

URGENCY ORDINANCE NO. 2020-794

AN URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF KING, CALIFORNIA, ESTABLISHING THE REQUIREMENT THAT FACE COVERINGS BE WORN WHILE IN PUBLIC WITHIN THE CITY

WHEREAS, pursuant to Government Code section 36937, subdivision (b), any ordinance for the immediate preservation of the public peace, health or safety, containing a declaration of the facts constituting the urgency, and is passed by a four-fifths (4/5) vote of the City Council, shall take effect immediately upon its adoption; and

WHEREAS, in December of 2019, an outbreak of respiratory illness due to a novel coronavirus (COVID-19) was first identified in Wuhan City, Hubei Province, China; and

WHEREAS, the Center for Disease Control and Prevention (“CDC”) considers COVID-19 to be a very serious public health threat with outcomes ranging from very mild (including some with no reported symptoms) to severe, including illness resulting in death; and

WHEREAS, according to the CDC, there is no vaccine to prevent COVID-19 and there is no specific antiviral treatment recommended for COVID-19 at this time; and

WHEREAS, on January 30, 2020, the World Health Organization declared a Public Health Emergency of International Concern over the global spread of COVID-19; and

WHEREAS, on January 31, 2020, Health and Human Services declared a Public Health Emergency for the United States to aid the nation’s healthcare community in responding to COVID-19; and

WHEREAS, the California Department of Public Health (“CDPH”) has activated its Medical and Health Coordination Center, and the Office of Emergency Services recently activated the State Operations Center to provide support and guide actions to preserve public health; and

WHEREAS, on March 4, 2020, Governor Gavin Newsom declared a State of Emergency for the State of California; and

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

WHEREAS, on March 12, 2020, Governor Newsom issued Executive Order N-25-20 regarding COVID-19 further enhancing State and local government’s ability to respond to the COVID-19 pandemic; and

WHEREAS, on March 13, 2020, President Trump declared a National State of Emergency in response to increased spread of COVID-19; and

WHEREAS, on March 16, 2020, the City Manager, acting as the Director of Civil Defense and Disaster proclaimed that a local emergency exists throughout the City of King, and the proclamation was ratified by the City Council on March 20, 2020; and

WHEREAS, there is increasing evidence that individuals who are infected, but not exhibiting symptoms, can spread COVID-19 via respiratory droplets produced when coughing, sneezing, and transfer thereof to surfaces; and

WHEREAS, on April 28, 2020, the County revised and expanded its order requiring residents to wear face coverings while in public and within essential businesses; and

WHEREAS, in order to limit the spread of COVID-19 within the City, especially by those infected but without clear symptoms, face coverings should be worn by all residents and visitors of the City while in public; and

WHEREAS, based on the foregoing, the City Council seeks and intends to protect health, safety, and welfare of the residents and businesses of the City of King by requiring that face coverings be worn while in public.

NOW THEREFORE, the City Council of the City of King does hereby ordain as follows:

SECTION 1. Recitals.

The foregoing recitals are true and correct, and are incorporated herein by reference as findings of fact.

SECTION 2. Urgency and Emergency Findings.

The City Council finds that there is a current and immediate threat to public health, safety, and welfare posed by COVID-19, and there is an immediate need for the preservation of public peace, health or safety of the residents and community of the City.

Individuals who are infected but not exhibiting symptoms can still spread COVID-19 via respiratory droplets produced when coughing, sneezing, and transfer thereof to surfaces. Droplets can land in the mouths or noses of healthy people who are nearby or possibly inhaled into the lungs. The virus can also live on surfaces for varied lengths of time, in some cases for days. It may be possible that a person can get the virus by touching an infected surface or object and then touching their own mouth, nose, or possibly their eyes.

Although the use of face coverings will not eliminate the spread of COVID-19, it is an additional tool that will help to slow the disease's spread. Face coverings limit the amount of respiratory droplets spread by individuals who are infected, helping to limit the avenues for the spread of COVID-19. While home-made face coverings are not as effective as those used by medical professionals, their widespread use can help to limit the spread of COVID-19 by individuals who are infected.

SECTION 3. Face Covering Requirements.

A. Face Coverings Within City Boundaries.

(1) As used in this Urgency Ordinance, a "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. A covering that hides or obscures the wearer's eyes or forehead is not a Face Covering. Examples of Face Coverings include a scarf or bandana; a neck gaiter; a homemade covering made from a T-shirt, sweatshirt, or towel, held on with rubber bands or otherwise; or a mask, which need not be medical-grade. A Face Covering may be factory-made, or may be handmade and improvised from ordinary household materials. The Face Covering should be comfortable, so that the wearer can breathe comfortably through the nose and does not need to adjust it frequently, so as to avoid touching the face. For as long as medical grade masks such as N95 masks and surgical masks are in short supply, members of the public should not purchase those masks as Face Coverings under this Urgency

Ordinance; medical grade masks should be reserved for health care providers and first responders. In general, even when not required by this Urgency Ordinance, people are strongly encouraged to wear Face Coverings when in public. Also, for Face Coverings that are not disposed of after each use, people should clean them frequently and have extra ones available so that they have a clean one available for use.

Note that any mask that incorporates a one-way valve (typically a raised plastic cylinder about the size of a quarter on the front or side of the mask) that is designed to facilitate easy exhaling is not a Face Covering under this Urgency Ordinance and is not to be used to comply with this Urgency Ordinance's requirements. Valves of that type permit droplet release from the mask, putting others nearby at risk.

(2) Each resident of, or visitor to, the City of King shall, upon either entering the geographic boundaries of the City or upon leaving their domicile or place of residence and continuing until their return to the place of domicile or residence or exiting the geographic boundaries of the City shall wear a face mask or covering which shall be worn to cover the nose and mouth of the wearer. Face Coverings must allow for the inhale or exhale of oxygen through the mask or covering. Face Coverings are not required to be worn while driving a private motor vehicle or while located upon private residential property. However, each resident of, or visitor to, the City of King shall comply with all Face Covering requirements while within any business (whether for profit or non-profit), facility or space open to members of the public in the geographic boundaries of the City.

(3) All Essential Businesses, as well as entities and organizations with workers engaged in Essential Infrastructure work, Minimum Basic Operations, or Essential Government Functions (except for Healthcare Operations, which are subject to their own regulation regarding specified face coverings), shall:

(a) Require their employees, contractors, owners, and volunteers to wear a Face Covering at the workplace and when performing work off-site any time the employee, contractor, owner, or volunteer is: (i) interacting in person with any member of the public; (ii) working in any space visited by members of the public, such as, by way of example and without limitation, reception areas, grocery store or pharmacy aisles, service counters, public restrooms, cashier and checkout areas, waiting rooms, service areas, and other spaces used to interact with the public, regardless of whether anyone from the public is present at the time; (iii) working in any space where food is prepared or packaged for sale or distribution to others; (iv) working in or walking through common areas such as hallways, stairways, elevators, and parking facilities; or (v) in any room or enclosed area when other people (except for members of the person's own household or residence) are present. However, a Face Covering is not required when a person is in a personal office (a single room) when others outside of that person's household are not present as long as the public does not regularly visit the room.

(b) Take reasonable measures, such as posting signs, to remind their customers and the public of the requirement that they wear a Face Covering while inside of or waiting in line to enter the business, facility, or location. Essential Businesses and entities or organizations that are engaged in Essential Infrastructure work or Minimum Basic Operations must take all reasonable steps to prohibit any member of the public who is not wearing a Face Covering from entering and must not serve that person.

(4) Wearing a Face Covering is recommended but not required while engaged in outdoor recreation such as walking, hiking, bicycling, or running. But each person engaged in such activity must comply with social distancing requirements including maintaining at least six (6') feet of separation from all other people to the greatest extent possible. Additionally, it is recommended that each person engaged in such activity bring a Face Covering and wear that Face Covering in circumstances where it is difficult to maintain compliance with social distancing requirements, and that they carry the Face Covering

in a readily accessible location, such as around the person's neck or in a pocket, for such use. Running or bicycling causes people to more forcefully expel airborne particles, which makes the usual minimum six (6') feet distance requirement less adequate. Therefore, runners and cyclists must take extra measures to avoid exposing others to airborne particles, including wearing a Face Covering when possible, maintaining physical distance of greater than six (6') feet when engaging in these activities, avoiding spitting, and avoiding running or cycling directly in front of or behind another runner or cyclist who is not in the same household.

(5) A Face Covering is also not required by this Urgency Ordinance to be worn by an individual if the person can show either: (i) a medical professional has advised that wearing a Face Covering may pose a risk to the person wearing the mask for health-related reasons; or (ii) 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. A Face Covering should also not be used by anyone who has trouble breathing or is unconscious, incapacitated, or otherwise unable to remove the Face Covering without assistance, include children under the age of two (2) years old.

B. Violations.

Violation of this requirement shall be enforceable within the geographic boundaries of the City of King pursuant to the provisions of the King City Municipal Code which provides for enforcement of code violations as either infractions or misdemeanors.

C. Administrative Penalties.

The administrative citation penalty for all violations of this Urgency Ordinance, within a rolling twelve-month period, shall be as follows: (1) First administrative citation: one hundred dollars (\$100.00) per violation; (2) Second administrative citation: two hundred fifty dollars (\$250.00) per violation; (3) Third administrative citation: five hundred dollars (\$500.00) per violation; and (4) Five hundred dollars (\$500.00) per violation for each subsequent administrative citation.

SECTION 4. Adoption and Effective Date.

Pursuant to Government Code section 36937, this Urgency Ordinance shall take effective immediately upon approval of the same by a four-fifths (4/5) affirmative vote of the City Council. The City Council finds and determines that the same is necessary to the preservation of the public peace, health or safety, in that adoption of the same will help prevent commercial evictions and control residential rent issues that may arise during declared states of emergency.

SECTION 5 Severability.

If any section, subsection, sentence, clause, phrase, or portion of this Urgency Ordinance, or the application thereof to any person or circumstances, is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the application of any other section, subsection, sentence, clause, phrase, or portion of this Urgency Ordinance, and to this end the invalid or unconstitutional section, subsection, sentence, clause, phrase of this ordinance are declared to be severable. The City of King City Council hereby declares that it would have adopted this ordinance and each section, subsection, sentence, clause, phrase, part or portion thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases, parts or portions thereof be declared invalid or unconstitutional.

SECTION 6 Expiration Date.

This Urgency Ordinance shall automatically expire upon the termination of the City’s local emergency proclaimed by the City Manager on March 16, 2020, and ratified by the City Council on March 20, 2020, pursuant to the King City Municipal Code.

SECTION 7. Environmental Review.

The adoption and implementation of this Urgency Ordinance is not a project, as defined in CEQA Guidelines section 15378, because it has no potential for resulting in physical change to the environment, either directly or indirectly, and is therefore not subject to environmental review under CEQA pursuant to CEQA Guidelines section 15060(c)(3).

SECTION 8. Certification.

The City Clerk shall certify to the adoption of this Urgency Ordinance and shall cause the same to be posted and codified in the manner required by law.

I HEREBY CERTIFY that the foregoing Urgency Ordinance was introduced by the City Council and adopted at a regular meeting thereof held on the 23rd day of July 2020.

AYES: LeBarre, Victoria, Acosta, Cullen, DeLeon

NOES: _____

ABSTAIN: _____

ABSENT: _____

ATTEST



STEVEN ADAMS, City Clerk

CITY OF KING

By: 
MIKE LEBARRE, Mayor

APPROVED AS TO FORM:


By: _____
ROY C. SANTOS, City Attorney
Aleshire & Wynder, LLP

I, _____, City Clerk of the City of King, California, DO HEREBY CERTIFY that the foregoing is a true and accurate copy of the Ordinance passed and adopted by the City Council of the City of King on the date and by the vote indicated herein.