

**ORDINANCE NO. 1799  
SERIES 2020**

**AN EMERGENCY ORDINANCE AMENDING AND RESTATING THE  
REQUIREMENT TO WEAR A FACE COVERING WITHIN THE CITY OF  
LOUISVILLE**

**WHEREAS**, the City of Louisville (the “City”) is a home-rule city and municipal corporation duly organized and existing under and pursuant to Article XX of the Colorado Constitution and Charter of the City; and

**WHEREAS**, the Novel Coronavirus 2019 (COVID-19) Pandemic is causing widespread human and economic impacts to the City of Louisville; and

**WHEREAS**, on March 15, 2020, the Mayor of the City of Louisville, pursuant to Chapter 2.32 of the Louisville Municipal Code and C.R.S. § 24-33.5-709, executed a Declaration of Local Disaster Emergency in and for the City of Louisville (the “Mayor’s Declaration”); and

**WHEREAS**, by Resolution No. 27 adopted on March 16, 2020, the City Council continued in effect the Mayor’s Declaration until terminated by resolution of the City Council; and

**WHEREAS**, on March 25, 2020, Governor Jared Polis issued Executive Order D2020-017 (the “Statewide Stay-at-Home Order”) ordering Coloradans to stay in place through April 11, 2020 due to the presence of COVID-19 in the state, and which Statewide Stay-at-Home Order was extended by the Governor through April 26, 2020; and

**WHEREAS**, on April 24, 2020, Boulder County Public Health (“BCPH”) issued a Public Health Order Adopting and Extending State Stay-at-Home Orders (the “Boulder County Stay-at-Home Order”), which continued in effect the terms of the Statewide Stay-at-Home order for those persons residing in Boulder County until May 8, 2020; and

**WHEREAS**, in the Boulder County Stay-at-Home Order, BCPH found “the health conditions that led to the issuance of [the Statewide Stay-at-Home Order] have not abated in Boulder County”; and

**WHEREAS**, on April 26, 2020, Governor Polis issued Executive Order D2020-044, introducing the “Safer at Home” phase of slightly relaxed regulation, which permitted some non-critical businesses to open with certain restrictions beginning May 1, 2020, and which regulation became effective within the City of Louisville upon the expiration of the Boulder County Stay-at-Home Order; and

**WHEREAS**, in the Safer at Home order, 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; 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, especially in areas of significant community-based transmission of COVID-19; and

**WHEREAS** the CDC further recommends the use of simple cloth face coverings 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**, the CDC has issued guidelines for cloth face coverings that include tutorials for both sewn cloth face coverings and making cloth face coverings out of common household textile items without sewing; and

**WHEREAS**, while the City Council encourages cloth face coverings meeting the CDC guidelines, “face covering” has been defined herein to increase flexibility for what may constitute a face covering and thus aid in compliance with the requirements of this Ordinance; and

**WHEREAS**, on April 22, 2020, the Colorado Department of Public Health and Environment (“CDPHE”) issued Public Health Order 20-26 requiring face coverings for employees of critical businesses and critical government functions; and

**WHEREAS**, the City of Louisville is a densely populated city within Boulder County, and the City Council finds that the wearing of face coverings by both employees and patrons of businesses and government facilities as set forth herein will best provide for the promotion of health and suppression of disease within the City; and

**WHEREAS**, the face coverings required by this Ordinance are not surgical masks or N-95 respirators, which are critical supplies that must continue to be reserved for healthcare workers and first responders, as recommended by current CDC guidance; and

**WHEREAS**, the CDC recommends face coverings not be worn by children under the age of two (2) years, the CDPHE has issued additional guidelines that face coverings not be worn by children under the age of three (3) years in childcare settings, and the American Academy of Pediatrics has issued further recommendations on the use of face coverings by children, all of which have been considered by the City Council and incorporated as set forth herein; and

**WHEREAS**, on May 5, 2020, the City Council adopted Ordinance No. 1793, Series 2020, an Emergency Ordinance Requiring the Wearing of Face Coverings within the City, which ordinance, as amended, expires August 30, 2020; and

**WHEREAS**, on July 16, 2020, Governor Polis issued Executive Order D-2020-138, which orders individuals in Colorado to wear a medical or non-medical face covering due to the presence of COVID-19 in Colorado until August 15, 2020; and

**WHEREAS**, on July 24, 2020, BCPH amended its Public Health Order 2020-05 Requiring Facial Coverings in Public where Social Distancing Cannot be Maintained to incorporate provisions of the Executive Order, to be in effect until further modified or repealed by BCPH; and

**WHEREAS**, on July 30, 2020, CDPHE issued its 9<sup>th</sup> Amended Public Health Order 20-29 Safer at Home and in the Vast, Great Outdoors, which incorporates the provisions of the Governor's Executive Orders requiring the wearing of face coverings, to be in effect until August 20, 2020; and

**WHEREAS**, CDPHE informs in its 9<sup>th</sup> Amended Public Health Order that, as of July 29, 2020, there are 45,796 known cases of COVID-19 in Colorado, 6,398 Coloradans have been hospitalized, and 1,688 Coloradans have died from COVID-19; and

**WHEREAS**, BCPH has informed that as of July 24, 2020, there have been 1,716 confirmed or probable cases in Boulder County resulting in 74 deaths; and

**WHEREAS**, Colorado's 3-day new case average has steadily increased since early June, approaching levels last seen at the height of the Pandemic in April 2020; and

**WHEREAS**, Boulder County's current 5-day average of new cases reflects the state-wide trend of increase; and

**WHEREAS**, forecasts by BCPH of the current estimated trajectory predict that, if the current trend in new cases continues, COVID-19 patients will exceed ICU bed capacity in early September, and if social distancing declines below present values, ICU bed capacity could be exceeded by late August; and

**WHEREAS**, the CDC, CDPHE, and BCPH have all recommended that members of the public, when they need to interact with others outside the home and especially in settings where many people are present, should cover their mouths and noses to prevent inadvertently spreading COVID-19. One key transmission method for the COVID-19 virus is through respiratory droplets that people expel when they breathe, cough, or sneeze. Moreover, people can be infected with the COVID-19 virus and be asymptomatic yet still be contagious. People can also be contagious 48 hours before developing symptoms. Many people with COVID-19 have mild symptoms and do not recognize that they are infected and contagious and that they can unintentionally infect others; and

**WHEREAS**, scientific evidence shows that limiting interactions among people slows

virus transmission and, as social distancing protections are lifted, that the wearing of facial coverings by individuals while in public areas assists in maintaining reduced virus transmission by reducing the spread of respiratory droplets; and

**WHEREAS**, the City Council finds the facial covering requirements set forth herein can work in concert with reduced social distancing protections currently in place pursuant to public health orders to minimize the spread of COVID-19 by reducing the exposure of individuals to the virus necessary to protect vulnerable populations and to prevent the health care system from becoming overwhelmed, and should therefore remain in effect until amended or repealed by future ordinance of the City Council; and

**WHEREAS**, the City Council finds and declares it has the power and authority to adopt this ordinance pursuant to C.R.S. § 31-15-103 (concerning municipal police powers), C.R.S. § 31-15-401 (concerning municipal police powers), C.R.S. § 31-15-501 (concerning municipal authority to regulate businesses), Article XX of the Colorado Constitution (concerning municipal home rule), and the City of Louisville Home Rule Charter; and

**WHEREAS**, the City Council finds that an emergency exists because the preservation of public property, health, safety, and welfare requires the City to take immediate action to ensure the health of all City residents, public and private employees, business patrons, and to ensure recipients of government services are protected to the greatest extent possible from transmission of COVID-19 while engaging in commercial and governmental transactions within the City during the Pandemic.

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

**Section 1.** Definitions. For purposes of this Ordinance, the following words and phrases shall have the following meanings:

A. *Face covering* shall mean a uniform piece of cloth or other similar material that fits snugly but comfortably against the side of the face and covers the nose and mouth and remains affixed in place without the use of one's hands.

B. *Person* shall mean and include a natural person, non-profit corporation, or a business association (however defined by the law).

C. *Place of public accommodation* means a place of business that is open to the public, including an office or other facility where government services may be accessed.

**Section 2.** Face Coverings Required. It shall be unlawful:

A. For any person to enter, move within, or remain within a place of public accommodation without wearing a face covering.

B. For any person who owns, or who is in responsible control of, a place of public accommodation to allow or permit to remain within such place of public accommodation any person who is not wearing a face covering.

C. For any person within Louisville, except as specifically exempted below, not to wear a face covering whenever they are outside their residence and unable to maintain, or when not maintaining, social distance of at least six (6) feet from any non-household members.

**Section 3.** Exceptions. Nothing herein shall require the wearing of face coverings by the following:

A. Children under the age of two (2) years, except in child care environments, where children under the age of three (3) years and children of any age while napping shall not be required to wear face coverings;

B. Any child aged twelve (12) years or younger for whom the only available face covering would pose a possible choking or strangulation hazard; any child aged twelve (12) years or younger that has difficulty breathing with a face covering or is unconscious, incapacitated, or otherwise unable to remove the face covering without assistance; or any child aged twelve (12) years or younger for whom wearing a face covering would increase the risk of getting exposed to the virus because they are touching their face more often;

C. Persons who have trouble breathing; a person who is unconscious, incapacitated, or is otherwise unable to remove the face covering without assistance; or persons for whom a face covering would cause impairment due to an existing health condition;

D. Persons working in a professional office who do not have any face-to-face interactions with the public; provided, however, if such office is located within a building containing one or more other offices or places of public accommodation, face coverings shall be worn when entering and exiting such building and may only be removed once within the professional office where such person works and face coverings must be worn within the office at any time when persons are unable to maintain, or when not maintaining, social distance of at least six (6) feet; and

E. Persons in restaurants that are permitted by state and county regulations to serve food for consumption on the premises, while such person in the act of eating or drinking; provided, however, that face coverings must be worn while entering and exiting the restaurant, while ordering, paying, or otherwise interacting with employees or other customers of the restaurant, and once the food and drink have been consumed.

F. First responders, including police officers, firefighters, and emergency medical technicians, who shall wear face coverings to the extent practicable except when use of a face

covering would interfere with their ability to perform their respective duties or would prevent clear communications regarding enforcement actions or direction and when talking on the radio.

G. Persons who are hearing impaired or otherwise a person with a disability or who are communicating with someone who is hearing impaired or otherwise a person with a disability and where the ability to see the mouth is essential to communication.

H. Persons who enter a place of public accommodation are asked by the manager or manager's designee to temporarily remove face coverings for purposes of identifying those persons.

**Section 4.** Required Signage. All places of public accommodation shall display at each entrance a sign provided by the City advising all persons of the requirements of this Ordinance, and that it is unlawful to enter such place of public accommodation without a required face covering.

**Section 5.** Violations; Penalty. Any person charged with a violation of this Ordinance, upon conviction thereof, shall be subject to the General Penalty in Chapter 1.28 of the Louisville Municipal Code, which provides for incarceration for a period not to exceed three hundred sixty-four (364) days, a fine not to exceed two thousand six hundred and fifty dollars (\$2,650.00), or both such fine and imprisonment. As provided in Section 1.28.010.B, each and every day during any portion of which any violation is committed, continued or permitted shall be a separate violation, and the violator shall be punished accordingly.

**Section 6.** Violations; License Suspension or Revocation. In addition to the penalties provided in Chapter 1.28 of the Louisville Municipal Code, a violation of this Ordinance may be cause for suspension or revocation of any license issued by the City following notice and hearing before the applicable licensing authority or summary, temporary suspension of a license when the noncompliance presents an immediate threat to health, safety, and welfare.

**Section 7.** Effective Date This ordinance shall become effective immediately and continue in effect until amended or repealed by ordinance of the City Council.

**Section 8.** More Restrictive Requirements Control. To the extent any federal, state, or county regulations, orders, or laws are enacted that are more restrictive than the requirements of this Ordinance, the more restrictive shall control.

**Section 9.** Provisions Severable. If any portion of this ordinance is held to be invalid for any reason, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance and each part hereof irrespective of the fact that any one part be declared invalid.

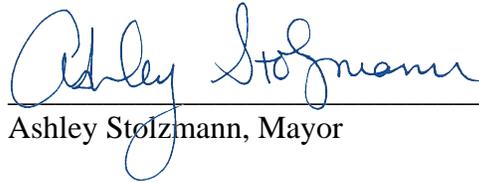
**Section 10.** The repeal or modification of any provision of the Municipal Code of the City of Louisville by this ordinance shall not release, extinguish, alter, modify, or change in

whole or in part any penalty, forfeiture, or liability, either civil or criminal, which shall have been incurred under such provision, and 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 the 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 11.** All other ordinances or portions thereof inconsistent or conflicting with this ordinance or any portion hereof are hereby repealed to the extent of such inconsistency or conflict.

**Section 12.** The City Council herewith finds, determines and declares that this ordinance is genuinely and urgently necessary for the immediate preservation of the public health, safety, and welfare because the COVID-19 Pandemic has presented an urgent need to ensure and provide for the promotion of health and the suppression of disease by preventing the spread of the virus within the City.

**INTRODUCED, READ, PASSED AND ADOPTED AS AN EMERGENCY ORDINANCE BY TWO-THIRDS OF THE ENTIRE CITY COUNCIL, AND ORDERED PUBLISHED** this 18<sup>th</sup> day of August, 2020.

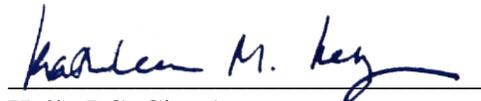
  
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Ashley Stolzmann, Mayor

ATTEST:

  
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Meredyth Muth, City Clerk



APPROVED AS TO FORM:

  
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Kelly PC, City Attorney