

**ORDINANCE NO. 2140**

**AN EMERGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GOLDEN, COLORADO, REQUIRING ALL PERSONS TO WEAR FACE COVERINGS UPON ENTERING, AND AT ALL TIMES WHILE REMAINING INSIDE OF CERTAIN PLACES OF BUSINESS THAT ARE OPEN TO THE PUBLIC; IN CERTAIN OUTDOOR PUBLIC PLACES; AND WHEN USING ANY FORM OF PUBLIC TRANSPORTATION; AND DECLARING AN EMERGENCY WITH RESPECT THERETO**

WHEREAS, Corona Virus Disease 2019 (“COVID-19) is caused by a highly contagious virus that has spread worldwide and is causing serious illness or death in certain cases, particularly in, but not limited to, the elderly or persons with underlying health conditions; and

WHEREAS, in the United States cases of COVID-19 have directly affected more than 3,000,000 people and nationally new infections have reached their highest levels since the beginning of the pandemic. More than 132,000 people in America have died of this terrible disease, and Colorado cases have been increasing over last 2 weeks with the three-day moving average more than doubling and positivity rate recently peaking over 5%, which has cause additional regulatory safety actions at the State level, including re-closing indoor service in certain businesses. Recently, Jefferson County new cases have gone from a low of less than 10 cases per day in mid-June 2020 to an increase of over 600%; and

WHEREAS, on March 10, 2020, Jared Polis, the Honorable Governor of the State of Colorado, declared a State of Emergency for the entire State of Colorado in response to COVID-19 as the number of cases in Colorado and in the United States increased, and Governor Polis also announced numerous emergency measures to protect public health, safety and welfare; and

WHEREAS, on March 11, 2020, the World Health Organization (“WHO”) declared the worldwide outbreak of COVID-19 a “global pandemic,” surpassing the state of “global health emergency” declared by the WHO on January 30, 2020, due to the worldwide spread of COVID-19; and

WHEREAS, on March 13, 2020, the President of the United States, Donald J. Trump, declared a national state of emergency due to COVID-19; and

WHEREAS, on March 19, 2020, the Golden City Council adopted Resolution 2725, extending the City Manager’s “Declaration of a Local Emergency” issued as a result of the COVID-19 pandemic, which local declaration remains in effect; and

WHEREAS, on April 22, 2020, the Executive Director of the Colorado Department of Public Health and Environment (“CDPHE”) issued Public Health Order 20-26 requiring employees who work in close proximity to other employees or with the public to wear a non-medical (or medical) face covering, with limited exceptions; and

WHEREAS, on April 24, 2020, the Jefferson County Department of Public Health issued its order extending stay at home requirements within the county (permitted to be more restrictive than the state requirements); and

WHEREAS, for the same reasons that workers in Critical Businesses and Critical Governmental Functions are required to wear non-medical face coverings pursuant to Executive Order D 2020 039, it follows that customers in the establishments of critical businesses should wear non-medical face coverings for the protection of workers and other customers; and

WHEREAS, a key transmission route for COVID-19 is by droplets from the mouths of people, including when we speak, cough or sneeze, and research shows that even a cotton mask significantly reduces the number of virus particles emitted from our mouths; and

WHEREAS, epidemiological research indicates that transmission of the virus causing COVID-19 can be through infected individuals who may be either symptomatic or asymptomatic; and

WHEREAS, the United States Centers for Disease Control and Prevention now recommends wearing Face Coverings in public settings to prevent the spread of COVID-19; and

WHEREAS, the City of Golden, Colorado, (“City”) is a duly organized and existing home rule municipality of the State of Colorado (“State”), created and operating pursuant to Article XX of the Constitution of the State and home rule charter of the City (“Golden Charter”); and

WHEREAS, as a result of the unprecedented pandemic impacts from COVID-19, some of which are currently apparent and some of which remain either unknown or the extent of the impact remains unknown, the City Council finds and determines that an emergency exists and enactment of this ordinance as an emergency is necessary for the urgent preservation of public health, safety and welfare of the City.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GOLDEN, COLORADO:

Section 1. Definitions.

“Face Covering(s)” means a uniform piece of material, made of cloth, fabric, or other soft or permeable material without holes that securely covers a person’s nose and mouth and which remains affixed in place without the need to use one’s hands.

“Maintain Safe Physical Distancing” means keeping physical space of at least six feet from another person. A momentary encounter that decreases separation to less than six feet shall not be considered a breach of the physical distancing concept.

“Open to the Public” means those areas of a Place of Business, including any outside courtyard, patio, or area, in which services are provided or merchandise is displayed, and which is generally accessible by the general public. Restrooms, lobbies, hallways and other common areas of multi-tenant commercial buildings

and multi-tenant residential buildings shall be considered as open to the public for the purposes of this ordinance.

“Place of Business” means any commercial, business or governmental facility engaged in any sales to the general public or any commercial, business or governmental facility that offers services, facilities, privileges, or advantages to the general public. Place of Business shall include, but shall not be limited to religious facilities, multi-tenant residential structures and facilities, private (but not public) schools, non-profit facilities and governmental offices.

Section 2. Requirement for Facing Covering(s).

- (1) All persons shall wear a Face Covering upon entering, and at all times while inside a place of business that is Open to the Public.
- (2) All persons shall wear Face Coverings when outdoors and away from their home or residence in circumstances where such person is not able to Maintain Safe Physical Distancing from others not of their own household.
- (3) All persons shall wear a Face Covering when using any form of public transportation within the City.

Section 3. Exceptions.

Nothing in this Emergency Ordinance shall be deemed to require the wearing of Face Coverings by persons meeting any of the following exception provisions:

- (1) Persons under the age of three (3) years.
- (2) Persons for whom a Face Covering would cause impairment due to an existing health condition, or who is not able to remove the face covering without assistance.
- (3) Persons undergoing a medical or dental procedure that requires access to such person’s mouth or nose.
- (4) Persons who are seated in a restaurant or bar and are consuming food or beverages.
- (5) Persons while on property owned and used by public schools, including the Colorado School of Mines.
- (6) Persons participating in organized sports in compliance with the guidelines of the CDC and the state of Colorado.

Section 4. Limited Duration and Automatic Repeal.

The provisions of this ordinance shall automatically repeal and shall expire by operation of law with respect to limitations imposed to prevent the spread of COVID-19 upon the earlier of (i) the lifting of both the State of Colorado “Declaration of Emergency” and the City of Golden “Declaration of a Local Emergency” (Golden City Council Resolution No. 2725); or (ii) on 14 August 2020, unless extended by City Council resolution prior to 14 August, 2020, in which case and this ordinance shall expire on the day following the first regularly scheduled Council meeting(s) of the following month, unless further extended by City Council Resolution prior to the scheduled expiration .

Section 5.      Imposition of Specific Penalties for Violations of this Emergency Ordinance.

- (1.) Violations of this ordinance are subject to the non-criminal, administrative enforcements provisions and penalties found in the Golden Municipal Chapter 8.25.
- (2.) Any business whose operations are subject to regulation by the City of Golden, including licensed liquor establishments, or that operates on premises by virtue of a right-of-way permit or license from the City of Golden, shall be subject to suspension or revocation of such license or permit by reason of the failure of the customers, employees and/or vendors at the Place of Business to comply with this ordinance.

Section 6.      If any article, section, paragraph, sentence, clause or phrase of this ordinance is held to be unconstitutional or invalid for any reason, such decision shall not affect the validity or constitutionality of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance and each part or parts hereof irrespective of the fact that any one part or parts be declared unconstitutional or invalid.

Section 7.      All other ordinances or portions thereof inconsistent or conflicting with this ordinance or any portion hereof is hereby repealed to the extent of such inconsistency or conflict.

Section 8.      The repeal or modification of any provision of the Municipal Code of the City of Golden by this ordinance shall not release, extinguish, alter, modify or change in whole or in part any penalty, forfeiture or liability, either civil or criminal, which shall have been incurred under such provision. Each provision shall be treated and held as still remaining in force for the purpose of sustaining any and all proper actions, suits, proceedings and prosecutions for enforcement of the penalty, forfeiture or liability, as well as for the purpose of sustaining any judgment, decree or order which can or may be rendered, entered or made in such actions, suits, proceedings or prosecutions.

Section 9.      This ordinance is deemed necessary for the protection of health, welfare and safety of the community.

Section 10.     This ordinance is enacted as an emergency, pursuant to Section 5.11 of the Golden Charter, is deemed necessary for the protection of the health, welfare and safety of the community, and shall be published as soon thereafter as possible, and no later than (10) days after passage.

INTRODUCED, READ, AND PASSED AS AN ORDINANCE ON FIRST READING, AS AN EMERGENCY, AT A MEETING OF THE CITY COUNCIL OF THE CITY OF GOLDEN, COLORADO, THE 8th DAY OF JULY, 2020.

READ, PASSED, AND ADOPTED BY A VOTE OF SEVEN TO ZERO, AS AN ORDINANCE ON SECOND READING, AS AN EMERGENCY, AT A MEETING OF THE CITY COUNCIL OF THE CITY OF GOLDEN, COLORADO, THE 9th DAY OF JULY, 2020.

---

Laura M. Weinberg,  
Mayor

ATTEST:

\_\_\_\_\_  
Monica S. Mendoza, CMC  
City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
David S. Williamson  
City Attorney

I, Monica S. Mendoza, City Clerk of the City of Golden, Colorado, do hereby certify that the foregoing emergency ordinance was introduced on first reading and read at a special business meeting of the City Council of said city, held on the 8<sup>th</sup> day of July, 2020. A public hearing was held on the 9<sup>th</sup> day of July, 2020, and the said proposed emergency ordinance was read on second reading. The ordinance was passed by the City Council and ordered published in the Golden Transcript, as the charter directs on the 9<sup>th</sup> day of July, 2020.

Witness my hand and official seal of the City of Golden, Colorado, on the 9<sup>th</sup> day of July, 2020.

(SEAL)

ATTEST:

\_\_\_\_\_  
Monica S. Mendoza, CMC, City Clerk  
of the City of Golden, Colorado