

TOWN OF MOUNTAIN VILLAGE
SPECIAL TOWN COUNCIL MEETING
THURSDAY, JUNE 11, 2020, 8.30 AM
TO BE HELD REMOTELY VIA ZOOM WEBINAR

AGENDA
<https://zoom.us/j/95072092148?pwd=TzR4WTFic1F1MXpmak4yaEUvc2NXdz09>
(see login details below)

	Time	Min	Presenter	Type	
1.	8:30				Call to Order
2.	8:30	45	Mahoney	Legal	Executive Session for the Purpose of Receiving Legal Advice Pursuant to C.R.S. 24-6-402(4)(b), and for the Purpose of Negotiations Pursuant to C.R.S. 24-6-402(4)e
3.	9:15	20	Mahoney	Action	Consideration of an Emergency Ordinance Requiring Face Coverings to be Worn Inside all Places of Public Accommodation
4.	9:35	5			Other Business
5.	9:40				Adjourn

Please note that times are approximate and subject to change

To join the Zoom Webinar Meeting from Computer or Mobile Device download the Zoom App in the Appstore or go to the link below.

You are invited to a Zoom webinar.
When: Jun 11, 2020 08:30 AM Mountain Time (US and Canada)
Topic: June 11, 2020 Special Town Council Meeting

Please click the link below to join the webinar:
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SJ
6/08/20

Public Comment Policy:

- The Town Council will take your comments during all virtual Town Council meetings through the zoom conference app for items proper to receive public comment via the written comment feature on zoom.
- Please do not comment until the presiding officer opens the agenda item to public comment. Public comments submitted outside of the proper time may not be considered.
- All those wishing to give public comment must identify their full name and affiliation, if any, to the Town of Mountain Village.
- Please keep your comments as brief and succinct as possible as they will be read aloud at the meeting. Please refrain from repeating what has already been said by others in the interest of time. You may simply state that you agree with a previous speaker's comments.
- Commenters shall refrain from personal attacks and maintain a civil tone while giving public comment.



JAMES MAHONEY, P.C.

James D. Mahoney
jmahoney@telluriderlaw.com

MEMORANDUM

To: Mayor and Town Councilors

Agenda Item 3

From: James Mahoney

Date: June 2, 2020

Re: Emergency Ordinance of the Town of Mountain Village Requiring Face Coverings.

Purpose: As you know on June 4, 2020 the Mayor issued an Order requiring the wearing of face coverings inside businesses open to the public. That order expires at 5:00 p.m. June 11 and asks that the Town Council consider an Emergency Ordinance requiring the wearing of face coverings along the same lines as the Order.

The proposed ordinance is included in your packets and includes some important changes from the issued order. First, the wording has been changed to remove references to places of public accommodation and replaces that with businesses open to the public. Even though the definition of a place of public accommodation is broad to encompass places open to the public for services and does not refer specifically to lodging type environments the use of that term was confusing to some lodging establishments as to whether guest and residents have to wear facemasks while in lodging or HOA common areas, which are private and not open to the public. This change clarifies that the requirement to wear face coverings is only in businesses open to the public and defines open to the public instead.

The proposed ordinance also includes exemptions necessary to narrowly tailor this Ordinance. They are for young children, those with health conditions, while seated and eating in a restaurant and those working in a private office without interaction with the public or other co-workers.

Finally the ordinance gives additional findings for the authority of the Town of Mountain Village to issue such an order which is firmly codified in both state statutes and case law for protecting the health and welfare of the Town of Mountain Village.

I will be available for any questions you may have on the Ordinance.

Motion:

Approval: I move to approve the emergency ordinance requiring face coverings to be worn inside of an indoor place of business that is open to the public and when using any form of public transportation within the town of mountain village.

970-708-5070 – PO Box 1902, Telluride, CO 81435

**EMERGENCY ORDINANCE OF THE TOWN OF MOUNTAIN VILLAGE
REQUIRING FACE COVERINGS TO BE WORN INSIDE OF AN INDOOR PLACE OF
BUSINESS THAT IS OPEN TO THE PUBLIC AND WHEN USING ANY FORM OF
PUBLIC TRANSPORTATION WITHIN THE TOWN OF MOUNTAIN VILLAGE**

ORDINANCE #2020-

RECITALS:

WHEREAS, on March 10, 2020 Jared Polis, the Governor of the State of Colorado, declared a statewide state of emergency in response to COVID-19; and

WHEREAS, the World Health Organization has declared COVID-19 to be a worldwide pandemic; and

WHEREAS, the coronavirus (COVID-19) has been confirmed to exist in the State of Colorado and in San Miguel County; and

WHEREAS, the Mountain Village Town Council through Resolution Number 2020-03-096 has declared a disaster pursuant to C.R.S. 24-33.3-709; and

WHEREAS, The Town Council through Emergency Ordinance Number 2020-06 (the “Town of Mountain Village Coronavirus (COVID-19) Ordinance”), implemented certain emergency powers and enforcement powers to promote the health, safety and welfare of the public and the suppression of disease; and

WHEREAS, the State of Colorado and San Miguel County through public health orders have opened up additional businesses in San Miguel County, including for non-critical retail businesses, restaurants and short term lodging subject to certain limitations, rules and restrictions; and

WHEREAS, a key transmission route for Covid-19 is by droplets from the mouths and noses of people including when speaking, coughing or sneezing and research shows even a non-medical mask can significantly reduce the number of virus particles emitted from our mouths.

WHEREAS, the Center for Disease Control and other public health agencies have recommended wearing face coverings in settings where social distancing is harder to achieve which includes indoor places of business and,

WHEREAS, due to the reopening of businesses and the anticipation of visitors to the Mountain Village, the Town Council has determined that an emergency ordinance requiring all employees, customers and the public to wear non-medical face coverings in all indoor places of business open to the public and when using public transportation is necessary for the protection of life and property pursuant to Section 4(a) of the Town of Mountain Village Coronavirus (COVID-19) Ordinance; and

WHEREAS, the Town Council is adopting this Ordinance pursuant to its Home-Rule authority provided under the Colorado Constitution, Article XX, Section 1-6, the Town of Mountain Village Town Charter, specifically section 5.8, as well as the Town’s police powers pursuant to Colorado Revised Statutes, Section 31-15-401(1)(b) with the explicit authority to “do

all acts and make all regulations which may be necessary or expedient for the promotion of health or the suppression of disease” within the town limits of the Town of Mountain Village.

NOW THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF MOUNTAIN VILLAGE, COLORADO:

Section 1. Findings. The above recitals are hereby incorporated as findings supporting the enactment of an emergency ordinance requiring Face Coverings or Face Masks in all indoor public settings Open to the Public and on all Public Transportation within the Town of Mountain Village. This emergency ordinance is urgent, necessary, proper and will preserve the public health, peace, safety and welfare of the Town of Mountain Village.

Section 2. Face Covering Requirement. It is hereby ordered that a Face Covering or Face Mask shall be required to be worn by employees, customers and the general public when inside any business Open to the Public and on any method of Public Transportation within or operated by the Town of Mountain Village.

Section 3. Definitions.

- a. “Face Masks” or “Face Coverings” means a uniform piece of material, made of cloth, 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 ones hands to hold or secure the material covering both the nose and mouth.
- b. “Open to the Public” means any place of business engaged in any sales to the general public or any place of business that offers services, facilities, privileges or advantages to the general public.
- c. “Public Transportation” any form of transportation operated by a public entity such as the Town of Mountain Village or SMART and includes but is not limited to bus, employee shuttles and gondola service.

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 exceptions:

- a. Persons under the age of two (2) years; or
- b. Persons for whom a Face Covering would cause impairment due to an existing health condition; or
- c. While seated and consuming food and drink in a restaurant; or
- d. Persons working in a professional office (a single room) who do not have any face to face regular interactions with the Public and other co-workers within six feet (6’) of the person.

Section 4. Enforcement. Enforcement of this Ordinance shall be pursuant to the enforcement provisions as set forth in the Town of Mountain Village Coronavirus (COVID-19) Ordinance.

Section 5. Limited Duration of Ordinance. This Ordinance shall be effective at 5:00 p.m. on June 11, 2020 and shall be in effect until the earlier of (i) the Town Council repealing this Ordinance or (ii) the Town Council repealing Resolution Number 2020-03-096 declaring a

disaster pursuant to C.R.S. 24-33.3-709.

Section 6. Conflict With Other Laws: If any provision of this Ordinance conflicts with the Town Charter, the Town Charter shall control. If any provision of this Ordinance conflicts with any provision of the Mountain Village Municipal Code or other Ordinances, this Ordinance shall control.

Section 7. Severability. The provisions of this Ordinance are severable and the invalidity of any section, phrase, clause or portion of this Ordinance as determined by a court of competent jurisdiction shall not affect the validity or effectiveness of the remainder of the Ordinance.

ADOPTED AND APPROVED as an Emergency Ordinance this ____ day of June, 2020.

TOWN OF MOUNTAIN VILLAGE,
TOWN COUNCIL

By: _____
Laila Benitez, Mayor

ATTEST:

Susan Johnston, Town Clerk

APPROVED AS TO FORM:

Jim Mahoney, Assistant Town Attorney