

ORDINANCE NO. 20-2020

AN ORDINANCE TO REQUIRE WEARING MASKS IN PUBLIC IN THE CITY OF MONTGOMERY DURING THE COVID-19 PUBLIC HEALTH EMERGENCY AND RECOVERY

WHEREAS, the Council of the City of Montgomery recognizes the emergency declarations of the President of the United States, the Governor of the State of Alabama, and the Mayor of the City of Montgomery related to the spread of COVID-19 disease in our community; and,

WHEREAS, the Council has authority under Ala. Code, Sec11-47-130; Act No. 618 of 1973 and municipal ordinance 14-101 to prevent the introduction of contagious, infectious, or pestilential diseases into the City and to establish and regulate a sufficient quarantine, not inconsistent with laws of the state, in the City and to punish any breach of quarantine law; and,

WHEREAS, the Council finds that an emergency of unprecedented size resulting from the natural cause of community spread of a novel human coronavirus disease, COVID-19, has occurred in the City of Montgomery; and,

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

WHEREAS, the World Health Organization declared COVID-19 to be a global pandemic as of March 15, 2020; and,

WHEREAS, the spread and effect of COVID-19 has created a humanitarian crisis of unanticipated proportions; and,

WHEREAS, President Donald Trump declared a national emergency related to the COVID-19 pandemic; Governor Kay Ivey declared a state of emergency for the State of Alabama and Mayor Steven L. Reed declared a state of emergency in the City of Montgomery; and,

WHEREAS, the City of Montgomery is threatened by COVID-19 because of the extraordinary ability of the virus to spread rapidly among humans, and COVID-19 thereby constitutes a clear and present threat to the health, safety, and welfare of the citizens and visitors of the City; and

WHEREAS, although under investigation and development, no vaccine or drug is currently available to cure or combat COVID-19; and,

WHEREAS, as of July 7th 2020, Alabama has had 45,263 identified cases of coronavirus, including 4,246 in Montgomery County, where the City of Montgomery is primarily located; and,

WHEREAS, Alabama has recorded 1,007 deaths attributed to COVID-19, with 105 of those deaths occurring in Montgomery County; and,

WHEREAS, the Centers for Disease Control ('CDC') continues to study the spread and effects of COVID-19 and has found that a significant portion of individuals with the novel

coronavirus lack symptoms and those that eventually develop symptoms can transmit the virus to others before those symptoms appear, meaning that the virus can be spread between people interacting in close proximity to each other by actions such as speaking, coughing, or sneezing, even without exhibiting symptoms; and,

WHEREAS, in light of this new evidence, CDC recommends wearing cloth face coverings in public settings where other social distancing measures are difficult to maintain, for example, grocery stores, pharmacies and other businesses people must visit to acquire goods and services necessary to maintain their comfort and well-being; and,

WHEREAS, the City Council recognizes that it is critical to continue maintaining 6-foot social distancing to slow the spread of COVID-19, but that the additional use of simple cloth face covering, as recommended by CDC, can further aid in slowing the spread of the virus by reducing the chances of asymptomatic people transmitting the virus to others; and,

WHEREAS, in reopening certain businesses and other activities in the City of Montgomery, it is in the best interest of public health for individuals to continue to use social distancing and the additional precaution of face coverings or masks while in public contact with other persons; and,

WHEREAS, it continues to be extremely important to protect vulnerable individuals from contracting the virus and such persons should continue to maintain strict social distancing, including sheltering at home, during early phases of reopening; and,

WHEREAS, members of households with vulnerable individuals need to use all reasonable precautions to avoid potential exposure to the virus; and,

WHEREAS, the Council finds that it is in the best interest of the public peace, health, welfare, and safety, and to preserve the lives of citizens of the City of Montgomery, to require that masks, consisting of at least simple cloth face coverings, be worn by persons when interacting in public spaces in the City of Montgomery.

SECTION 1.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Montgomery that facial coverings or “masks” shall be required in public places within the City to slow the spread of the novel coronavirus disease, known as COVID-19, as follows :

(a) DEFINITIONS:

Face covering or mask: A device to cover the nostrils and mouth of a person to impede the spread of saliva or other fluids during speaking, coughing, sneezing or other intentional or involuntary action. Medical grade masks are not required; coverings may be fashioned from scarves, bandanas or other suitable fabrics. The mask must cover the mouth and nose of the wearer.

Public place: Any place other than an individual’s home or personal vehicle; provided, however, that face coverings or masks should be worn when interacting with someone other than a member

of the household at home or when traveling with someone who is not a member of the household.

Vulnerable individuals: Elderly individuals or individuals with serious underlying health conditions, including high blood pressure, chronic lung disease, diabetes, obesity, asthma, and those whose immune system is compromised such as by chemotherapy for cancer and other conditions requiring such therapy.

(b) Face coverings, masks or shields shall be worn at all times over the nostrils and mouth by persons over the age of six (6) years and who can medically tolerate doing so when in public places consisting of gatherings of more than 10 persons within the City of Montgomery.

(c) The requirement to wear face coverings or masks shall apply to all persons, whether employees or customers or clients of businesses within the City of Montgomery. This includes at restaurants, bars and breweries. Masks or face coverings may only be removed when one's food arrives at the table or to consume a beverage. Otherwise, the mask or face covering must be worn while in the establishment.

(d) Exceptions:

(1) Face coverings or masks are not required to be worn over the face during individual outdoor exercise, for example, walking or jogging, but must be worn when encountering and interacting with groups of other people in a park or other public place.

(2) Children six (6) years of age and under, as face coverings or masks may pose a risk of choking, strangulation or suffocation to infants and young toddlers. Carriers and strollers with coverings that allow the child to breathe comfortably are alternatives for infants and young toddlers. Parents and guardians shall be responsible for ensuring proper masking of children over the age of six (6) years when in public but must ensure that the face covering or mask does not pose a choking hazard for children older than six (6) and can be safely worn without obstructing a child's ability to breathe. Parents and guardians shall exercise judgment and avoid bringing children not wearing masks into public places, especially where contact with vulnerable individuals is expected.

(3) Patients in examination rooms of medical or dental offices or clinics or hospitals where there is a necessity to examine or treat the mouth or nasal area, subject to the direction of the medical or dental professionals in charge of the office, clinic or hospital.

(4) When wearing a face covering or mask poses a greater mental or physical health, safety or security risk, such as anyone who has trouble breathing, or is unconscious, incapacitated or otherwise unable to remove the cover without assistance.

(5) Daycares and other childcare establishments shall provide parents with information on the facility's procedures for use of face coverings or masks. Where the consistent use of face coverings or masks are not possible due to supervision of multiple children, the facility shall adhere to sanitary, hygienic and face covering practices to the maximum extent practicable.

(e) Business owners, managers and supervisors shall ensure that employees, customers, clients and/or visitors observe the requirement for face coverings or masks while at the place of business.

(f) Reusable face coverings or masks must be kept clean and sanitary, including regular washing at least daily.

(g) This ordinance shall remain in effect, subject to modification for evolving information on preventing the spread of COVID-19 or other direction from federal, state or local officials.

SECTION 2. To the extent that this ordinance is in conflict with other ordinances of the City, this ordinance shall supersede the others until this ordinance is amended or repealed.

SECTION 3. Failure to comply with Section 1 of this ordinance can be enforced by a uniform non-traffic citation fine of \$25.00 for individuals and \$250.00 for businesses. Businesses who fail to comply a second time can be subject to a 14-day suspension of their business license pending a hearing of the City Council.

SECTION 4. Montgomery residents, businesses, and entities must comply with all provisions of the June 30th amended “Order of the State Health Officer” (Governor Ivey’s “Safer at Home” order) including:

(a) Emergency maximum occupancy rate at retail stores. Occupancy shall be limited to no more than 50 percent of the normal occupancy load as determined by the fire marshal. This “emergency maximum occupancy rate” shall be posted in a conspicuous place, and enough staff shall be posted at the store entrances and exits to enforce this requirement.

(b) Close-contact service providers. Close-contact service providers—such as barber shops, hair salons, waxing salons, threading salons, nail salons and spas, body art facilities, tattoo services, and massage therapy establishments and services—shall comply with the following rules: a. Social distancing. Employees shall not knowingly allow clients or persons accompanying a client to congregate within six feet of a person from another household. Each employee shall wear a mask, or other facial covering that covers his or her nostrils and mouth, at all times while providing services within 6 feet of a client. Employees shall wash their hands thoroughly with soap and water immediately before providing services within 6 feet of a client.

(c) Entertainment venues. Employees shall not knowingly allow patrons or guests to congregate within six feet of a person from another households. Employees shall take reasonable steps to prevent people from congregating in lobby areas, break rooms, and other common areas. Indoor and enclosed entertainment venues shall limit occupancy to 50 percent of the normal occupancy load as determined by the fire marshal. Outdoor venues or those not assigned a normal occupancy load by the fire marshal shall limit occupancy as required to comply with the social distancing requirements of this paragraph.

(d) Sports Activities. Players, coaches, officials, and spectators at sporting events shall not congregate within 6 feet of a person from another household except to the extent necessary—and only to the extent necessary—for players, coaches, and officials to directly participate in the athletic activity. Players, coaches, officials, and spectators shall refrain from high fives, handshakes, and other physical contact except to the extent necessary—and only to the extent necessary—for players, coaches, and officials to directly participate in the athletic activity. Players, coaches, and officials shall wear a mask or other facial covering that covers his or her nostrils and mouth at all times except when a player or official is directly participating in the athletic activity.

SECTION 5. Failure to comply with Section 4 of this ordinance is enforceable under Section 22-2-14 of the Code of Alabama, which states: “Any person who knowingly violates or fails or refuses to obey or comply with any rule or regulation adopted and promulgated by the State Board of Health of this state shall be guilty of a misdemeanor and, upon conviction, shall be fined not less than \$25.00 nor more than \$500.00 and, if the violation or failure or refusal to obey or comply with such rule or regulation is a continuing one, each day’s violation, or failure or refusal shall constitute a separate offense and shall be punished accordingly.”

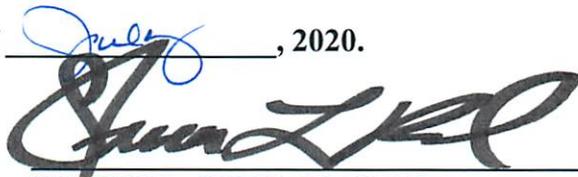
SECTION 6. Restaurants, bars and nightclubs. Occupancy shall be limited to no more than 50 percent of the normal occupancy load as determined by the fire marshal. Insofar as restaurants and similar establishments offer on-premises consumption of food or drink, they shall limit the party size at tables to no more than eight persons and maintain at least six feet of separation between people seated at different tables, booths, chairs, or stools. Games played at restaurants, bars, breweries, or similar establishments, such as pool and darts, may be played if players maintain 6 feet of distance from other players, game equipment is not shared by players during game play, and equipment is sanitized in between uses. e. Each employee shall wear a mask or other facial covering that covers his or her nostrils and mouth at all times while in regular interaction with patrons or guests.

SECTION 7. Failure to comply with Section 6 of this ordinance is subject to the enforcement provisions of Sec. 6-4 of the City Code, which includes fines on the business between \$25.00 to \$100.00 per person depending on how much the establishment is over permissible occupancy. Businesses who fail to comply a second time can be subject to a 14-day suspension of their business license pending a hearing of the City Council.

SECTION 8. If any subsection, sentence, clause, phrase, or word of this ordinance or any application of it to any person, structure, or circumstance is held to be invalid or unconstitutional by a decision of a court of competent jurisdiction, then such decision shall not affect the validity of the remaining portions or applications of this ordinance.

SECTION 9. This Ordinance shall become effective immediately upon passage, approval and publication or as otherwise provided by law. It shall remain in full force and effect until the subsequent City Council meeting at which time the City Council may vote to repeal the ordinance or to continue it in full force and effect for an additional 30 days.

ADOPTED this the 7th day of July, 2020.



STEVEN L. REED, MAYOR

ATTEST:



BRENDA GALE BLALOCK, CITY CLERK

20-2020