

ORDINANCE NO. 6338

AN ORDINANCE BY THE CITY OF HOT SPRINGS, ARKANSAS REGARDING THE USE OF MASKS IN RELATION TO THE COVID-19 PANDEMIC.

WHEREAS, the outbreak of COVID-19 (coronavirus) has resulted in an ongoing global pandemic; and

WHEREAS, On June 18, 2020, Executive Order 20-37 declared that the emergency declared pursuant to Executive Order 20-03 and its amendments was terminated and that **the public health and disaster emergency and declaration of the State of Arkansas as a disaster area resulting from the state-wide impact of Covid-19 was declared anew** and would be effective for sixty (60) days unless renewed; and

WHEREAS, On June 19, 2020, the Arkansas Department of Health (ADH), released guidance regarding the use of face masks/coverings by the general public which asserts that ample evidence exists to support the efficacy of wearing face masks to prevent the transmission of Covid-19 including a World Health Organization (WHO) funded study; and

WHEREAS, the afore-mentioned ADH guidance on masks recommends that the general public should wear face coverings in ALL indoor environments where they are exposed to non-household members and distancing of 6 feet or more cannot be assured. This includes, but is not limited to, workplaces, retail stores, businesses, places of worship, courtrooms, jails/prisons, schools, healthcare facilities, and other people's homes; and

WHEREAS, the afore-mentioned ADH guidance recommends that the general public should also wear face coverings in ALL outdoor settings where there is exposure to non-household members, unless there exists ample space of 6 feet or more to practice physical distancing; and

WHEREAS, Arkansas Governor Asa Hutchinson supports and encourages the usage of facial coverings in an effort to curb the spread of Covid-19; and

WHEREAS, the United States Supreme Court has long recognized state and local control over the spread of infection diseases and gave broad leeway in responding to these threats in *Jacobson v. Massachusetts*, 197 U.S. 11 (1905); and

WHEREAS, the Centers for Disease Control and Prevention (CDC) encourages the use of cloth face coverings to curb the spread of Covid-19; and

WHEREAS, individuals infected with Covid-19 are often asymptomatic and may transmit the virus; and

WHEREAS, the health of employees and patrons of reopened businesses is directly threatened by individuals who enter such establishments without a facial covering.

NOW, THEREFORE BE IT ORDAINED BY THE BOARD OF DIRECTORS OF THE CITY OF HOT SPRINGS, ARKANSAS:

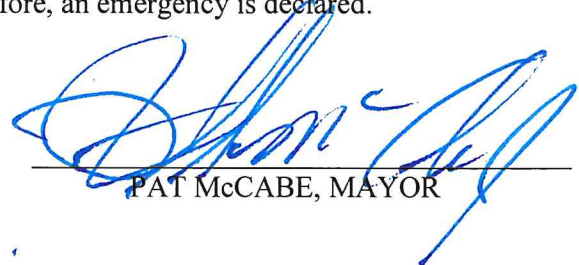
Section 1: Upon consultation by the Arkansas Municipal League with the ADH and the Governor's Office, the City of Hot Springs, Arkansas **requires the usage of facial coverings according to ADH guidance** in an effort to help curb the spread of Covid-19, in particular to protect the most vulnerable members of our community, as well as to ensure that the hard won progress made by the citizens of Arkansas in reopening our shared economy is preserved.

Section 2: The City of Hot Springs, Arkansas has hereby determined that local law enforcement and other city officials will act in a support capacity to local businesses that wish to enforce the use of masks upon their premises. Law enforcement, acting in such a support capacity, shall educate and encourage members of the public who decline to wear facial coverings regarding the efficacy of wearing such coverings according to the ADH guidance on facial coverings released on June 19, 2020. Law enforcement may additionally act in a support capacity to local businesses by educating individuals who decline to comply with the facial covering requirement of any local business that the individual must abide by that requirement or leave the premises.

Section 3: The City Clerk is hereby directed to print and mail this ordinance to all businesses within the municipal limits as soon as practical, for display in a prominent area of the business or on the primary entrance way.

Section 4: An emergency is declared to exist, and because of the need for immediate response to the COVID-19 pandemic, this ordinance shall go into effect immediately upon passage. The emergency factors considered in declaring an emergency is the infectious rate of COVID-19, the rapid use of protective equipment across all sectors, the fatality rate, and the fatality rate if the virus is left unchecked. Therefore, an emergency is declared.

PASSED: July 7, 2020


PAT McCABE, MAYOR

ATTEST: Harmony Morrissey
HARMONY MORRISSEY, CITY CLERK

APPROVED AS TO LEGAL FORM:


BRIAN W. ALBRIGHT, CITY ATTORNEY