ORDINANCE NO. 1512
Series of 2020

AN EMERGENCY ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF TELLURIDE, COLORADO ADOPTING A PUBLIC HEALTH ORDER AND EMERGENCY ORDINANCE OF THE TOWN OF TELLURIDE, COLORADO FOR THE PRESERVATION OF HEALTH, PEACE AND SAFETY, THE PROMOTION OF HEALTH AND THE SUPPRESSION OF DISEASE REQUIRING ALL PERSONS TO WEAR FACE COVERINGS UPON ENTERING, AND AT ALL TIMES WHILE REMAINING INSIDE OF, AN INDOOR AND ENCLOSED PLACE OF BUSINESS THAT IS OPEN TO THE PUBLIC, WHEN IN ANY OUTDOOR PLACES WHERE PERSONS ARE UNABLE TO MAINTAIN SAFE SOCIAL DISTANCING AND WHEN USING ANY FORM OF PUBLIC TRANSPORTATION AND IMPOSING SPECIFIC PENALTIES FOR VIOLATIONS OF THIS EMERGENCY ORDINANCE AND DECLARING AN EMERGENCY.

WHEREAS, the Town of Telluride, Colorado (the "Town") is a duly organized and existing home rule municipality of the State of Colorado (the "State"), created and operating pursuant to Article XX of the Constitution of the State and the home rule charter of the Town (the "Telluride Charter"); and,

WHEREAS, Corona Virus Disease 2019 ("COVID-19") is 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, 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 of America 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 stage 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 16, 2020 the Board of County Commissioners of San Miguel County, Colorado declared a Local Disaster Emergency due to COVID-19; and,

WHEREAS, on March 20, 2020 the Telluride Town Manager issued a Declaration of Local Disaster Emergency (the "Declaration"), on file with the Town Clerk and with the County Clerk and Recorder, which Declaration was extended by formal passage of a Resolution by the Telluride Town Council on March 27, 2020; and,

WHEREAS, the Town Council of the Town is using this Public Health Order and Emergency Ordinance to attempt to slow the spread of COVID-19 and to attempt to limit the health impacts of COVID-19 by setting forth requirements for the public to utilize face coverings inside of public places and while utilizing any public transportation; 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 by as much as 99 percent; 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, in a May 4, 2020 press release the San Miguel County, Colorado Department of Public Health and Environment reminded the community of the importance of wearing Face Coverings when leaving a person's domicile citing research that shows that there are asymptomatic COVID-19 positive individuals who can spread COVID-19 and a Face Covering over the mouth and nose helps prevent the spread of droplets that carry COVID-19; 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 exception; and,

WHEREAS, on May 12, 2020 Town Council passed Emergency Ordinance No. 1507 requiring all persons to wear Face Coverings upon entering, and at all times while remaining inside of, an indoor and enclosed place of business that is open to the public and when using any form of public transportation, which Emergency Ordinance was set to expire at midnight on June 2, 2020 and was extended through June 30, 2020 by passage of Ordinance 1509 on June 2, 2020, and extended again through August 25, 2020 by passage of Emergency Ordinance 1511 on June 30, 2020 and,

WHEREAS, on May 26, 2020 the State of Colorado issued the Fourth Amended Public Health Order 20-28 "Safer at Home", which addresses the reopening of restaurants serving a limit of 50% of the indoor posted occupancy code limit per establishment or no more than 50 people total, whichever is less, and which Order requires that food service employees must wear facial coverings at all times along with a request that facial coverings be worn by customers when not seated for dining; and,

WHEREAS, the Town Council is adopting this Ordinance pursuant to its Home Rule Authority provided under the Colorado Constitution, Article XX, Sections 1-6, the Telluride Charter, specifically Section 4.13, as well as the Town's Police Power authority under Colorado Revised Statute Section 31-15-401(1)(b) with the explicit authority to "[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 limits of the Town of Telluride.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF TELLURIDE, COLORADO as follows:

Section 1. Findings and Declaration of Emergency Ordinance.

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 Town Council finds and determines that an emergency ordinance requiring Face Coverings in all indoor public settings, when in any outdoor places where persons are unable to maintain safe social distancing (six feet or more separation) from others not of their own household and on public transportation in the Town of Telluride is urgent, necessary, proper and is consistent with and will advance and preserve the public health, peace, safety and welfare of the Town.

It is therefore hereby declared that an emergency exists, and this Ordinance is necessary for the urgent preservation of public health, peace, safety and welfare of the Town. This Ordinance is hereby declared exempt from all reserved powers of referendum.

Section 2. 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 to hold or secure the material covering both the nose and mouth.

"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.

Section 3. Requirement for Face Coverings.

All persons shall wear a Face Covering upon entering, and at all times while remaining inside of, an indoor and enclosed place of business that is Open to the Public.

All persons shall wear a Face Covering when using any form of public transportation within the Town of Telluride.

All persons shall wear a Face Covering in any outdoor places where persons are unable to maintain safe social distancing (six feet or more separation) from others not of their own household for more than five minutes.

Section 4. 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 two (2) years; or
2) Persons for whom a Face Covering would cause impairment due to an existing health condition; or
3) Persons working in a personal or professional office (a single room) who do not have any face-to-face regular interactions with the public, but not exempting the following situations:
    a. if coworkers are working or visiting in that office within six feet (6') of the person; and
    b. if a client/customer enters the office within six feet (6') of the person.
4) Customers of restaurants reopened for public service pursuant to and in compliance with both State of Colorado and San Miguel County Public Health Orders are not required to wear Face Coverings while seated at their dining tables, but are required to wear Face Coverings anytime they leave the dining table including at all times while entering or exiting the interior of the restaurant.
5) Customers of bars reopened for public service pursuant to and in compliance with both State of Colorado and San Miguel County Public Health Orders are not required to wear Face Coverings while they are consuming food or beverages.

Section 5. Limited Duration and Automatic Repeal.

On or before August 25, 2020 the Town Council shall consider in a Town Council meeting the effectiveness of this ordinance and may elect to continue the provisions of the same by similar action by emergency ordinance or this emergency ordinance shall automatically be repealed at midnight on August 25, 2020 if no Town Council action is taken on or before midnight August 25, 2020.

In addition, the provisions of this Emergency Ordinance shall be automatically repealed when both the State of Colorado and the local San Miguel County Public Health Orders have been lifted or expire by operation of law with respect to limitations imposed to prevent the spread of COVID-19.

Section 6. Imposition of Specific Penalties for Violations of this Emergency Ordinance.

Violations of this Emergency Ordinance are subject to the non-criminal penalty provisions found in the Telluride Municipal Code ("TMC") Section 1-4-10(a)(2), which includes punishment by a fine of not more than one thousand dollars ($1,000.00), and including the provisions of TMC Section 1-4-10(b) for separate violations for repeated offenses.

Section 7. Effect on Litigation.

This Ordinance shall not have any effect on existing litigation and shall not operate as an abatement of any action or proceeding now pending under or by virtue of the ordinances repealed or amended as herein provided and the same shall be construed and concluded under such prior ordinances.

Section 8. Severability.

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

Section 9. Effective Date.

This Ordinance shall take effect immediately upon final passage and shall be published as soon thereafter as possible, and no later than ten (10) days after passage.

INTRODUCED, PASSED AND ADOPTED AS AN EMERGENCY ORDINANCE BY AN EXTRAORINARY MAJORITY OF THE TOWN COUNCIL OF TELLURIDE , COLORADO on the 21st day of July, 2020.

TOWN OF TELLURIDE

By: DeLanie Young

DeLanie Young, Mayor

ATTEST

Tiffany Kavanaugh

Tiffany Kavanaugh, Town Clerk

THIS ORDINANCE IS ON FILE IN THE TOWN CLERK'S OFFICE FOR PUBLIC INSPECTION.

APPROVED AS TO FORM:

Kevin J. Geiger
Town Attorney

STATE OF COLORADO)

)

COUNTY OF SAN MIGUEL) SS.

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TOWN OF TELLURIDE)

I, Tiffany Kavanaugh, the duly qualified and acting Town Clerk of the Town of Telluride, Colorado (the "Town") do hereby certify that:

1. The foregoing pages are a true, correct, and complete copy of an ordinance (the "Ordinance") passed and adopted by the Town Council (the "Town Council") of the Town at a Regular Meeting of the Town Council held at Rebekah Hall, 113 West Columbia, Telluride, Colorado, on July 21, 2020.

2. The passage of the Ordinance as an emergency ordinance was duly moved and seconded and the Ordinance was approved by the affirmative vote of at least five (5) Councilpersons (an extraordinary majority) as follows:

Name	"Yes"	"No"	Absent	Abstain
DeLanie Young, Mayor	✓			
Todd Brown, Mayor Pro-Tem	✓			
Adrienne Christy	✓			
Tom Watkinson	✓			
Geneva Shaunette	✓			
Lars Carlson	✓			
Jessie Rae Arguelles	✓			

3. The members of the Town Council were present at such meeting and voted on the approval of the Ordinance as set forth above.

4. The Ordinance has been signed by the Mayor, sealed with the Town seal, attested by me as Town Clerk, and duly numbered and recorded in the official records of the Town.

5. The Ordinance was published in full after final passage in the Telluride Daily Planet, a newspaper of general circulation within the Town on July 24, 2020. The affidavit of publication is attached hereto as Exhibit A.

6. Public notice of the proposed consideration of the Ordinance was published in the Telluride Daily Planet in its issue of July 19, 2020, as evidenced by the affidavit of publication attached hereto as Exhibit B.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the Town this 21 day of July, 2020.

Town Clerk