

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE REGULATING PUBLIC OFFENSES WITHIN THE CITY OF PRAIRIE VILLAGE, KANSAS; AMENDING CHAPTER 11 (PUBLIC OFFENSES & TRAFFIC), ARTICLE 2 (LOCAL REGULATIONS) OF THE CODE OF THE CITY OF PRAIRIE VILLAGE TO REQUIRE THE WEARING OF MASKS OR OTHER FACE COVERINGS DURING THE COVID-19 PUBLIC HEALTH EMERGENCY AND RECOVERY.**

**WHEREAS**, the governing body of the City of Prairie Village, Kansas, prioritizes the protection of the health, safety, welfare and economic well-being of residents and visitors of the City of Prairie Village;

**WHEREAS**, COVID-19 is a disease caused by a novel coronavirus, previously unknown in humans, and is presently understood to cause, among other things, upper-respiratory tract illnesses that can range from mild to severe, spread quickly, and may cause death, particularly in older adults and persons with chronic medical conditions;

**WHEREAS**, on July 19, 2021, the United States Department of Health and Human Services issued a "Renewal of Determination that a Public Health Emergency Exists" related to COVID-19, such public health emergency having been initially declared January 27, 2020;

**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;

**WHEREAS**, according to the Centers for Disease Control and Prevention (CDC), Johnson County, Kansas, is currently an area where there is a "high" level of community transmission of COVID-19;

**WHEREAS**, this worrying trend of increased COVID-19 spread is a danger to the health and safety of residents and visitors to the City of Prairie Village, and also presents a serious threat to reopening and reviving the City's economy;

**WHEREAS**, on July 27, 2021, the CDC issued updated certain recommendations related to the COVID-19 pandemic, such that in addition to recommending the wearing of masks for unvaccinated persons, the CDC now recommends that even fully-vaccinated people wear a mask in public indoor settings in areas of substantial or high transmission, such as in Johnson County, Kansas;

**WHEREAS**, the City of Prairie Village 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 facilitating economic recovery and revitalization; and,

**WHEREAS**, for the aforementioned and other reasons, the governing body of the City of Prairie Village 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 Prairie Village, by requiring that masks or other face coverings be worn as described in this ordinance.

**NOW, THEREFORE**, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PRAIRIE VILLAGE, KANSAS:

**Section 1.** A new Section 11-222 is hereby established in Chapter 11 (Public Offenses & Traffic), Article 2 (Local Regulations) in the Code of the City of Prairie Village, Kansas, as follows:

**11-222 WEARING MASKS IN PUBLIC PLACES OF BUSINESS DURING THE COVID-19 PUBLIC HEALTH EMERGENCY AND RECOVERY.**

**A. Mask or other face coverings; definitions.**

(1) "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.

(2) "Public space" means:

(a) any indoor 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.

(b) The term "public space" shall not include (i) churches, synagogues, mosques, or other places of religious worship, (ii) public or private schools, or (iii) public buildings or facilities owned or operated by any unit of government or political subdivision other than the city itself, including but not limited to those buildings or facilities owned or operated by the county, the school district, the state, or the federal government, or any agency or division thereof.

(c) Notwithstanding anything in this Section 11-222 to the contrary, this Section 11-222 shall not apply to any public space or any other business or organization covered by this Section 11-222 which, as a condition of entry into such public space, business, or organization, requires reasonable proof that every person (regardless of age) entering such public space has received all doses of the then-available COVID-19 vaccines, per the minimum requirements for full vaccination established by such vaccine maker or applicable governing authority.

**B. Mask or other face coverings; when required; exemptions.**

(1) All persons in the city shall cover their mouths and noses with masks or other face coverings when they are in the following situations:

- (a) Inside any indoor public space; or
  - (b) 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.
- (2) 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:
- (a) Employees, when working in any space visited by customers or members of the public, regardless of whether anyone from the public is present at the time;
  - (b) Employees, when working in any space where food is prepared or packaged for sale or distribution to others;
  - (c) Employees, when working in or walking through common areas, such as hallways, stairways, elevators, and parking facilities;
  - (d) Customers, members, visitors, or members of the public, when in a facility managed by the business or organization; or
  - (e) 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.
- (3) The following individuals are exempt from wearing masks or other face coverings in the situations described in subsections B(1) and B(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 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;
  - (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 religious services, ceremonies or activities;
  - (j) Persons engaged in an activity or event held or managed by the Kansas Legislature;
  - (k) Persons engaged in a court-related proceeding held or managed by the Kansas Judiciary; and
  - (l) Persons engaged in any lawful activity during which wearing a mask or other face covering is prohibited by law.
- (4) It shall be an affirmative defense to any prosecution under subsection B(1) or B(2) that the person in violation is an individual listed under subsection B(3).

**C. Mask or other face coverings; penalties; enforcement.**

- (1) The knowing and willful failure or refusal to comply with the requirements of this Section 11-222 shall be an unclassified violation. Any fine imposed for a violation of this section shall not exceed \$25.00.
- (2) The person responsible for any business or organization that does not comply with Section 11-222 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.

(3) This Section 11-222 may be enforced by the police department, with appropriate proceedings following citation in municipal court.

**D. Mask or other face coverings; Federal/state/county orders.**

The provisions of this Section 11-222 shall not apply to the extent such provisions directly conflict with any current or subsequent orders issued by the United States Federal government (or agency thereof), the State of Kansas (or agency thereof), the Governor of the State of Kansas, Johnson County, Kansas, the Local Health Officer of Johnson County, Kansas, or other applicable authorities, including but not limited to Johnson County Board of Health Order No. 001-21 dated August 5, 2021.

**E. Mask or other face coverings; effective term.** The provisions of this Section 11-222 shall be in effect until 11:59 p.m. on September 30, 2021, unless further extended by ordinance of the governing body.

**F. Mask or other face coverings; severability.** Severability is intended throughout and within the provisions of this section. If any subsection, sentence, clause, phrase, or portion of this section is held to be invalid, illegal, or unconstitutional by any court of competent jurisdiction, then that decision shall not affect the validity of the remaining portions of this section.

**Section 2.** This ordinance shall take effect and be enforced from and after its passage, approval, and publication as provided by law.

**PASSED** by the City Council of the City of Prairie Village, Kansas, on August 16, 2021.

**APPROVED** by the Mayor on \_\_\_\_\_, 2021.

**CITY OF PRAIRIE VILLAGE, KANSAS**

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Eric Mikkelsen, Mayor

**ATTEST:**

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Adam Geffert, City Clerk