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AN ORDINANCE OF THE CITY OF TULSA, OKLAHOMA, AMENDING THE PENAL CODE, TITLE 27, TULSA REVISED ORDINANCES CHAPTER 4, ‘OFFENSES AGAINST THE PERSON’ BY ADDING NEW SECTION 409 ENTITLED “FACE COVERING AND SOCIAL DISTANCING DURING COVID-19 PANDEMIC CIVIL EMERGENCY,” ADDING DEFINITIONS, MANDATING THE USE OF FACE COVERINGS WITH SOME LISTED EXCEPTIONS, SETTING FORTH A SUNSET EXPIRATION DATE, CREATING PENALTIES FOR NON-COMPLIANCE; DECLARING AN EMERGENCY; REPEALING CONFLICTING ORDINANCES AND PROVIDING FOR THE SEVERABILITY THEREOF.

BE IT ORDAINED AND ENACTED BY THE CITY OF TULSA:

Section 1. That Title 27, Tulsa Revised Ordinances, “Penal Code” be amended by the addition of new Section 409, to read as follows:

Section 409 – Face Covering and Social Distancing During COVID-19 Pandemic Civil Emergency

A. Findings of Fact

WHEREAS, the City of Tulsa is charged with the solemn responsibility of protecting the public peace, health, order, morals, and safety, and promoting the general welfare of the City of Tulsa and its inhabitants;

WHEREAS, on March 15, 2020, the Governor of the State of declared an emergency caused by the impending threat of COVID-19 to the people of this State and the public’s peace, health and safety which remains in effect today; and

WHEREAS, on Tuesday, March 17, 2020, the Mayor of the City of Tulsa, issued Executive Order 2020-02 declaring a civil emergency in response to the COVID-19 pandemic, which poses an imminent threat to health, safety and welfare in the City of Tulsa; and

WHEREAS, on Thursday, July 2, 2020, the Mayor of the City of Tulsa, issued Executive Order 2020-13 extending the civil emergency, requiring a safety plan for all events and gatherings with 500 or more attendees, and requiring bar and restaurant employees to wear face coverings while working; and

WHEREAS, as of the 14th day of July, 2020, there were 1,099 active cases (5,448 total cases diagnosed) of COVID-19 in Tulsa County; and

WHEREAS, as of the 14th day of July, 2020, there were 117 COVID-19 positive patients in the hospital, 81 of those persons in the Intensive Care Unit (ICU), with an additional 11 cases in the ICU still under investigation for suspected COVID-19, and only 45 adult ICU beds still available in Tulsa County. 135 patients were treated the same day in acute care clinical settings; and

WHEREAS, as of the 14th day of July, 2020, the State of Oklahoma is not meeting the White House Opening Up America Again gating criteria for downward trajectory of cases or the downward trajectory of positive tests as a percentage of total tests, nor is Tulsa County meeting the 14 day trend of such downward trajectory.

WHEREAS, the Mayor of the City of Tulsa, issued multiple executive orders in response to COVID-19 using the least restrictive means available to protect public health, safety and welfare in the City of Tulsa and ensure an effective response to this disaster; and

WHEREAS, as the City of Tulsa reopened in the midst of COVID-19, increased spread is to be expected, and the key to controlling the spread and keeping the City of Tulsa safe is for all people to consistently follow good hygiene and social-distancing practices; and

WHEREAS, the United States Centers for Disease Control and Prevention (CDC) recommends that people wear cloth face coverings in public settings, particularly when other social distancing measures are difficult to maintain, and when around people who do not live in the same household and;

WHEREAS, the Mayor of the City of Tulsa, joined with the Executive Director of the Tulsa Health Department, and other public health officials in consistently encouraging people to use face coverings, and health authorities have repeatedly emphasized that wearing face coverings is one of the most important and effective tools for reducing the spread of COVID-19; and

WHEREAS, given the current status of COVID-19 in the City of Tulsa, requiring the use of face coverings is a targeted response that can combat the threat to public health using the least restrictive means, and if people follow this requirement, more extreme measures may be avoided; and

WHEREAS, wearing a face covering is important not only to protect oneself, but also to avoid unknowingly harming fellow Tulsans and others with whom they may come into contact, especially given that many people who go into public may have COVID-19 without knowing it because they have no symptoms; and

WHEREAS, due to recent substantial increases in COVID-19 positive cases, and increases in the COVID-19 positivity rate and hospitalizations resulting from COVID-19, further measures are needed to achieve the least restrictive means for reducing the growing spread of COVID-19, and to avoid a need for more extreme measures; and

WHEREAS, it is deemed necessary for the protection of the public health and safety of the City of Tulsa and its inhabitants to prevent the introduction and spread of the contagious disease COVID-19 preserve the peace, and to provide civil defense and emergency functions; and

Therefore, pursuant to Title 11, Oklahoma Statutes, Section 22-120 (A), the City enacts this ordinance mandating that:

B. Definitions.

"Face Covering" means a covering that fully covers a person's nose and mouth. The term "Face Covering" includes, but is not limited to, cloth face masks, towels, scarves, and bandanas as recommended by the CDC or OSDH, an N95, KN95, or other mask that would be appropriate for a health care setting, or a surgical mask. The Face Covering should fit snugly on a person's face but allow the person to breathe easily and worn consistent with the guidance provided by the CDC or OSDH.

"Social" or "Physical Distancing" means maintaining six (6) feet of distance between persons who are not part of the same household while in a public accommodation, educational building, or public setting.

"Place of Public Accommodation" means all places offering items, goods or services for purchase or rent, including without limitation retail businesses, personal services and spas, entertainment venues, food service facilities, restaurants and bars, hotels, motels and travel related services, professional offices and services, banks and financial services, repair facilities, motor vehicle dealerships.

"Public Service Area" means areas of a Place of Public Accommodation or an Educational Institution wherein employees interact with the public in the normal course of business.

"Public Setting" means any public place where persons congregate which is not a place of public accommodation including without limitation offices, workplaces, houses of worship and ancillary facilities, child care facilities, hospitals and health facilities, gymnasiums and physical fitness facilities, adult and youth sports facilities, communal outdoor spaces such as sidewalks, trails, and parks, and food trucks and other outdoor retail entities.

"Educational Institution" means any building or facility used for academic or athletic purposes on public school campuses, and any private school or preschool. This term excludes the playing surface of any athletic facility during organized activities and practices.

C. Face Coverings Mandate Under Certain Circumstances

Except as otherwise provided herein, persons located within Public Service Areas of Places of Public Accommodation or an Educational Building are required to wear face coverings at all times when present therein. Except as otherwise provided herein, persons in any Public Setting wherein social or physical distancing cannot be maintained are required to wear face coverings.

The following persons, locations and activities are exempt from this requirement:

1. Persons who fall into the U.S. Centers for Disease Control and Prevention's guidance for those who should not wear Face Coverings due to a medical or mental health condition or developmental disability;
2. Children under 18 years of age;
3. Restaurant patrons while they are eating or drinking;
4. Persons exercising in communal outdoor spaces, or persons walking or exercising with other persons from the same household in communal outdoor spaces, as long as Physical Distancing is maintained. Persons congregating in communal outdoor spaces with other persons not in their same household are required to wear Face Coverings when Physical Distancing is not maintained;
5. Settings where it is not practical or feasible to wear a Face Covering, such as dental services, medical treatments or while swimming;
6. Occupants in a personal vehicle, personal office, or similarly private space while other persons outside of the person's household are not present;
7. Private homes; and
8. Offices and workplaces that are not Public Service Areas where Physical Distancing between employees and other occupants can be consistently maintained during hours of operation.

D. Penalty for Violation of Subsection C.

There is no specific penalty for violation of this ordinance. However, persons refusing to wear a face covering into a Place of Public Accommodation, Educational Institution, or Public Setting as defined herein shall be subject to prosecution under criminal trespass, disturbing the peace, disorderly conduct or similar offenses as circumstances warrant.

E. Expiration of Ordinance

This ordinance shall expire the earlier of: November 30, 2020; the expiration of all Civil Emergency Orders related to COVID-19 issued by the Mayor; or repeal, modification or extension by the City Council through a subsequent ordinance.

Section 2. Severability Clause

If any section, sentence, clause, or phrase of this ordinance or any part thereof is for any reason found to be invalid by a court of competent jurisdiction, such decision shall not affect the validity of the remainder of this ordinance or any part thereof.

Section 3. Repeal of Conflicting Ordinance

That all ordinances or parts of ordinances in conflict herewith be and the same are now expressly repealed.

Section 4. Emergency Clause

That an emergency is now declared to exist for the preservation of the public peace, health and safety, by reason whereof this Ordinance shall take effect immediately from and after its adoption and required approvals.

ADOPTED by the Council: _____
Date

Chair of the Council

ADOPTED as an emergency measure: _____
Date

Chair of the Council

OFFICE OF THE MAYOR

Received by the Mayor: _____, at _____

G.T. Bynum, Mayor

By _____
Secretary

APPROVED by the Mayor of the City of Tulsa, Oklahoma: _____,
Date

at _____
Time

Mayor

(Seal)

ATTEST:

City Clerk

APPROVED AS TO FORM AND
LEGALITY:

City Attorney