

ORDINANCE NO. G-1341

AN ORDINANCE REQUIRING THE WEARING OF MASKS OR OTHER FACE COVERINGS IN PUBLIC SPACES IN EL DORADO, KANSAS

WHEREAS, securing the health, safety, and economic well-being of residents of the City of El Dorado is the priority of the City Commission; 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 12.4 million cases of the illness and more than 250,000 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 December 3, 2020, in Kansas there have been 162,061 reported positive cases of COVID-19 spread among 105 counties, including 1,679 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 Butler County, there is a recent increase in cases as is reported; and

WHEREAS, this of increased COVID-19 spread is a danger to the health and safety of residents of El Dorado and also presents a serious threat to keeping the El Dorado economy open and thriving; 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 El Dorado 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, the Butler County Board of Commissioners on November 24, 2020, elected to exercise its authority under K.S.A. 48-925(h) to "opt out" of Governor Kelly's Executive Order 20-68; and

WHEREAS, the City Commission of the City of El Dorado deems it necessary and appropriate to adopt a local ordinance requiring the covering of the nose and mouth within the corporate limits of the City of El Dorado; 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 El Dorado, 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,

NOW, THEREFORE, BE IT ORDAINED, by the Governing Body of El Dorado, 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. Effective 12:01 am on December 18, 2020, all persons in the City of El Dorado shall cover their mouths and noses with a mask or other face covering when they are in the following situations where distancing of six feet at all times is not possible:

- a. Inside any indoor public space;
- b. While standing 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 six-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. Effective 12:01 am on December 18, 2020, all businesses, organizations, and non-profit associations operating within the corporate limits of the City of El Dorado must require all employees, customers, visitors, members, and the public to wear a mask or other face covering where distancing of six feet at all times is not possible 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 is 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 six-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 six-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 six-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 a court-related proceeding held or managed by the Kansas Judiciary; and
- j. Persons engaged in any lawful activity during which wearing a mask or other face covering is prohibited by law.

SECTION 5. Enforcement, violations and penalties.

- a. Any person, business, organization, or non-profit association violating the provisions of this ordinance shall be guilty of an infraction, punishable by:
 - 1. A fine of no less than twenty-five dollars (\$25.00) upon a first conviction.
 - 2. A fine of no less than fifty dollars (\$50.00) upon a second conviction.
 - 3. A fine of no less than one hundred dollars (\$100.00) upon a third or subsequent conviction.
 - 4. Each occurrence of a conviction of this ordinance shall be considered a separate and distinct violation.
- b. Infractions cited by the enforcement of this ordinance shall be assessed applicable court costs and fees as defined by Ordinance No. G-1250.

SECTION 6. Effective. This ordinance shall be in full force and effect for forty-five days from and after its adoption and publication once in the official city newspaper by the following summary and after its effective date of December 18, 2020 unless otherwise extended by an ordinance duly adopted by the City Commission.

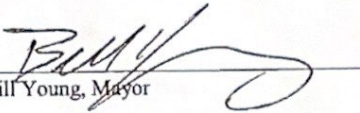
Ordinance No. G-1341 Summary

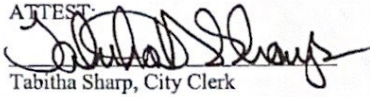
On December 7, 2020, the City Commission passed Ordinance No. G-1341. The Ordinance requires the wearing of masks or other face coverings in public spaces; addresses the

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 may be found at www.eldoks.com or in the office of the City Clerk, 220 W. First Avenue, El Dorado, KS 67042, free of charge. This summary is certified by the City's legal counsel.

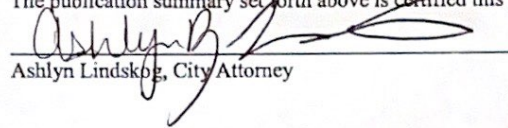
PASSED and APPROVED by the Governing Body of the City of El Dorado, Kansas on December 7, 2020.




Bill Young, Mayor

ATTEST:

Tabitha Sharp, City Clerk

The publication summary set forth above is certified this 7 day of December, 2020.


Ashlyn Lindskog, City Attorney