

AGENDA

CITY COUNCIL SPECIAL MEETING

April 27, 2020

4:00 PM, City Council Chambers



I. CALL TO ORDER

II. ROLL CALL

III. DISCUSSION ITEM

Resolution #040, Series of 2020 - Special Meeting of City Council for the purpose of consideration of RESOLUTION NO. 40 (Series of 2020), A Resolution of the City Council of the City of Aspen, Colorado, Adopting a Public Health Order of the City of Aspen, Colorado for the Promotion of Health and Suppression of Disease to Require Face Coverings within the City of Aspen

IV. ADJOURN



MEMORANDUM

To: Mayor and City Council
From: James R. True, City Attorney
Date: April 24, 2020
RE: Resolution #40, Series of 2020

Request of Council: To consider the adoption of Resolution #40, Series of 2020.

Background: A Special Meeting has been set for April 27, 2020 to consider Resolution #40, a resolution that would adopt a public health order requiring the use of face coverings within the City of Aspen. The Resolution is proposed pursuant to the legal authority set forth in C.R.S. Section 31-15-401(b), as well as all other applicable laws, rules, regulations, orders and declarations. Under this authority, the City of Aspen has the police powers "[t]o 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 territorial limits of the City of Aspen. The nearby City of Glenwood Spring recently adopted a similar order.

Discussion: The Resolution outlining the restrictions and the basis for enacting the health order is attached for Council's consideration.

Recommendation: The City Attorney's Office makes no recommendation regarding the adoption of Resolution #40, Series of 2020.

RESOLUTION NO. 40
(Series of 2020)

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ASPEN, COLORADO,
ADOPTING A PUBLIC HEALTH ORDER OF THE CITY OF ASPEN, COLORADO FOR
THE PROMOTION OF HEALTH AND SUPPRESSION OF DISEASE TO REQUIRE FACE
COVERINGS WITHIN THE CITY OF ASPEN

WHEREAS, pursuant to the Colorado Disaster Emergency Act, C.R.S., Section 24-33.5-701, et seq., the City of Aspen (“City”) has identified a local disaster currently present in the City, to wit, the occurrence or imminent threat of widespread or severe damage, injury or loss of life or property resulting from COVID-19 requiring emergency action to avert danger or damage and to protect public health; and

WHEREAS, the Colorado Governor Jared Polis and Colorado Department of Public Health and Environment have indicated the likelihood of community transmission of COVID-19 within the City of Aspen on March 11, 2020; and

WHEREAS, pursuant to C.R.S. Section 24-33.5-709, Aspen Municipal Code Chapter 4.12, and the emergency management and operations plans and resolutions of Aspen, Colorado, on March 12, 2020, at 14:07 Mountain Daylight Time, the City Manager declared a local disaster emergency; and

WHEREAS, the City Council ratified and extended such declaration the 13th day of March 2020, at 3:21 p.m., Mountain Daylight Time; and

WHEREAS, this Public Health Order is being issued to limit the health impacts of COVID-19. This Order sets forth requirements for the public to utilize face coverings inside of public places, to slow the spread of the COVID-19 virus; and

WHEREAS, this Order is adopted pursuant to the legal authority set forth in C.R.S. Section 31-15-401(b), as well as all other applicable laws, rules, regulations, orders and declarations. Under this authority, the City of Aspen has the police powers “[t]o 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 territorial limits of the City of Aspen. Immediate issuance of this Order is deemed reasonable and necessary under the existing circumstances and necessary for the preservation of the public health, safety and welfare; and

WHEREAS, the City’s authority to issue this Order is in addition to those exercised by the Governor of Colorado, State of Colorado Department of Public Health and Environment, and Pitkin County Department of Public Health; and

WHEREAS, the Centers for Disease Control and Prevention recommends wearing face coverings in public settings to prevent the spread of COVID-19.

WHEREAS, the City finds that these actions will limit the cascading impacts on critical services by limiting spread of COVID-19. This Order and actions will help hospitals, first responders, and other healthcare services continue to provide services for those who need them

(along with utilities, human services, and businesses) in the coming weeks and months. Collective action can save lives and is in support of the most vulnerable in our community; and

WHEREAS, the City Council finds that it is appropriate and in the interests of the public health, safety, and welfare and would further protect property and civil order, for the City Council to adopt this Public Health Order.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ASPEN, COLORADO,

That the City Council hereby adopts the following Public Health Order:

Section 1. Definitions.

Face Covering shall mean a uniform piece of material that securely covers a person's nose and mouth and remains affixed in place without the use of one's hands.

Section 2. Face Coverings required.

All persons shall wear Face Coverings:

- a. when entering and while inside of a place of business open to the public, and
- b. in such other public indoor or outdoor places where persons are unable to maintain safe social distancing (six or more feet separation) from others not of their own household,

Section 3. Exceptions.

Nothing herein shall require the wearing of face coverings by the following persons:

- a. Persons under the age of two years; and
- b. Persons for whom a face covering would cause impairment due to an existing health condition.
- c. Persons working in a professional office who do not have any face-to-face interactions with the public.

Section 4. General Information for all Persons.

Pursuant to federal Centers for Disease Control guidance, the public is strongly encouraged to wear cloth Face Coverings that:

- a. fit snugly but comfortably against the side of the face;
- b. are secured with ties or ear loops;
- c. include multiple layers of fabric;
- d. allow for breathing without restriction; and

- e. are able to be laundered and machine dried without damage or change to shape.

Section 5. Effective Date and Time, Limitations and Area.

The Public Health Order will become effective at 6:00 a.m. on April ____, 2020, unless otherwise specifically provided for herein, and will remain in effect until April __, 2020. This Order is effective within the entirety of the territory of the City of Aspen, Colorado.

Section 6. Most Restrictive Standard Controls.

To the extent any State and/or Federal orders or laws are more restrictive than what is set forth herein, such orders control.

Section 7. Penalties.

Failure to comply with this Order is subject to a penalty of \$50 for the first offense, \$250 for the second offense and a mandatory court appearance for any subsequent offense with the penalties contained in Section 1.04.080, of the City of Aspen Municipal Code, including up to a \$2,650 fine and one-year imprisonment or both per day for each violation.

INTRODUCED, AND ADOPTED by the City Council of the City of Aspen on the ____ day of April 2020, at ____ p.m., Mountain Daylight Time.

Torre, Mayor

I, Nicole Henning, duly appointed and acting City Clerk do certify that the foregoing is a true and accurate copy of that resolution adopted by the City Council of the City of Aspen, Colorado, at a meeting held on April ____, 2020.

Nicole Henning, City Clerk

THE PUBLIC IS DISCOURAGED FROM ATTEMPTING TO ACQUIRE HEALTH CARE AND INDUSTRIAL FACE COVERINGS THAT ARE NECESSARY TO PROTECT HEALTH CARE WORKERS DURING THE COVID-19 PANDEMIC.