

ORDINANCE NO. 2884-2020

AN ORDINANCE REQUIRING THE WEARING OF FACE COVERINGS IN THE CITY OF GARDEN CITY, KANSAS.

WHEREAS, securing the health, safety, and economic well-being of residents of the City of Garden City, Kansas is a priority of the City Commission; and

WHEREAS, the United States Department of Health and Human Services declared a public health emergency for COVID-19 beginning January 27, 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 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; and

WHEREAS, the Finney County Board of Commissioners, at the outset of our community's coordinated COVID-19 response established the following goals; 1) slowing the spread of the virus locally; 2) avoid overwhelming local healthcare providers including St. Catherine Hospital and staff, and 3) limiting the number of deaths; and

WHEREAS, after a steady trend of decreasing metrics, recent weeks have seen a large increase in the number of COVID-19 cases, hospitalizations, and deaths in Garden City to a point where the locally established goals of the Finney County Board of Commissioners are no longer being realized; and

WHEREAS, in Finney County, there are increases in all criteria used by the Finney County Health Department to measure the spread and impact of COVID-19 cases in Garden City; and

WHEREAS, the rise in the number of cases and disease spread indicators used by the Finney County Health Department caused USD 457 to take measures to go to either hybrid or complete on-line learning district-wide, which challenges student learning, challenges working parents without an answer for daytime supervision of their at-home children, and challenges employers who try to balance productivity of their operations and the needs of their employees to care for school-aged children; and

WHEREAS, increased COVID-19 spread is a danger to the health and safety of residents of the City of Garden City and also presents a serious threat to the City of Garden City's economy; and

WHEREAS, wearing a face covering in public is the simplest and an effective way to protect each other, help re-open our schools, keep open our businesses and our economy running; and

WHEREAS, the City of Garden City must remain flexible to account for the evolving nature and scope of the public health emergency posed by COVID-19, while also simultaneously safely, strategically, and incrementally re-opening schools and keeping businesses open and operational in a way that facilitates economic recovery and revitalization; and

WHEREAS, public education regarding the effectiveness of wearing a face covering as a means to prevent the spread of COVID-19 has not led to the necessary level of voluntary compliance by members of the public; and

WHEREAS, members of the health care and medical professions in the City of Garden City have urged the adoption of an ordinance requiring face coverings; 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 Garden City, requiring face coverings be worn in public spaces is necessary to promote and secure the health, safety and protection of the citizens of our community.

NOW, THEREFORE, BE IT ORDAINED by the Governing Body of the City of Garden City, Kansas:

SECTION 1. Definitions. The following terms shall have the following meanings:

- (a) "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 face covering can be made of a variety of synthetic and natural fabrics, including cotton, silk, or linen. Ideally, a face covering has two or more layers. A 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, clients, patients or other public visitors.
- (c) "City of Garden City", as used in Section 2, means all areas within the corporate boundaries of the City of Garden City, Kansas, and also includes Garden City Regional Airport and Buffalo Dunes Golf Course.

SECTION 2. Requirements of persons. All persons in the City of Garden City shall cover their mouths and noses with a face covering when they are in the following situations:

- (a) Inside any indoor public space where distancing of six (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, optometric 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 ridesharing vehicle; or
- (e) While outdoors in public spaces and unable to maintain a six (6) foot distance between individuals (not including individuals who reside together) with only infrequent or incidental moments of closer proximity.

SECTION 3. Requirements of businesses, organizations, and associations of all kinds. All businesses, organizations and associations of all kinds in the City of Garden City must require all employees and all other persons to wear a face covering when:

- (a) Employees are working in any space visited by customers, visitors, members of the public or co-workers;
- (b) Employees are working in any space where food is prepared or packaged for sale or distribution to others;
- (c) Customers, visitors, or members of the public are in a facility managed by the business, organization or association; 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 six (6) foot distance, except for infrequent or incidental moments of closer proximity.

SECTION 4. Exemptions. The following individuals are exempt from wearing face coverings in the situations described in Sections 2 and 3:

- (a) 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;
- (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 a face covering without assistance;
- (c) 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;
- (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 six (6) foot distance between individuals (not including individuals who reside together or who 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 six (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 face covering;
- (i) Persons who are discharging duties as a first responder (law enforcement, firefighters, and emergency medical technicians), when the wearing of a face covering would interfere with the safe and efficient performance of their duties;
- (j) Persons engaged in a court-related proceeding held or managed by the Kansas Judiciary; and
- (k) Persons engaged in any lawful activity during which wearing a face covering is prohibited by law.
- (l) Persons engaged in religious activities protected by the First Amendment to the United States Constitution, including, but not limited to, worship services.

SECTION 5. Enforcement, violations and penalties.

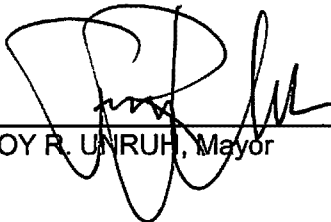
- (a) Any person, business, organization, or association violating the provisions of this ordinance shall be guilty of an infraction.
- (b) A person, business, organization, or association convicted of a violation of this ordinance shall be punished by a fine of Ten Dollars (\$10.00) upon a first conviction, by a fine of Twenty-five Dollars (\$25.00) upon a second conviction, and by a fine of Fifty Dollars (\$50.00) upon a third or subsequent conviction. No court costs shall be assessed as a result of a conviction.

SECTION 6. If any section, clause, sentence, or phrase of this ordinance is found to be unconstitutional or is otherwise held invalid by any court of competent jurisdiction, it shall not affect the validity of any remaining parts of this ordinance.

SECTION 7. That this ordinance shall be in full force and effect on November 16, 2020, and after its publication in the Garden City Telegram, the official city newspaper.

SECTION 8. From and after November 16, 2020, this ordinance shall be effective until December 16, 2020. If the Governing Body intends to extend for an additional thirty (30) days, the date this ordinance will continue to be effective, it shall do so by a majority vote of the Governing Body. Any extensions of this ordinance's term of effectiveness thereafter shall be in thirty (30) day increments. The Governing Body may also rescind this ordinance, at any time, by majority vote.

APPROVED AND PASSED by the Governing Body of the City of Garden City, Kansas, the 11th day of November, 2020.



TROY R. UNRUH, Mayor

ATTEST:



CELYN N. HURTADO, City Clerk

APPROVED AS TO FORM:



RANDALL D. GRISELL, City Attorney