

(Published at www.mcpcity.com beginning on _____, 2020.)

ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY OF MCPHERSON, KANSAS
ADDING TO CHAPTER 30, ARTICLE I, SECTION 4 OF THE
CODE OF THE CITY OF MCPHERSON, KANSAS REGARDING
REQUIRING INDIVIDUALS TO WEAR MASKS OR OTHER
FACE COVERINGS IN PUBLIC.**

WHEREAS, securing the health, safety, and economic well-being of residents of the City of McPherson is a priority of the governing body;

WHEREAS, the United States Departments of Health and Human Services declared a public emergency for COVID-19 beginning January 27, 2020, with now more than 2,900,000 cases of the illness and more than 130,000 deaths as a result of the illness across the United States;

WHEREAS, the World Health Organization declared a pandemic on March 11, 2020;

WHEREAS, a State of Disaster Emergency was proclaimed for the State of Kansas on March 12, 2020;

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 501(b) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. §§ 5121-5207 (the "Stafford Act");

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 1135 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;

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

WHEREAS, in McPherson County, there is a recent increase in cases as reported by the McPherson County Health Department;

WHEREAS, this worrying trend of increased COVID-19 spread is a danger to the health and safety of every McPherson citizen and also presents a serious threat to reopening and reviving the McPherson economy;

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;

WHEREAS, wearing a mask in public is not only safe and easy, it is necessary to avoid more restrictive local measures that could involve closing businesses, schools, organized youth sports, and other important activities;

WHEREAS, the City of McPherson 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;

WHEREAS, the governing body heard testimony from local health care providers for the medical need of mandatory masks; and

WHEREAS, the governing body of the City believes it is in the best interest of the City to amend the City Code to provide for and ensure the health, safety, security, and welfare of the people of the City of McPherson by requiring that masks or other face coverings be worn in public spaces.

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

Section 1. Addition of Code section 30-4. From and after the effective date of this Ordinance, Section 30-4 of the Code of the City of McPherson is hereby created to read as follows:

Sec. 30-4 – Masks or Other Face Coverings

(a) *Definitions.* The following words, terms, and phrases, when used in this section, shall have the meanings ascribed to them in this subsection except where the context clearly indicates a different meaning:

- (1) “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 scarves, bandanas, t-shirts, sweatshirts, or towels.

- (2) "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.

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

- (1) Inside any indoor public space where distancing of six (6) feet at all times is not possible;
- (2) In line and waiting to enter any indoor public space;
- (3) 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;
- (4) Waiting for or riding on public transportation or while in a taxi, private car service, or ride-sharing vehicle; and
- (5) While outdoors in public spaces and unable to maintain six (6) feet of distance between individuals (not including individuals who reside together) with only 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 subsections (c) and (d):

- (1) Persons age five (5) years or under – children age two (2) years and under in particular should not wear a face covering because of the risk of suffocation;
- (2) 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;

- (3) 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;
- (4) 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;
- (5) 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;
- (6) 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 six (6) feet of distance between individuals (not including individuals who reside together or are seated together) with only infrequent or incidental moments of closer proximity;
- (7) Athletes who are engaged in an organized sports activity that allows athletes to maintain six (6) feet of distance from others with only infrequent or incidental moments of closer proximity;
- (8) 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;
- (9) Persons engaged in a court-related proceeding held or managed by the Kansas Judiciary; and
- (10) Persons engaged in any lawful activity during which wearing a mask or other face covering is prohibited by law.
- (11) Persons engaged in religious activities protected under the First Amendment to the United States Constitution including but not limit to worship services; however, religious institutions are strongly encouraged to maintain social distancing, appropriate hygiene precautions and mask wearing.
- (12) Persons at the McPherson Water Park so long as protocols announced by the Water Park from time to time are maintained. Masks shall be worn in line awaiting entry to the facility.

(d) Any person violating the provisions of Section 30-4 of the Code of the City of McPherson shall be guilty of an infraction and shall be fined ten dollars (\$10.00) per occurrence. Court costs shall not be levied.

(e) Any funds accrued from the fines shall be deposited in the City general fund to be used at the discretion of the governing body.

Section 2. Repeal. All or parts of the Code conflicting with the provisions of this Ordinance are hereby repealed.

Section 3. Publication, Effective Date and End Date. This ordinance shall take effect and be in full force and effect after its passage, signature, and publication of the ordinance on the official city website. This ordinance shall no longer be effective after September 9, 2020 unless extended by affirmative vote of the governing body.

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ADOPTED by the governing body this _____ day of _____, 2020.

CITY OF MCPHERSON, KANSAS

Thomas A. Brown, Mayor

[SEAL]

Attest:

Tamra K. Seely, City Clerk