

**AN ORDINANCE ESTABLISHING THE REQUIREMENT TO WEAR A FACE COVERING IN CERTAIN LOCATIONS IN ORDER TO PREVENT OR LIMIT THE SPREAD OF COVID-19 DISEASE; AUTHORIZING THE ADOPTION OF FURTHER ORDERS FOR THE IMPLEMENTATION OF THE ORDINANCE; FOR AND FIXING THE TIME WHEN THIS ORDINANCE SHALL BECOME EFFECTIVE.**

WHEREAS, in December 2019, medical professionals detected a novel coronavirus, now designated as “SARS-CoV-2,” which causes a disease known as “coronavirus disease 2019” abbreviated and popularly known as “COVID-19”; and

WHEREAS, on January 30, 2020, the World Health Organization Director General declared an outbreak of COVID-19 as a Public Health Emergency of International Concern, advising countries to prepare for containment, detection, isolation and case management, contact tracing and prevention of onward spread of the disease; and

WHEREAS, on March 11, 2020, the World Health Organization Director General characterized COVID-19 as a pandemic; and

WHEREAS, on March 13, 2020, the President of the United States declared the COVID-19 outbreak a national emergency; and

WHEREAS, COVID-19 is spread person to person through direct or close proximate contact and presents an imminent threat of widespread illness and a threat to public health; and

WHEREAS, on March 27, 2020, the Mayor determined there reasonably appeared to exist a state of civil emergency which required a response by the City to protect human life, and, therefore declared a local state of civil emergency; and

WHEREAS, due to the continuing public health crisis created by COVID-19, the Mayor renewed his declaration of civil emergency June 20, 2020; and

WHEREAS, although the public health system had the resources to begin the process of safely reopening the economy, and, therefore over time the Mayor’s declaration authorized reopening, data now indicates that the growth of COVID-19 cases in south central Missouri is high; and

WHEREAS, as of August 18, 2020, Howell County, Missouri, had 175 reported cases of COVID-19 and three deaths, the total number of reported cases in the county continues to dramatically increase to 1,682 and 40 deaths as of October 27, 2020; and

WHEREAS, it is the desire of the City Council to avoid further operating restrictions or stay at home orders; and

WHEREAS, it is the judgment of City Council that a stronger community response now could slow the rate of spread of COVID-19 in our community and would protect public health and safety; and

WHEREAS, since April 3, 2020, the Centers for Disease Control and Prevention has recommended the use of face coverings to slow the spread of COVID-19; and

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WEST PLAINS, MISSOURI, as follows, that:

**Section 1. Incorporation of Findings.** The City Council makes and reaffirms the findings set forth above and incorporates the same by reference as if fully set forth herein.

**Section 2. Effective Date and Duration.** This ordinance shall go into effect immediately after its passage by the City Council of simple majority and shall remain in effect for ninety (90) days after the effective date or until it is extended, rescinded, superseded or amended in writing by later adopted ordinances. However, should the 14-day positivity rate, as determined by the Howell County Health Department, fall below five-percent (5%) for seven consecutive days, the Mayor may suspend the enforcement of this ordinance unless and until the rate exceeds the five-percent (5%) threshold.

**Section 3. Definition.** As used in this ordinance:

1. "Face Covering" means a covering made of cloth, fabric, or other soft or permeable material, without holes, that covers only the nose and mouth and surrounding areas of the lower face. The use of face shields is considered an acceptable covering. A covering that hides or obscures the wearer's eyes or forehead is not a Face Covering. A Face Covering may be factory-made or may be handmade and improvised from ordinary household materials. Any Covering that incorporates a one-way valve (typically a raised plastic cylinder about the size of a quarter on the front or side of the Covering) that is designed to facilitate easy exhaling allows droplets to be released from the Covering, putting others nearby at risk. As a result, these Coverings are not a Face Covering under this Ordinance and must not be used to comply with this Ordinance's requirements.
2. "Business" means any for-profit company, non-profit company, non-profit organization, benevolent association, or educational entity, regardless of its legal organization, form, entity, tax treatment or structure. Notwithstanding the foregoing, the operation of public or private schools shall not be included within the definition of Business as used herein, provided that events which are open to the general public and held at a public or private school facility or property shall comply with all applicable provisions of this Ordinance. All businesses that are open to the public shall post a sign at all public entrances that the use of Face Coverings is required by those seeking to enter the business.

**Section 4. Wearing of Face Coverings Required.** Except as otherwise provided in this ordinance all persons age ten years old and above who are present within the jurisdiction of the City of West Plains are required to wear a clean Face Covering any time they are, or will be, within six feet of other people who are not household members. The requirement to wear a Face Covering shall go into effect immediately after passage of simple majority by City Council.

**Section 5. Employers to Provide Face Coverings to Employees.** Any time an employee or staff person is required to wear a Face Covering pursuant to this ordinance, the employer shall

make Face Coverings available in sufficient quantity to assure each employee can wear a clean Face Covering at all times.

**Section 6. Exempted Activities.** A person may remove their Face Covering where otherwise required under the following circumstances:

1. While outdoors when able to maintain a distance of at least six feet from others;
2. While exercising outdoors or while exercising indoors when able to maintain a distance of at least six feet from others;
3. When engaged in a sporting activity;
4. While at home and exclusively in the presence of members of their own household; provided however, the wearing of a Face Covering shall be required in all common areas of any multifamily structure;
5. When in your or your family's personal vehicle;
6. While eating or drinking only when inside or in the outside dining area of a restaurant or other establishment that offers food or beverage service, provided that person is able to maintain a distance of at least six feet from persons seated at other tables, and provided this distance restriction is enforced by the restaurant or other establishment;
7. When an individual has a medical condition, mental health condition or disability that prevents wearing a Face Covering;
8. When any party to a communication is deaf or hard of hearing and not wearing a Face Covering is essential to communication;
9. While obtaining a service that requires temporary removal of the Face Covering, such as dental examinations,
10. When necessary to confirm the individual's identity;
11. When federal or state law prohibits wearing a Face Covering or requires the removal of a Face Covering;
12. When requested by a law enforcement officer;
13. When requested by a medical provider, including emergency response personnel;
14. When at any business where there are ten or fewer people present at said business, provided that such persons maintain at least six feet of distance between each other;
15. When a business/commercial/office setting has implemented alternative mitigation strategies such as proper hygiene, social distancing of at least six feet, the use of plexiglass barriers and/or face shields;
16. When participating in a wedding ceremony as a member of the wedding party;
17. When a public safety officer is responding to an emergency.
18. Under such other circumstances identified in any subsequent order, formal guidance or approved Operational Plan issued by the Mayor and in general conformance with the spirit and intent of this ordinance.

**Section 7. Adoption of Orders.** This ordinance is in addition to and supplements the Mayor's Declaration of Civil Emergency and any subsequent orders of the Mayor. The Mayor is hereby expressly authorized to make such additional orders as are necessary and reasonable for the effective implementation of this ordinance, including such exceptions as are not detrimental to

the public health. Nothing in this ordinance shall limit on the authority of the Mayor to issue orders under existing authority, including orders extending the requirement to wear Coverings as needed for the protection of human health.

**Section 8. Penalties.**

1. No persons shall fail, neglect, or refuse to comply with, or in any manner aid, assist, encourage, allow, or permit the commission or perpetration of a violation of the terms of this Ordinance. Any person who shall violate the provisions of this Ordinance shall, upon conviction, be punished as provided in Section 1-10 of the City Code. However, any fine assessed shall not exceed \$100.00.
2. Any person who owns, manages, operates, or otherwise controls a place at which wearing Face Coverings is required by this Ordinance and who fails to comply or to require compliance with the provisions of this Ordinance shall, upon conviction, be punished as provided in Section 1-10 of the City Code. However, any fine assessed shall not exceed \$100.00. No person shall be in violation of this subsection if such person or the place the person owns, manages, operates or otherwise controls requires compliance with the provisions of this Ordinance to wear a Face Covering and a patron or customer refuses to wear a Face Covering.
3. Each day on which a violation of this Ordinance occurs shall be considered a separate and distinct violation.
4. Violations of this Ordinance are declared to be a public nuisance, which may be abated by City by restraining order, preliminary and permanent injunction, or by other means provided for by law, and City may take action to recover the costs of abating said nuisance.

**Section 9. Enforcement.** The City Council specifically orders that enforcement of this Ordinance shall be administered by education and an opportunity for voluntary compliance, followed by a warning, and then a municipal citation after warning.

**Section 10. City Administrator.** The City Administrator, or designee, shall have the authority to determine whether any activity is permitted or prohibited under the terms of this Ordinance.

**Section 11. Severability Clause.** If any provisions, sections or portion of this ordinance is found or determined by a court for any reason to be invalid or unenforceable, those provisions shall be severed from the remaining portions of this ordinance, which shall remain effective in the absence of any invalid or unenforceable provisions.

PASSED AND APPROVED THIS \_\_\_\_ DAY OF OCTOBER, 2020.

CITY OF WEST PLAINS, MISSOURI

By: \_\_\_\_\_  
MAYOR JACK PAHLMANN

ATTEST:

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CITY CLERK MALLORY SNODGRAS