

**ORDINANCE NO. 1463**

**AN ORDINANCE CREATING SECTIONS 8-701 THROUGH 8-705 OF THE MARION CITY CODE PERTAINING TO PERTAINING TO REQUIRING THE WEARING OF MASKS OR OTHER FACE COVERINGS.**

WHEREAS, The Elected Governing Body of the City of Marion, 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 MARION, KANSAS:**

**SECTION 1:** Section 8-701 of the Marion City Code are created to read as follows:

Section 8-701 of the Code of the City of Marion is hereby created to read as follows:

WHEREAS, securing the health, safety, and economic well -being of residents of the City of Marion 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 4,117,000 cases of the illness and more than 146,500 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 501 ( 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 24,104 reported positive cases of COVID -19 spread among 103 counties, including 308 deaths; and

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; 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 Marion and also presents a serious threat to reopening and reviving the Marion 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 Marion 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 my responsibility to provide for and ensure the health, safety, security, and welfare of the people of the City of Marion, 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 2:** Section 8-702 of the Code of the City of Marion, Kansas, is hereby created to read as follows:

As used in this Chapter, the following terms shall have the following meanings:

Definitions:

- 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 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.
- 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 3.** Section 8-703 of the Code of the City of Marion is hereby created to read as follows:

- 1.) All persons in the City of Marion 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 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:

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.

2.) Businesses and organizations. All businesses, organizations and non-profit associations in the City of Marion must require all employees, customers, visitors, members, or members of the public to wear a mask or other face covering when:

a. Employees 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 are working in any space where food is prepared or packaged for sale or distribution to others;

c. Customers, members, visitors, or members of the public are in a facility managed by the business or organization; or

d. Employees are in any room or enclosed area where other people (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.

3.) 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 4.** Section 8-704 of the Code of the City of Marion is hereby created to read as follows:

1. Any person, business or organization violating the provisions of Section 8-703 of the Code of the City of Marion shall be guilty of an infraction.

2. A person, firm, or corporation convicted of a violation of this section shall be punished by a fine of twenty-five (\$25. 00) dollars upon a first conviction, by a fine of fifty 50.00) dollars upon a second conviction, and by fine of one hundred dollars (\$ 100.00) dollars upon a third or subsequent conviction.

**SECTION 5.** Section 8-705 of the Code of the City of Marion is hereby created to read as follows:

The provisions of Sections 8-701 — 8-704 of the Code of the City of Marion shall be in effect until August 24. 2020.

**SECTION 6.** This ordinance shall be included in the Code of the City of Marion, Kansas, and shall be effective upon its passage.

**SECTION 7.** This ordinance shall be published following it passage in the City' s official newspaper.

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.

**ADOPTED AND PASSED** by the governing body of the City of Marion, Kansas on July 27, 2020 and **APPROVED** by the governing body **AND SIGNED** by the Mayor.

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DAVID MAYFIELD, Mayor

ATTEST:

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TIFFANY JEFFREY. City Clerk