

ORDINANCE NUMBER 3783

AN ORDINANCE REQUIRING THE WEARING OF MASKS OR OTHER FACE COVERINGS IN PUBLIC SPACES.

WHEREAS, securing the health, safety, and economic well-being of residents of the City of Osawatomie is of the highest priority of the City Council; and

WHEREAS, the United States Departments of Health and Human Services declared a public health emergency for COVID-19 beginning January 27, 2020, with now more than 2,932,596 cases of the illness and more than 130,000 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 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, as of this date, in Kansas there have been 16,901 reported positive cases of COVID-19 spread among 98 counties, including 280 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 Miami County, there is a recent increase in cases as is reported; and

WHEREAS, this increased spread of COVID-19 is a danger to the health and safety of residents of Osawatomie and also presents a serious threat to reopening and reviving the Osawatomie 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 Osawatomie 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 our responsibility to provide for and ensure the health, safety, security, and welfare of the people of the

City of Osawatomie, 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, **SO NOW, THEREFORE**

BE IT ORDAINED by the Governing Body of Osawatomie, Kansas:

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

- 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 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 2. Requirements of persons. All persons in the City of Osawatomie 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 ridesharing vehicle; or
- 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.

Section 3. Requirements of businesses, organizations, and non-profit associations. All businesses, organizations and non-profit associations in the City of Osawatomie 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, members of the public or co-workers, who are present at the time;
- b. Employees are working in any space where food or beverages are 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.

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

- 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 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 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 an activity or event held or managed by the Kansas Legislature;
- 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 mask or other face covering is prohibited by law.

Section 5. Education and Enforcement.

- a. It shall be the goal of the City of Osawatomie to educate the public and our businesses on the need to wear masks to reduce the spread of COVID-19 and prevent violations of this Ordinance.
- b. It shall be our intention to use education and community outreach as our first line of enforcement.

- c. Any person, business, organization, or non-profit association identified to the City that are in violation of this ordinance on more than two occasions shall be guilty of a misdemeanor, punishable by:
1. A fine of no less than twenty-five (\$25.00) dollars upon a first cited violation.
 2. A fine of no less than fifty (\$50.00) dollars upon a second cited violation.
 3. A fine of no less than one hundred (\$100.00) dollars upon a third or subsequent cited violation

Section 6. Effective. This ordinance shall be in full force and effect from and after its adoption and publication once in the official city newspaper by the following summary:

Ordinance No. 3783 Summary

On July 9, 2020, the City Council passed Ordinance No. 3783. The Ordinance requires the wearing of masks or other face coverings in public spaces; addresses the requirements of persons, businesses, organizations, and non-profit associations; outlines specific exemptions from the requirement of wearing masks or other face coverings; and addresses the penalties for a first, second, and any subsequent violations of the Ordinance. A complete copy of the Ordinance can be found at www.osawatomieks.org or in the office of the City Clerk, 509 5th Street, This summary is certified by the City Attorney.

Introduced: July 9, 2020

Passed: July 9, 2020

L. Mark Govea, Mayor

[SEAL]

ATTEST:

Tammy Seamands, City Clerk

The publication summary set forth above is certified this 9th day of July, 2020.

Richard Wetzler, City Attorney