling the virus along with good hygiene and social distancing. It is unrealistic to expect everyone to comply with these practices for the long term, but putting an ordinance in place is one way the City can act to help slow the spread.

Doesn't making me wear a mask violate my Constitutional rights?

No, public health orders have been ruled as Constitutional and litigated multiple times. Personal liberty can be limited for the benefit of public health. Many examples of this exist including seat belt laws, smoking restrictions and mandatory child vaccine laws. The basis for these rulings is found in the 1905 Supreme Court case, *Jacobson v. Massachusetts*.

There are available hospital beds at the Hillsboro Community Hospital, so is there really an issue with COVID-19 cases?

The intention of the mask ordinance is flatten the curve and help maintain the hospital capacity. The hospital is treating COVID patients but is likely to refer severe cases to larger facilities that have Intensive Care Units (ICU) designed for COVID cases. As those ICU beds in larger facilities fill up, it puts more pressure on Hillsboro Hospital. The current situation at Hillsboro Hospital can change rapidly as the virus expands in the community. Taking steps like wearing masks, washing hands and social distancing can help slow the virus and lessen the burden on the health care system.

How will the city help businesses that could lose customers because of this ordinance?

The City does not have a mechanism to help businesses related to a mask ordinance. The City has offered assistance related to the pandemic through the Community Development Block Grant (CDBG) program from the State of Kansas. Hillsboro businesses also participated in the SPARKS state program that provided aid to businesses. The City will administer any future aid programs that result for relief efforts at other levels of government.

How can I ask the Police Department questions or share concerns about the mask ordinance?

Email masks@cityofhillsboro.net, call City Hall at (620) 947-3162 or call the Police Department (620) 947-3440. Please **DO NOT CALL 911** for questions concerning the mask ordinance.

How can I report a person or a business or an organization who is not complying with the mask mandate?

The Hillsboro Police Department's goal in addressing this ordinance is to educate and seek voluntary compliance for the benefit of public safety. **DO NOT CALL 911** to report a violation. We prefer that you send an email to: masks@cityofhillsboro.net or you can call our department line at (620) 947-3440.

If I can't afford a mask, where can I get one?

A limited number of free masks are available at City Hall. HPD officers will also have masks with them for residents who don't have a facemask. The City also has a limited number of masks that will be distributed to businesses. For other locations to obtain free masks, please visit the Marion County Health Department

website: <http://www.marioncoks.net/Departments/HealthDepartment/Coronavirus/tabid/14070/Default.aspx>.

Do those who meet the exempt requirement need to show an officer proof of exemption?

HPD Officers responding to reports of mask ordinance violations will not require written or electronic proof of an exception. If you are written a citation and believe that an exemption applies to you, you may need to provide proof of the exemption at Court.

How does this ordinance impact businesses and organizations?

All businesses, organizations, and non - profit associations in the City of Hillsboro must require all employees, to wear a mask or other face covering when:

- Employees are working in any space visited by customers or members of the public, when anyone from the public is present at the time;
- Employees are working in any space where food is prepared;
- Customers, members, visitors, or members of the public are in a facility managed by the business or organization; or
- Employees 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.

The Hillsboro Police Department asks residents to avoid confrontations with individuals or businesses that do not comply with the ordinance. Instead, please model best behavior of helping to protect your health and fellow residents' health by wearing a mask appropriately.

I work in in place where the public visits occasionally. Do I have to wear a face mask if no customers are in the space and no other employees are present?

No, if there are no customers or other employees present you do not have to wear a mask. Please observe best practices for cleaning the space where the public can enter. The exception being if you work in a space where food is prepared. Employees working in food preparation will be required to wear masks.

Are you asking businesses to enforce this ordinance on customers?

No, businesses are not being asked to enforce this ordinance on customers and will not be held liable for the general public. Businesses are only responsible for employees in their business. HPD would advise that businesses and their employees to not be confrontational with individuals that are not complying with the ordinance and assume that they fall under an exemption in the mask requirements. Businesses could also opt to offer customers a disposable mask or direct them to resources on masks.

Are houses of worship exempted from this ordinance?

There is no general religious exemption under the ordinance. A house of worship is considered an "organization" and must require employees, customers, visitors, members, or members of the public to wear a mask as stated above, unless a person or activity is exempt from the mask

requirement. The HPD will take no action that would violate the First Amendment right of the freedom of religion or "prohibiting the free exercise thereof."

Do I have to wear a mask while attending a religious service?

If the religious service is held in an indoor "public space," masks must be worn when you cannot maintain a 6-foot distance between you and other individuals (who you do not reside with) with only infrequent or incidental moments of closer proximity. If the religious service is held in an outdoor public space, masks must be worn when you cannot maintain a 6-foot distance between you and other individuals (who you do not reside with) with only infrequent or incidental moments of closer proximity. Most, if not all, churches have already taken appropriate precautions to comply with this requirement. Churches making efforts to comply with mask and social distancing requirements are viewed as in compliance with the ordinance.

The ordinance contains exemptions that may apply to circumstances that exist during a religious service which would not require a mask to be worn. For example, a person may remove a mask to eat or drink at a worship service, and an officiant may remove a mask when communicating to a congregation that includes a person that is deaf or hard of hearing, and the ability to see the officiant's mouth is essential for communication.

Again, the HPD will take no action that would violate the First Amendment right of the freedom of religion or "prohibiting the free exercise thereof."

I work in an office where the manager/owner is not requiring either employees or customers to wear a mask. What do I do?

First, you can check with your employer as they may have determined that the business or certain employees are exempt from the order. If you still have concerns, you can then report this by sending an email to: masks@cityofhillsboro.net

Do athletes have to wear masks when practicing or playing games?

Athletes should follow the guidelines and restrictions set forth by the professional or recreational association overseeing the activity. The ordinance states the following individuals are exempt from wearing a mask:

- 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;

- 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;

Can a mask ordinance be enforced?

Yes, local governments in Kansas have the authority to enact public health orders through home rule authority. This has been affirmed by the Kansas Attorney General. On July 8, 2020, Kansas Attorney General Derek Schmidt confirmed that cities have the authority to enforce mask ordinances. “To the best of our knowledge, the Legislature has not enacted state law that prohibits cities from enacting local ordinances that regulate the wearing of facemasks,” Kansas Attorney General’s Office spokesman Clint Blaes said in a statement.

Can the ordinance be enforced outside of the City?

No, City of Hillsboro ordinances can only be enforced within the city limits of Hillsboro. Areas that are not in the City limits are not subject to the mandate.

Won’t the police department be overwhelmed with enforcement of this ordinance?

While we appreciate the concern, the HPD is prepared to enforce the face mask ordinance. Based on the experience of several other communities who have enacted similar ordinances, the enforcement should not be overwhelming. Communities like McPherson, Newton and Marion have had minimal calls for enforcement. Most people in these communities have been respectful and have avoided conflict by working with law enforcement. The goal of the ordinance is to promote and protect public health during the pandemic, not to punish non-mask wearers.