

(Summary Published in the Leavenworth Times on _____, 2020)

ORDINANCE NO. 1050

AN ORDINANCE CREATING NEW ARTICLE VI MISCELLANEOUS PROVISIONS OF CHAPTER 8 HEALTH AND WELFARE AND SECTIONS 8-601 THRU 8-604, REQUIRING INDIVIDUALS TO WEAR MASKS OR OTHER FACE COVERINGS IN CERTAIN CIRCUMSTANCES; REQUIRING BUSINESSES AND ORGANIZATIONS TO REQUIRE ALL EMPLOYEES, CUSTOMERS, VISITORS, MEMBERS, OR MEMBERS OF THE PUBLIC TO WEAR A MASK OR OTHER FACE COVERING IN CERTAIN CIRCUMSTANCES; AND ESTABLISHING PENALTIES THEREFORE.

WHEREAS, securing the health, safety, and economic well-being of the State of Kansas is the City of Lansing's top priority;

WHEREAS, Kansas is facing a crisis-the pandemic and public health emergency of COVID-19-resulting in illness, death, quarantines, school closures, and temporary closure of business resulting in lost wages and financial hardship to Kansas citizens;

WHEREAS, the United States Department of Health and Human Services declared a public health emergency for COVID-19 beginning January 27, 2020, with now more than 11,136,000 cases of the illness and more than 246,000 deaths as a result of the illness across the United States;

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, 42U.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 (41 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, as of November 18th, in Kansas there have been 128,594 reported positive COVID-19 spread among all 105 Kansas counties, including 1,326 deaths;

WHEREAS, in the late spring and early summer 2020, Kansas experienced a steady trend of decreasing COVID-19 cases, hospitalizations, and deaths, but by mid-summer that downward trend gave way to a worrying spike in COVID-19 cases, hospitalizations, and deaths in Kansas and across the nation;

WHEREAS, as a result of that worrying spike, on July 2, 2020, Governor Kelly issued Executive Order 20-52 (“Requiring masks or other face coverings in public”) but in spite of the deadly and urgent public health threat presented by the spike in COVID-19 cases, many counties exercised their temporary authority under K.S.A. 48-925(h) to “opt out” of statewide public health executive orders to top out of Executive Order 20-52;

WHEREAS, recent weeks have again seen a worrying spike in COVID-19 cases, hospitalizations, and deaths, except that this “spike” has seen the 7day average of cases and hospitalizations first double and then triple, stretching the healthcare system’s ability to handle the unprecedented flux of patients;

WHEREAS, if the healthcare system is overrun with COVID-19 patients, as it will be soon if current trends continue, communities will be forced to close schools and businesses, a non-COVID-19 healthcare services will be postponed due to lack of staffing, space, and supplies in hospitals and doctor’s offices; at worst, Kansans battling COVID-19 or other serious illnesses could suffer and die from the lack of available healthcare services;

WHEREAS, wearing a face covering in public is the easiest and most effective way to protect each other, ease the burden on our overburdened healthcare system, and help keep our businesses open and our economy running;

WHEREAS, the Centers for Disease Control has determined that even increasing universal masking by 15% could prevent the need for restrictions on businesses and gatherings and could avoid severe economic losses;

WHEREAS, wearing a face covering 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 State of Kansas and City of Lansing must remain flexible to account for the evolving nature and scope of the unprecedented health emergency posed by COVID-19, while also simultaneously safely and strategically operating businesses and facilitating economic recovery and revitalization;

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 Lansing, increasing the wearing of face coverings is necessary to promote and secure the safety and protection of our population

WHEREAS, the Governor of the State of Kansas has previously issued Executive Order No. 20-52 requiring individuals to wear masks or other face coverings in public, but the terms of such Executive Order are not, at this time, effective as to or enforceable within Leavenworth County, Kansas, pursuant to action taken by the Leavenworth County Commission under K.S.A. 48-925, as amended by Section 33 of 2020 Kansas Special Session House Bill No. 2016.

WHEREAS, for the aforementioned and other reasons, the governing body of the City of Lansing is acting pursuant to its constitutional home rule authority to provide for the health, safety, welfare and economic well-being of residents and visitors of the City of Lansing, by requiring that masks or other face coverings be worn as described in this ordinance; and

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

Section 1. That a new Article VI Miscellaneous Provisions to Chapter 8 Health and Welfare of the Code of the City of Lansing, Kansas, with new Sections 8-601 through 8-604, is hereby established to read as follows:

Sec. 8-601. 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 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, and may include a plastic face shield. 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.

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; Except for those businesses who voluntarily restrict customer access to appointment only.

Sec. 8-602. Mask or other face coverings; when required; exemptions.

- A. All persons in the city shall cover their mouths and noses with masks or other face coverings when they are in the following situations:
1. Inside, or in line to enter, any indoor public space;
 2. 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 thereof or a health care provider;
 3. While riding in a taxi, private car service, or ride-sharing vehicle; or,
 4. 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. The persons responsible for all businesses or organizations in the city must require all employees, customers, visitors, members, or members of the public to wear a mask or other face covering as follows:
1. Employees, when working in any space visited by customers during business hours of operation or members of the public, regardless of whether anyone from the public is present at the time;
 2. Employees, when working in any space where food is prepared or packaged for sale or distribution to others;
 3. Employees, when working in or walking through common areas, such as hallways, stairways, elevators, and parking facilities;

4. Customers, members, visitors, or members of the public, when in a facility managed by the business or organization; or
 5. Employees, when 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.
- C. The following individuals are exempt from wearing masks or other face coverings in the situations described in subsections A and B:
1. 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;
 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; provided, that the foregoing exemption shall not apply to the extent such a person is capable of wearing a mask or face covering (such as a plastic face shield) that does not impair such medical condition, mental health condition, or disability;
 3. Persons who are deaf or hard of hearing, or communicating with a person who is deaf or hard of hearing, where the ability to see the mouth is essential for communication; provided, that the foregoing exemption shall not apply to the extent such a person is capable of wearing a mask or face covering (such as a plastic face shield) that does not inhibit such 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 may sit at the table without their masks. If not at the table, mask must be put back on;
 7. Athletes who are engaged in an organized sports activity that allows athletes to maintain a 6-foot distance from other athletes with only infrequent or incidental moments of closer proximity; activities sanctioned by KSHSAA shall abide by KSHSAA guidelines on masks and face coverings;
 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 public safety, first responder, fire, public health, or other medication operations or services where the wearing of a mask is not practicable under the given circumstances; and,
 10. Persons engaged in any lawful activity during which wearing a mask or other face covering is prohibited by law.
- D. It shall be an affirmative defense to any prosecution under subsection A or B that the person in violation is an individual listed under subsection C.

Sec. 8-603. Mask or other face coverings; penalties; enforcement.

- A. A violation of any provision of Section 8-602 shall be punished as follows:
1. For a first conviction, the person shall be punished with a fine of \$5 with court costs set \$20.
 2. For a second conviction, the person shall be punished with a fine of \$10 with court costs set at \$30.
 3. For a third or subsequent conviction, the person shall be punished by a fine of \$20 with court costs set at \$40.
- B. The person responsible for any business or organization that intentionally and knowingly does not comply with Section 8-602 includes a sole proprietor, or any officer, partner, member, manager, director, or other supervisor for the business or organization, who may be held jointly and severally responsible for such violation with respect to any enforcement of the violation.

Sec. 8-604. Mask or other face coverings; effective term. The provisions of Section 8-601 through Section 8-603 of the city code shall be in effect from 12:01 a.m. November 27, 2020 until 11:59 p.m. on January 31, 2021, unless further extended by ordinance of the governing body.

Section 2. This ordinance shall take effect and be in force from and after its passage, approval, and publication in the official city newspaper.

PASSED and APPROVED by the Governing Body on the 24 day of November, 2020.

Michael W. Smith, Mayor

{SEAL}

ATTEST:

Sarah Bodensteiner, City Clerk

CITY OF LANSING
FORM OF SUMMARY FOR PUBLICATION OF ORDINANCE

Ordinance No. 1050: An Ordinance Creating New Article VI Miscellaneous Provisions of Chapter 8 Health and Welfare and Sections 8-601 Through 8-604, of the Code of the City of Lansing, Kansas, Requiring Individuals to Wear Face Masks or Other Face Coverings in Certain Circumstances; Requiring Businesses and Organizations to Require All Employees, Customers, Visitors, Members, or Members of the Public to Wear a Mask or Other Face Covering in Certain Circumstances; and Establishing Penalties Therefore.

Pursuant to the general laws of the State, a general summary of the subject matter contained in this ordinance shall be published in the official City newspaper in substantially the following form:

Ordinance No. 1050 Summary:

On November 24, 2020, the City of Lansing, Kansas, adopted Ordinance No. 1050, adopting the Ordinance Creating New Article VI Miscellaneous Provisions of Chapter 8 Health and Welfare and Sections 8-601 Through 8-604, of the Code of the City of Lansing, Kansas, Requiring Individuals to Wear Face Masks or Other Face Coverings in Certain Circumstances; Requiring Businesses and Organizations to Require All Employees, Customers, Visitors, Members, or Members of the Public to Wear a Mask or Other Face Covering in Certain Circumstances; and Establishing Penalties Therefore. A complete copy of this ordinance is available at www.lansingks.org or at City Hall, 800 First Terrace, Lansing, KS 66043. This summary certified by Gregory Robinson, City Attorney.

This Summary is hereby certified to be legally accurate and sufficient pursuant to the laws of the State of Kansas.

DATED: November 24, 2020

Gregory Robinson, City Attorney