

ADOPTED BY THE
MAYOR AND COUNCIL

June 19, 2020

ORDINANCE NO. 11766

RELATING TO PUBLIC HEALTH AND SAFETY AND THE PREVENTION OF COMMUNITY-BASED SPREAD OF INFECTIOUS DISEASE; FINDING AND REAFFIRMING THAT THE COVID-19 PANDEMIC CONSTITUTES A CONTINUING LOCAL AND CIVIL EMERGENCY; ENDORSING PIMA COUNTY REGULATIONS ADOPTED JUNE 19, 2020 REQUIRING THE WEARING OF FACE COVERINGS IN PUBLIC; RESERVING CITY AND MAYOR AND COUNCIL AUTHORITY TO MAKE AND ADOPT ADDITIONAL REGULATIONS, INCLUDING A CIVIL PENALTY PROVISION; AND DECLARING AN EMERGENCY.

WHEREAS, Chapter IV, Section 1(10) of the Tucson Charter provides that the City has the power “to make regulations to prevent the spread of diseases;” and Chapter VII, Section 1(28) of the Tucson Charter provides that the Mayor and Council have the power to “make all regulations which may be necessary or expedient for the preservation of the health and the suppression of disease; to make regulations to prevent the introduction of contagious, infectious, or other diseases into the city; to make quarantine laws and regulations and to enforce the same within the city; to regulate, control and prevent the entry within the city of persons, baggage, merchandise or other property infected with contagious disease;” and

WHEREAS, at the time of the consideration and adoption of this Ordinance, all of the following are true:

- 1) The State of Arizona is under a continuing Declaration of Public Health Emergency, as ordered by Governor Douglas A. Ducey, due to the necessity to prepare for, prevent, respond to, and mitigate the spread of COVID-19;
- 2) The City of Tucson is under a continuing Declaration of Emergency or Local and/or Civil Emergency, as proclaimed by Mayor Regina Romero and as supported by motions adopted by unanimous votes of the Mayor and Council on March 24, April 21 and June 9, 2020, due to the COVID-19 pandemic;
- 3) the most current local data relating to COVID-19 as provided by the Arizona Department of Health Services (ADHS) and Pima County Health Department (PCHD) show that Pima County and the City of Tucson are experiencing significant community-based transmission of COVID-19, and an increasing pace of viral spread. Current local conditions demonstrate that cases of and hospitalizations for COVID-19 are increasing in Pima County; that the rate of positive test results is either steady or increasing; and that hospital capacity, and ICU bed capacity in particular, within Tucson, Pima County and Southern Arizona is at or very near full capacity. Confirmed cases in Pima County were reported as 2,382 on June 1, 2020, and at 4,329 on June 16, 2020, an increase of 1,947 cases in just 16 days.
- 4) The Centers for Disease Control and Prevention (CDC) recognizes the critical role that face coverings have in containing and mitigating the spread of COVID-19, and recommends that all persons wear cloth face coverings in public settings where other social distancing measures are difficult to maintain

(e.g., grocery stores and pharmacies) especially in areas of significant community-based transmission.

- 5) On June 14, hundreds of members of Arizona’s medical community signed onto an open letter to Governor Ducey, imploring him to mandate the wearing of face coverings in public by all persons, citing the recent spike in COVID-19 cases and record numbers of hospitalizations.
- 6) On June 17, 2020, Governor Ducey issued his Executive Order No. 2020-40, “Containing the Spread of COVID-19; Continuing Arizona Mitigation Efforts,” in which he ordered that “a county, city or town may, based on conditions in its jurisdiction, adopt policies regarding the wearing of face coverings in public for the purpose of mitigating the spread of COVID-19.” Executive Order No. 2020-40 further provides that enforcement of any such local policy shall focus first on educating and working to promote the mitigation of the spread of COVID-19; and that a person shall be notified of the provisions of the local requirements and given an opportunity to comply prior to citation or other enforcement action.
- 7) On June 18, 2020, Mayor Romero issued a revised Proclamation, ordering that within the City of Tucson, and with certain exceptions, every person who is two (2) years of age or older is required to cover his or her nose and mouth with a Face Covering when in a Public Setting, including but not limited to within retail establishments and grocery stores, where maintaining a six-foot physical distance from other persons is difficult or impossible; and

8) On June 19, 2020, the Pima County Board of Supervisors adopted by Resolution various regulations requiring that all persons 5 years of age or older wear face coverings when they are in public places and cannot maintain a continuous physical distance of at least six (6) feet from other persons; but precluded any penalty, including any civil penalty, for violations:

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF TUCSON, ARIZONA AS FOLLOWS:

SECTION 1. The Mayor and Council find and reaffirm that the COVID-19 outbreak constitutes a continuing emergency, local emergency and civil emergency that endangers life within the City of Tucson, and requires extraordinary measures to protect public health and safety, all as provided under the Tucson Charter, Arizona Revised Statutes and Tucson Code.

SECTION 2. Today (June 19, 2020), the Pima County Board of Supervisors adopted and approved Resolution No. 2020-____, requiring persons within Pima County to wear face coverings when they are in public places and cannot maintain a continuous physical distance of at least six (6) feet from other persons. The Mayor and Council endorse and support the provisions of the Pima County Resolution as adopted, including its specific requirements and exceptions, and support the implementation and enforcement of these requirements within the incorporated areas of the City of Tucson, except as follows:

The Mayor and Council also reserve their legislative and regulatory authority as provided under the Tucson Charter and Arizona law to make and adopt all regulations that may be necessary or expedient for the preservation of health and suppression of

infectious disease within the City, and reserve their authority to adopt additional regulations beyond those included in Pima County's Resolution No. 2020-____, including a penalty provision providing for civil penalties for violations.

SECTION 3. The various City officers and employees are hereby authorized and directed to perform all acts necessary or desirable to give effect to this Ordinance.

SECTION 4. Whereas, it is necessary for the preservation of the peace, health and safety of the City of Tucson that this Ordinance become immediately effective, an emergency is hereby declared to exist and Ordinance shall be effective immediately upon its passage and adoption.

PASSED, ADOPTED AND APPROVED by the Mayor and Council of the City of Tucson, Arizona, _____.

MAYOR

ATTEST:

CITY CLERK

APPROVED AS TO FORM:

REVIEWED BY:

CITY ATTORNEY

CITY MANAGER

MR/dg
6/19/20