

ORDINANCE NO. 1308-2020

AN ORDINANCE OF THE CITY OF TAHLEQUAH, OKLAHOMA ADDING CHAPTER 6, COVID-19 PANDEMIC, TO PART 13 OF THE CODE OF THE CITY OF TAHLEQUAH, OKLAHOMA AND ADDING SECTIONS TO SET FORTH PURPOSE AND INTENT, DEFINITIONS, MANDATING THE USE OF FACE COVERINGS WITH SOME EXCEPTIONS, SETTING FORTH A SUNSET PROVISION, DECLARING AN EMERGENCY, AND PROVIDING FOR THE SEVERABILITY THEREOF.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF TAHLEQUAH, OKLAHOMA, IN EMERGENCY SESSION ASSEMBLED THAT THE PROVISIONS OF THIS ORDINANCE SHALL BECOME AND BE MADE A PART OF THE CODE OF ORDINANCES OF THE CITY OF TAHLEQUAH, OKLAHOMA, AND THE SECTIONS OF THIS ORDINANCE MAY BE RE-NUMBERED TO ACCOMPLISH THIS INTENTION.

Chapter 6 – COVID-19 PANDEMIC

13-601: Purpose and Intent

13-602: Definitions

13-603: Use of Face Coverings

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13-601: PURPOSE AND INTENT:

WHEREAS, COVID-19, a respiratory disease that can result in serious illness or death is caused by the SARS-CoV-2 virus, which is a new strain of coronavirus that had not been previously identified in humans and can spread from person to person; and

WHEREAS, the current scientific understanding of this virus from the U.S. Centers for Disease Control and Prevention (CDC) indicates that it spreads mainly from person to person through respiratory droplets produced when an infected person talks, coughs or sneezes; and

WHEREAS, spread is more likely when people are in close contact with one another (within six feet); and

WHEREAS, currently there is no vaccine, treatment or cure for COVID-19; and

WHEREAS, on March 13, 2020, the President of the United States declared COVID-19 a national emergency and ordered each state to set up emergency operation centers and ordered hospitals to activate their emergency preparedness plans; and

WHEREAS, on March 15, 2020, the Governor of Oklahoma first declared an emergency caused by the impending threat of COVID-19 to the people of Oklahoma and the public's peace, health, and safety; and

WHEREAS, previous executive orders were issued by the Mayor of the City of Tahlequah on March 19, 2020 closing restaurant dining areas, bars, theaters, fitness centers and other similar establishments, on March 31, 2020, with certain exemptions, implementing a shelter in place order, closing non-essential businesses, establishing a curfew, and on April 27, 2020, reconciling differences between President Trump's "Opening Up America Again" guidelines and Governor Stitt's "Open Up and Recover Safely" plan, all of which were designed to flatten the projected curve of the COVID-19 diagnoses to preserve medical resources and prevent widespread transmission; and

WHEREAS, such efforts effectively flattened the curve in Tahlequah, allowing Tahlequah businesses to re-open in phases and return to normal activities on June 30, 2020; and

WHEREAS, the incidence of "community spread" of COVID-19 within Cherokee County remained consistent through June 1, 2020, peaking at 29 cumulative confirmed cases; and

WHEREAS, since that date, the incidence of positive COVID-19 cases within Cherokee County increased from 29 cases on June 1, 2020, and 79 cases on July 1, 2020, to 292 on July 30, 2020; and

WHEREAS, studies have found that use of face coverings significantly reduce the number of infections; and

WHEREAS, the CDC, Oklahoma State Department of Health (OSDH), Cherokee Nation Health Services and Northeastern Health System all recommend the wearing of face coverings in public settings to help prevent the transmission of COVID-19 from person to person; and

WHEREAS, the passage of an ordinance mandating the wearing of face coverings in certain public settings is necessary to protect the health and safety of Tahlequah residents, to keep businesses open and reduce the transmission of COVID-19 within the community; and

WHEREAS, having determined a state of emergency and that an ordinance mandating the wearing of face coverings in certain situations is necessary, the Mayor and Council hereby utilize the emergency powers granted to them in Section 13-313, and otherwise, to protect and care for the citizens of this City.

13-602: DEFINITIONS:

"Face Covering" means a covering that fully covers a person's nose and mouth. The term Face Covering also 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. All Face Coverings 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 institution, 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, and 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, 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 the campus of Tahlequah Public Schools, Indian Capital Technology Center, Northeastern State University, and any private school or preschool. This term excludes the playing surface of any athletic facility during organized activities and practices.

13-603: USE OF FACE COVERINGS:

(A) Except as otherwise provided herein, persons located within Public Service Areas of Places of Public Accommodation or an Educational Institution 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.

(B) 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. Persons exempted under this subsection should consider the use of a face shield, provided that said shield wraps around the sides of the wearer’s face and extends below to the chin;
2. Children under (10) years of age;
3. Restaurant and bar patrons while they are eating or drinking;
4. Persons exercising in communal outdoor spaces, as long as Social or Physical Distancing is maintained, or persons walking, playing, or otherwise exercising with other persons from the same household in communal outdoor spaces and maintaining Social or Physical Distancing from non-household persons;

5. Settings where it is not practical or feasible to wear a Face Covering, such as when receiving dental services or medical treatments and services, 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 private lodging rooms in Places of Public Accommodation; 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.

(C) Places of Public Accommodation, Educational Institutions, and indoor Public Settings shall post conspicuous signs at all entrances that employees, customers, users, students and visitors must wear Face Coverings pursuant to this ordinance to be admitted into the premises. The City Administrator shall direct the development of a uniform sign meeting this requirement and distribute its design to these regulated entities.

(D) Places of Public Accommodation, Educational Institutions and indoor Public Settings may deny entry to persons who refuse to wear Face Coverings as required by this ordinance.

13-604: SUNSET:

This ordinance shall expire the earlier of: November 30, 2020; the expiration of all COVID-19 related emergency declarations issued by the Governor of the State of Oklahoma and the President of the United States of America; or repeal, modification or extension by the City Council through a subsequent ordinance.

13-605: PENALTIES:

Individuals refusing to wear a Face Covering into a Place of Public Accommodation, Educational Institution, or Public Setting as defined herein in Section 13-602 and as required by Section 13-603, may be subject to prosecution under criminal trespass, disturbing the peace, disorderly conduct or similar offenses as circumstances warrant and/or as otherwise allowed by Chapter 3 of Part 13 of the City of Tahlequah Code of Ordinances, specifically including but not limited to Section 13-313.

13-606: SEVERABILITY:

If any provision, section 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 portion of this ordinance, which shall remain effective in the absence of any invalid or unenforceable provision.

13-607: EMERGENCY CLAUSE:

It being immediately necessary for the preservation of the peace, health, safety, and public good of City of Tahlequah and the inhabitants thereof due to the COVID-19 pandemic that the

provisions of this ordinance become operative immediately. Therefore, an emergency is hereby declared to exist and this ordinance shall be in full force and effect immediately from and after the date of publication.

PASSED, APPROVED, AND ADOPTED THIS __ DAY OF August, 2020.

Sue Catron, Mayor

ATTEST:

DeAnna Hammons, City Clerk

**THE EMERGENCY CLAUSE IS HEREBY PASSED, APPROVED AND ADOPTED
THIS __ DAY OF August, 2020.**

Sue Catron, Mayor

ATTEST:

DeAnna Hammons, City Clerk

APPROVED AS TO FORM AND LEGALITY THIS __ DAY OF August, 2020.

Grant Lloyd, City Attorney

First Reading: 07/20/20
Second Reading: