STATE OF ARKANSAS
EXECUTIVE DEPARTMENT

PROCLAMATION

EO 20-41

TO ALL TO WHOM THESE PRESENTS COME – GREETINGS:

EXECUTIVE ORDER PURSUANT TO THE PUBLIC HEALTH EMERGENCY CONCERNING COVID-19, AS DECLARED IN EXECUTIVE ORDER 20-37, FOR THE PURPOSE OF CLARIFYING LOCAL RESPONSE TO COVID-19

WHEREAS: An outbreak of coronavirus disease 2019 (COVID-19) has spread throughout the world resulting in a global pandemic; and

WHEREAS: On March 11, 2020, by Executive Order 20-03, an emergency was declared in the State as a result of COVID-19; and

WHEREAS: On March 26, 2020, Executive Order 20-10, amending Executive Order 20-03, declared the entire State of Arkansas a disaster area in which ingress and egress to and from, the movement of persons within, and the occupancy of premises therein, may be controlled, pursuant to Ark. Code Ann. § 12-75-114(e)(7); and

WHEREAS: On May 5, 2020, by Executive Order 20-25, the emergency was extended for forty-five (45) additional days, until June 19, 2020; and

WHEREAS: On June 18, 2020, by Executive Order 20-37, the emergency declared pursuant to Executive Order 20-03, and its amendments was terminated, and 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

WHEREAS: COVID-19 continues to spread throughout the United States and the State of Arkansas; and

WHEREAS: Pursuant to Act 96 of 1913, Ark. Code Ann. §§ 20-7-101 et seq., and the rules promulgated therefore, the Secretary of Health has the authority to impose such quarantine restrictions and regulations upon commerce and travel by railway, common carriers or any other means, and upon all individuals as in his judgment may be necessary to prevent the introduction of communicable disease into the State, or from one place to another within the State; and

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

WHEREAS, The foregoing guidance by ADH recommends that the general public wear face coverings in all indoor environments where they are exposed to non-household members and distancing of six (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 foregoing guidance by ADH 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 six (6) feet or more to practice physical distancing; and

WHEREAS, I, as Governor of the State of Arkansas, support and encourage the use of face coverings in an effort to curb the spread of COVID-19; and

WHEREAS: COVID-19 continues to impact cities throughout the state with varying intensity; and

WHEREAS: City officials may need to increase COVID-19 mitigation efforts to combat the spread of the virus in localized areas.

NOW, THEREFORE, I, Asa Hutchinson, Governor of the State of Arkansas, acting under the authority vested in me by Ark. Code Ann. §§ 12-75-101, *et seq*. and Ark. Code Ann. § 20-7-110, in consultation with Secretary of Health, do hereby issue this Executive Order pursuant to the on-going public health emergency as declared in Executive Order 20-37, and order the following:

(1) The Secretary of Health may issue orders of isolation and quarantine as necessary and appropriate to control the spread of COVID-19 in Arkansas, and the Secretary of Health, in consultation with the Governor, shall have sole authority over all instances of quarantine, isolation, and restrictions on commerce and travel throughout the state.

(2) Cities may, upon consultation with my office and ADH, issue a local ordinance to require the use of face coverings to help curb the spread of COVID-19 in a manner that does not exceed the following:
   a. Local law enforcement and other city officials will act in a support capacity to local businesses that wish to enforce the use of face coverings upon their premises;
   b. Local law enforcement and other city officials will act in a support capacity to educate and encourage members of the public who decline to wear face coverings about the efficacy of wearing such coverings, in particular ADH guidance on face coverings released on June 19, 2020;
   c. Local law enforcement and other city officials will act in a support capacity to educate individuals who decline to comply with the face covering requirement of any local business, that the individual must abide by the local business' mandate or leave the premises; and
   d. The City Clerk and/or Recorder prints and mails the 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.

(3) Unless otherwise stated in Section 2 of this Executive Order, these measures shall not prohibit the movement of individuals from one place to another or impede commerce. Reasonable requirements for individuals to wear face coverings shall not be considered an impediment to commerce. I, upon consultation with the Secretary of Health, have approved a sample ordinance drafted by the Arkansas Municipal League, which is attached to this Order.

(4) Cities shall not impose any measure that is less restrictive than a directive or guideline issued by the Secretary of Health, in consultation with the Governor.

(5) The provisions of this order shall supersede those contained in Section Five (5) of Executive Order 20-37.

(6) This order shall automatically expire upon termination of the current emergency.

IN TESTIMONY WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of Arkansas to be affixed this 3rd day of July, in the year of our Lord 2020.

Asa Hutchinson, Governor

ORDINANCE NO.____

A ORDINANCE BY THE CITY OF _____ REGARDING THE USE OF MASKS IN RELATION TO THE COVID-19 PANDEMIC.

WHEREAS, An 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 CITY OF _____, ARKANSAS:

Section 1: Upon consultation with the ADH and the Governor's Office, the City of _____ **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 _____ 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][Recorder] 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 AND APPROVED ON _____.