

ORDER  
Of the City Manager  
Morgantown, West Virginia

July 28, 2020

Pursuant to the authority delegated by the City Council in its Emergency Ordinance No. 2020-4, the following public health measures are adopted to address the COVID-19 Pandemic:

Article I. Required Face Coverings

SECTION 1.           ADEQUATE FACE COVERING REQUIRED.

- a.       All individuals age 9 and over within the City of Morgantown shall wear an adequate face covering when in confined, indoor spaces, except as follows:
- i.       when in one's residence; or
  - ii.      when actively engaged in the consumption of food and/or beverage; or
  - iii.     when at one's own place of work and occupying a separate space such as an office as the only occupant.

The requirement of this Section 1 shall be construed in a manner consistent with the requirements of Executive Order 50-20 issued by the Governor of the State of West Virginia on July 6, 2020, except as otherwise expressly provided herein. The portion of Executive Order 50-20 applying the requirement to wear a face covering only "when not able to adequately social distance from other individuals who do not reside in the same household" is intentionally omitted and replaced with the provisions of Paragraph (a)(iii) above. This Article I supersedes and replaces the provisions of Article I of the Order of the City Manager dated July 14, 2020, adopted pursuant to Emergency Ordinance 2020-3.

- b.       The following individuals are exempt from the requirement to wear adequate face coverings:
- i.       Persons younger than nine years old. Very young children under age two must not wear a face covering because of the risk of suffocation.
  - ii.      Persons with a medical condition, mental health condition, or disability that prevents wearing a face covering. This includes persons with a medical condition for whom wearing a face covering could obstruct breathing or who are unconscious, incapacitated, or otherwise unable to remove a face covering without assistance.
  - iii.     Persons who are hearing impaired, or communicating with a person who is hearing impaired, where the ability to see the mouth is essential for communication.
  - iv.      Persons for whom wearing a face covering would create a risk to the person related to their work, as determined by local, state, or federal regulators or workplace safety guidelines.
  - v.       Persons who are obtaining a service involving the nose or face for which temporary removal of the face covering is necessary to perform the service.
  - vi.      Persons who are seated at a restaurant or other establishment that offers food or beverage service, while they are eating or drinking, provided that they are able to maintain

a distance of at least six feet away from persons who are not members of the same household or residence.

## SECTION 2. DEFINITIONS.

The following terms shall have the meanings given for purposes of this Article entitled “Required face coverings”:

*Face covering* means any material or device worn so that it fully covers the nose and mouth including cloth masks, bandanas or handkerchiefs, face shields, and dust mask.

*Adequately social distance* or *adequate social distance* means maintaining physical separation of at least six feet between oneself and any other person.

## SECTION 3. PENALTY.

Any violation of this Article shall be deemed a public nuisance subject to summary abatement by the Chief of Police or other law enforcement officer. In addition, any violation shall be a misdemeanor punishable by a fine of no less than \$25.00 and no more than \$500.00. Each day a violation continues shall constitute a separate violation.

### Article II. Limitation of Community Gatherings

## SECTION 1. RESTRICTIONS ON GATHERINGS.

a. Community Gatherings, as defined by Section 2 of this Article, are limited to 25 people, effective August 3, 2020.

i. After consultation with the Monongalia County Health Department and review of the Executive Orders of the Governor of the State of West Virginia, the City Manager has determined that limiting gatherings to 25 or fewer people will most effectively promote the public health by limiting events likely to contribute to the spread of COVID-19 while recognizing the need for people to gather. The 25-person gathering limit is consistent with the number to which certain gatherings are limited by Executive Order 51-20, issued by the Governor of the State of West Virginia on July 14, 2020. This gathering limit is supported by general guidance from national public health organizations and statistical data from academic institutions. The current guidance from the Centers for Disease Control and Prevention recognizes that gatherings with more people interacting for a longer amount of time increase the risk of transmission of COVID-19.<sup>1</sup> The Georgia Institute of Technology has published a COVID-19 Risk Assessment Tool evaluating the risk of encountering a person infected with COVID-19 based on group size in each County of the United States. As of the date of this Order, a 25-person gathering in Monongalia County has a risk level of 67%.<sup>2</sup> A 50-person gathering would raise the risk level to 89%.

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<sup>1</sup> <https://www.cdc.gov/coronavirus/2019-ncov/community/large-events/considerations-for-events-gatherings.html> (accessed July 26, 2020).

<sup>2</sup> <https://covid19risk.biosci.gatech.edu/> (accessed July 26, 2020). Risk level is the estimated chance that at least one individual present will be infected with COVID-19.

ii. The restriction on Community Gatherings is designed to apply to those group events most likely to contribute to the spread of COVID-19, which public health guidance concludes are events where multiple individuals are in close proximity – usually less than six feet apart – for extended periods – usually fifteen or more minutes. Public health guidance indicates that those events involving high quantities of speaking, and especially singing or other raised voices, may create additional risk.<sup>3</sup> Community Gatherings covered by this Order are classified based on these public health risks and are not classified based on the groups promoting the event or the purpose of the event.

iii. Activities exempt from Community Gatherings regulated by this Order are identified either by a type of activity that public health guidance indicates creates a lower risk of spread of COVID-19 or based on jurisdictional issues. Exceptions for transit and grocery or supply stores are made based upon guidance that use patterns in these establishments do not create group gatherings for extended periods of time, and are thus less likely to lead to the spread of COVID-19 infections. Exceptions for offices and workplaces not open to the public reflect the ability of individuals in such spaces to effectively isolate from others and avoid the type of extended exposure to others in confined spaces that is likely to lead to the spread of COVID-19 infections, particularly when employers follow the guidance at Paragraph (b) of this Section to participate in remote work whenever possible and especially upon employees' request. Exceptions for medical facilities and social service agencies providing care reflect the unique position of such entities in responding to the COVID-19 pandemic, and the way in which these entities advance treatment and public health initiatives that contribute to limiting the spread and the worst effects of COVID-19, even if group gatherings may be necessary to facilitate these services at times. Exceptions for buildings or spaces operated by government agencies reflects the role of other government agencies in establishing public health regulations and the legal relationship between the City and other government agencies, as well as the likelihood that other government agencies are imposing similar limitations to follow public health guidance.

b. Whenever possible, and particularly where employees have requested accommodations, workplace gatherings should be minimized through the use of electronic meetings and remote work arrangements.

## SECTION 2. DEFINITIONS.

a. For purposes of these regulations, a “Community Gathering” is any indoor or outdoor event or convening, subject to the exceptions and clarifications below, that brings together or is likely to bring together a number of persons determined by public health officials to constitute a group size hazardous to public health at the same time in a single room or other single confined or enclosed space, such as an auditorium, theatre, stadium (indoor or outdoor), arena or event center, meeting hall, conference center, large cafeteria, or any other confined indoor or confined outdoor space.

i. For purposes of this Article, each separate structure shall constitute a single confined space, unless the operator of the building or a part thereof has obtained a determination from the City Manager and Fire Marshal, consistent with rules adopted in

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<sup>3</sup> <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7330568/> (accessed July 26, 2020).

this Order, that a separate area or areas within the structure constitutes a separate confined indoor space.

ii. Any owner or operator of a structure or space within a structure may apply to the City Manager to designate a portion of such structure as a separate confined space capable of hosting a Community Gathering by submitting a written request to [callen@morgantownwv.gov](mailto:callen@morgantownwv.gov) or by mail to City Manager, 389 Spruce Street, Morgantown, WV 26505 stating the person's name and ownership or operating interest, a contact phone number and email, identifying the structure by address and describing the area proposed as a separate confined space (including dimensions of the space and all access points), and stating the reasons why convening a Community Gathering in the space will not create additional risk of the transmission of COVID-19. The request should include a dimensioned floor plan if possible. The City Manager, the Fire Marshal, and any other official designated by the City Manager will review each request to determine whether authorizing the separate confined space will not cause additional harm to the public health, and they, or any of them, may inspect the space in order to make the determination. To the extent possible, any determination on a request to establish a separate confined space shall be made consistent with all state and county public health orders and with the input of the Monongalia County Health Department as it may be available.

iii. The City Manager will respond to each request by email to the contact email address provided as promptly as reasonably possible, stating whether the request is granted (including any conditions to the authorization which the City Manager may establish in her reasonable discretion), whether the request is denied, or whether additional information is needed to make a determination. To the extent reasonably possible, the response will identify the public health reasons supporting the grant or denial of the request.

b. An outdoor "Community Gathering" under these regulations is limited to events in outdoor spaces where people are present in a group exceeding the size permitted by this Order and they are within six feet of one another for extended periods.

c. These regulations also do not prohibit gatherings of people in multiple, separate enclosed spaces in a single building such as a school or office tower, so long as a prohibited group size is not present in any single space at the same time. These regulations also do not prohibit the use of enclosed spaces where a number of people exceeding a prohibited group size may be present at different times during the day, so long as a number of people exceeding a prohibited group size is not present in the space at the same time.

d. For purposes of clarity, a "Community Gathering" does not include the following so long as individuals are generally not within arm's length of one another for extended periods:

(i) spaces where more than the maximum number of persons specified by a city manager's order may be in transit or waiting for transit such as airports, bus stations, or terminals;

(ii) office spaces and other work spaces not open to the public for gatherings;

(iii) Residences and dwellings, except when used for commercial purposes or for gatherings other than those limited to small groups of family and friends;

- (iv) grocery stores or other retail establishments where large numbers of people are present, but it is unusual for them to be within arm's length of one another for extended periods;
- (v) hospitals and medical facilities;
- (vi) social service agencies providing housing, clothing, food, or medical care, and similar essential services; or
- (vii) buildings or spaces operated by government agencies.


SECTION 3. PENALTY.

Any violation of this Article shall be deemed a public nuisance subject to summary abatement by the Chief of Police or other law enforcement officer. In addition, any violation shall be a misdemeanor punishable by a fine of up to five hundred (500) dollars. Each day a violation continues shall constitute a separate violation.

Effective Date

This Order is effective beginning at 12:00 a.m. on July 29, 2020, and shall continue in effect until repealed or modified by order of the City Manager, or until it expires by operation of law.

Adopted this 28<sup>th</sup> day of July, 2020:



Emily Muzzarelli, P.E.  
City Manager