

AN ORDINANCE BY THE CITY OF ROGERS, ARKANSAS REGARDING THE USE OF MASKS IN RELATION TO THE COVID-19 PANDEMIC; PROVIDING FOR THE EMERGENCY CLAUSE; AND FOR OTHER PURPOSES.

WHEREAS, an outbreak of COVID-19 (coronavirus) has resulted in an ongoing global pandemic;

WHEREAS, on June 18, 2020, Executive Order 20-37 declared that the emergency declared pursuant to Executive Order 20-03 and its amendments was terminated and that the public health and disaster emergency and declaration of the State of Arkansas as a disaster area resulting from the state-wide impact of Covid-19 was declared anew and would be effective for sixty (60) days unless renewed;

WHEREAS, on June 19, 2020, the Arkansas Department of Health (ADH), released guidance regarding the use of face masks/coverings by the general public which asserts that ample evidence exists to support the efficacy of wearing face masks to prevent the transmission of Covid-19 including a World Health Organization (WHO) funded study;

WHEREAS, the afore-mentioned ADH guidance on masks recommends that the general public should wear face coverings in ALL indoor environments where they are exposed to non-household members and distancing of six (6) feet or more cannot be assured. This includes, but is not limited to, workplaces, retail stores, businesses, places of worship, courtrooms, jails/prisons, schools, healthcare facilities, and other people's homes;

WHEREAS, the afore-mentioned ADH guidance recommends that the general public should also wear face coverings in ALL outdoor settings where there is exposure to non-household members, unless there exists ample space of six (6) feet or more to practice physical distancing; and

WHEREAS, Arkansas Governor Asa Hutchinson supports and encourages the usage of facial coverings in an effort to curb the spread of Covid-19;

WHEREAS, the United States Supreme Court has long recognized state and local control over the spread of infection diseases and gave broad leeway in responding to these threats in *Jacobson v. Massachusetts*, 197 U.S. 11 (1905);

WHEREAS, the Centers for Disease Control and Prevention (CDC) encourages the use of cloth face coverings to curb the spread of Covid-19;

WHEREAS, individuals infected with Covid-19 are often asymptomatic and may unknowingly transmit the virus to other individuals; and

WHEREAS, the health of employees and patrons of reopened businesses is directly threatened by individuals who enter such establishments without a facial covering.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ROGERS, ARKANSAS THAT:

Section 1: Upon consultation with the ADH and the Governor's Office, the City of Rogers, Arkansas shall require the usage of facial coverings according to ADH guidance in an effort to help curb the spread of Covid-19, in particular to protect the most vulnerable members of our community, as well as to ensure that the hard won progress made by the citizens of Arkansas in reopening our shared economy is preserved.

Section 2: The City of Rogers, Arkansas has hereby determined that local law enforcement and other city officials will act in a support capacity to local businesses that wish to enforce the use of masks upon their premises. Law enforcement, acting in such a support capacity, shall educate and encourage members of the public who decline to wear facial coverings regarding the efficacy of wearing such coverings according to the ADH guidance on facial coverings released on June 19, 2020. Law enforcement may additionally act in a support capacity to local businesses by educating individuals who decline to comply with the facial covering requirement of any local business that the individual must abide by that requirement or leave the premises.

Section 3: The Rogers City Clerk is hereby directed to print and mail this ordinance to all businesses within the municipal limits as soon as practical, for display in a prominent area of the business or on the primary entrance way.

Section 4: An emergency is declared to exist, and because of the need for immediate response to the COVID-19 pandemic. The emergency factors considered in declaring an emergency is the infectious rate of COVID-19, the rapid use of protective equipment across all sectors, the fatality rate, and the fatality rate if the virus is left unchecked. Therefore, an emergency is hereby declared to exist and this Ordinance shall be in full force and effect from the date of passage and approval.

Section 5: Severability Provision: If any part of this Ordinance is held invalid, the remainder of this Ordinance shall continue in effect as if such invalid portion never existed; and

Section 6: Repeal of Conflicting Provisions: All ordinances, resolutions or orders of the City Council, or parts of the same, in conflict with this Ordinance are repealed to the extent of such conflict.

PASSED this 6 day of July, 2020.

APPROVED:



C. GREG HINES, Mayor

Attest:



JESSICA RUSH, City Clerk



Requested By: C. Greg Hines, Mayor
Prepared By: John M. Pesek, Staff Attorney