

ORDER NO. 2020 - 08

AN ORDER OF THE INTERIM MANAGER OF THE CITY OF DURANGO PURSUANT TO THE EMERGENCY DECLARATION RELATED TO THE COVID-19 HEALTH CRISIS ADOPTING A POLICY REQUIRING FACE COVERINGS IN THE CITY OF DURANGO TO ASSIST WITH THE SUPPRESSION OF THE DISEASE DURING THE PERIOD WHEN THE EMERGENCY DECLARATION IS IN EFFECT

WHEREAS, the Interim City Manager of the City of Durango entered an Emergency Declaration under the provisions of Chapter 9 of the City Code related to the COVID-19 health crisis on March 16, 2020 (the Emergency Declaration); and

WHEREAS, the Durango City Council adopted Resolution No. 2020-07 on March 17, 2020 which ratified and extended the Emergency Declaration (the Resolution); and.

WHEREAS, San Juan Basin Public Health Department adopted PUBLIC HEALTH ORDER SJB-20-01 on April 28, 2020 allowing some non-critical retail and personal services businesses to resume operations beginning May 8, but also requiring self-certification of non-critical retail and personal services prior to resuming operations (SJBH Safer La Plata); and

WHEREAS, the Centers for Disease Control and Prevention (the “CDC”) recommends the wearing of cloth face coverings in public settings where other social distancing measures are difficult to maintain; and

WHEREAS, the CDC further recommends the use of a simple cloth face covering to slow the spread of COVID-19 and help people who may have the virus and do not know it from transmitting it to others; and

WHEREAS, in the Governor’s Safer at Home order (Executive Order D2020-044), Governor Polis provided that nothing in such order prevents a county or municipality from adopting more protective standards than those contained in the order, including but not limited to stay at home orders, mask wearing requirements in public or additional protective measures, and if such local measures are adopted, they will become effective within the county or municipality without state approval,

WHEREAS, the City of Durango, following the direction of San Juan Basin Public Health and the guidance of the CDC desires to facilitate safe re-opening of businesses in the community in a manner that reduces the risk of increasing the local infection rate; and

WHEREAS, the City of Durango, as a home rule municipality has broad authority under its Charter and state law to enact regulations to protect the health, welfare and safety of its citizens; and

WHEREAS, The provisions of the City Code provide a wide range of authority to the Interim City Manager to adopt orders designed to help mitigate the impacts of the COVID-19 virus within the City, including the authority to suspend any City process or to amend other function of the City in a manner that abates or mitigates the effects of the emergency; and

WHEREAS, The City finds that issuing an order requiring the wearing of face coverings by employees, customers, and visitors of businesses and government facilities open to the public will best provide for the promotion of health and the suppression of disease within the City by slowing the spread of COVID-19; and

WHEREAS, it is the intent of this Order to protect those members of the public who need to be out of their homes in order to access and provide goods and services and to the maximum extent feasible slow the spread of COVID, while enabling the continuation of essential services, businesses and travel necessary to protect public health and safety, and for the continuity of social and commercial life during the time the Emergency Declaration is in effect.

ORDER:

Based on the foregoing, and pursuant to the authority described in Chapter 9 of the City Code and as affirmed in the Resolution, it is ORDERED as follows:

1. Face Coverings Required. All persons shall be required to wear a Face Covering when entering, waiting in line to enter and while in the following locations within the City of Durango:
 - a. Any place of business engaged in any sales or other transactions of any kind to the general public and any place that offers services, facilities, privileges, or advantages to the general public, including any outside courtyard, patio, seating, waiting or parking area associated with the place of business or place of service in which any kind of delivery, pick up or other service is provided;
 - b. Any City owned or operated building or indoor facility of any kind;
 - c. Any public transportation, including City transit buses and bus shelters and the Airport terminal building;
 - d. Any other public place whether indoor or outdoor where persons are unable to maintain safe social distancing (six or more feet separation) from others who are not residents of their own household;

2. Definition of Face Covering. As used in this Order, Face Covering shall mean 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, and that fits snugly but comfortably against the side of the face and remains in place without the use of one's hands. Face coverings include, but are not limited to, bandanas, medical masks, cloth masks, buffs and gaiters. Face coverings do not include 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, and such masks are not to be used to comply with this Order. Valves of that type without filters permit droplet release from the mask and can put others nearby at risk.
3. Exceptions. Nothing herein shall require the wearing of face coverings by the following persons under this Order:
 - a. Persons in restaurants or other food establishments which are permitted by state and local regulations to serve food for consumption on the premises, while such person is in the act of eating or drinking; provided, however, that face coverings must be worn while entering and exiting the restaurant, and while ordering, paying, or otherwise interacting with employees or other customers of the restaurant, and once the food and drink have been consumed;
 - b. Persons working in a place of business who do not come into contact with the public and who do not share workspace with other persons not of their household; provided, however, that face coverings shall be worn while entering or exiting the building or otherwise when within six feet of another person in or around that place of business and as may otherwise be required under any other orders or directives issued by any entity with jurisdiction;
 - c. Persons 3 years of age or younger or children within a childcare facility;
 - d. Persons for whom a face covering would cause impairment due to an existing health condition or persons who, because of a disability, are unable to wear a face covering;
 - e. Property owned or operated by the federal, state, or county governments;
 - f. Persons in a place of business such as banks, financial institutions or other security sensitive businesses who are requested to remove or lower their face covering for purposes of verifying their identity to carry out a sale or transaction; provided, however, that face coverings must otherwise be worn while in the establishment.
4. Required Signage. All places of business or other public accommodation subject to this Order shall display at each entrance a sign advising all persons of the requirements of this Order, and that face coverings are required to enter or remain within the establishment.

5. General Information for all Persons. Pursuant to federal Centers for Disease Control guidance, the public is strongly encouraged to wear cloth Face Coverings that:
 - Fit snugly but comfortably against the side of the face;
 - Are secured with ties or ear loops;
 - Include multiple layers of fabric;
 - Allow for breathing without restriction; and
 - Are able to be laundered and machine dried without damage or change to shape.Information on making such face coverings can be found at: <https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/diy-cloth-face-coverings.html>
6. Other Orders. This Order is permitted to be more restrictive than any state-issued public health order, as permitted by the Governor's executive orders related to the COVID-19 pandemic and associated orders of the Colorado Department of Public Health and Environment. To the extent any federal, state, or county regulations, orders, or laws are enacted that are more restrictive than the requirements of this Order, the more restrictive shall control.
7. Enforcement. The City will attempt to seek voluntary compliance through education and warning notices prior to the issuance of any citations. Compliance with this Order may be enforced under Sections 1-16 and 9-9 of the City Code. In addition, the City may pursue suspension or revocation of a business license under Section 13-8 of the Municipal Code, or it may pursue any other legal remedy to secure enforcement.
8. Effective Dates. This Order shall become effective at 12:01 a.m. on May 22, 2020, and shall expire on June 19th, 2020 unless extended or modified by further order of the Interim City Manager.

Date: 5/21/2020



Interim City Manager, City of Durango, Colorado