

**RECOMMENDED BY:** **RANDALL L. WOODFIN, MAYOR**  
**SUBMITTED BY:** **RANDALL L. WOODFIN, MAYOR**

**ORDINANCE NO.** \_\_\_\_\_

**AN ORDINANCE TO REQUIRE WEARING MASKS IN PUBLIC IN THE CITY OF BIRMINGHAM DURING THE COVID-19 PUBLIC HEALTH EMERGENCY AND RECOVERY**

**WHEREAS**, the Council of the City of Birmingham recognizes the emergency declarations of the President of the United States, the Governor of the State of Alabama, and the Mayor of the City of Birmingham related to the spread of COVID-19 disease in our community; and,

**WHEREAS**, the Chief Health Officer of Jefferson County and the State Health Officer have issued orders for the closing of certain businesses and the limitations on the operation of essential businesses within their respective jurisdictions; and,

**WHEREAS**, the Council has authority under Ala. Code, Sec. 11-47-131, by ordinance, to prevent the introduction of contagious, infectious, or pestilential diseases into the City and to establish and regulate a sufficient quarantine, not inconsistent with laws of the state, in the City and to punish any breach of quarantine law; and,

**WHEREAS**, the Council finds that an emergency of unprecedented size resulting from the natural cause of community spread of a novel human coronavirus disease, COVID-19, has occurred in the City of Birmingham; and,

**WHEREAS**, COVID-19 is a disease caused by a novel coronavirus, previously unknown in humans, and causes upper-respiratory tract illnesses that can range from mild to severe, spread quickly, and may cause death, particularly in older adults and persons with certain chronic medical conditions; and,

**WHEREAS**, the World Health Organization declared COVID-19 to be a global pandemic as of March 15, 2020; and,

**WHEREAS**, the spread and effect of COVID-19 has created a humanitarian crisis of unanticipated proportions; and,

**WHEREAS**, on March 13, 2020, President Donald Trump declared a national emergency related to the COVID-19 pandemic, restricting international travel to prevent spread of the disease; and,

**WHEREAS**, Governor Kay Ivey declared a state of emergency for the State of Alabama on March 13, 2020; and,

**WHEREAS**, Mayor Randall L. Woodfin declared a state of emergency in the City of Birmingham on March 16, 2020; and,

**WHEREAS**, the City of Birmingham is threatened by COVID-19 because of the extraordinary ability of the virus to spread rapidly among humans, and COVID-19 thereby constitutes a clear and present threat to the health, safety, and welfare of the citizens and visitors of the City; and

**WHEREAS**, although under investigation and development, no vaccine or drug is currently available to cure or combat COVID-19; and

**WHEREAS**, as of April 27, 2020, Alabama has had 6,429 identified cases of coronavirus, including 839 in Jefferson County, where the City of Birmingham is primarily located; and,

**WHEREAS**, Alabama has recorded 219 deaths attributed to COVID-19, with 33 of those deaths occurring in Jefferson County; and,

**WHEREAS**, current discussions about COVID-19 include plans to safely return the public to jobs and regular activities; and,

**WHEREAS**, the Centers for Disease Control (“CDC”) continues to study the spread and effects of COVID-19 and has found that a significant portion of individuals with the novel coronavirus lack symptoms and those that eventually develop symptoms can transmit the virus to others before those symptoms appear, meaning that the virus can be spread between people interacting in close proximity to each other by actions such as speaking, coughing, or sneezing, even without exhibiting symptoms; and,

**WHEREAS**, in light of this new evidence, CDC recommends wearing cloth face coverings in public settings where other social distancing measures are difficult to maintain, for example, grocery stores, pharmacies and other businesses people must visit to acquire goods and services necessary to maintain their comfort and well-being; and,

**WHEREAS**, the City Council recognizes that it is critical to continue ~~to maintain~~ maintaining 6-foot social distancing to slow the spread of ~~the virus~~ COVID-19, but that the additional use of simple cloth face coverings, as recommended by CDC, can further ~~help aid~~ in slowing the spread of the virus by ~~helping reduce the chances of asymptomatic people who may have the virus and do not know it from transmitting the virus~~ to others ; and,

**WHEREAS**, ~~the use of masks or face coverings will be beneficial in returning the City of Birmingham to a more normal level of business activity in attempting to reopen certain businesses and other activities in the City of Birmingham, it is in the best interest of public health for~~

individuals to continue to use social distancing and the additional precaution of face coverings or masks while in public contact with other persons; and,

WHEREAS, it continues to be extremely important to protect vulnerable individuals from contracting the virus and such persons should continue to maintain strict social distancing, including sheltering at home, during early phases of reopening; and,

WHEREAS, members of households with vulnerable individuals need to use all reasonable precautions to avoid potential exposure to the virus; and,

WHEREAS, the Council finds that it is in the best interest of the public peace, health, welfare, and safety, and to preserve the lives of citizens of the City of Birmingham, to require that masks, consisting of at least simple cloth face coverings, be worn by persons when interacting in public spaces in the City of Birmingham.

## SECTION 1.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Birmingham that facial coverings or “masks” shall be required in public places within the City to slow the spread of the novel coronavirus disease, known as COVID-19, as follows:

(a) DEFINITIONS:

*Face covering or mask:* A device to cover the nose and mouth of a person to impede the spread of saliva or other fluids during speaking, coughing, sneezing or other intentional or involuntary action. Medical grade masks are not required; coverings may be fashioned from scarves, bandanas or other suitable fabrics. The mask must cover the mouth and nose of the wearer.

*Public place:* Any place other than an individual’s home or personal vehicle; provided, however, that face coverings or masks should be worn when interacting with someone other than a member of the household at home or when traveling with someone who is not a member of the household.

*Vulnerable individuals:* Elderly individuals or individuals with serious underlying health conditions, including high blood pressure, chronic lung disease, diabetes, obesity, asthma, and those whose immune system is compromised such as by chemotherapy for cancer and other conditions requiring such therapy.

(b) Face coverings or masks shall be worn at all times by persons over the age of two (2) years and who can medically tolerate doing so when in public places within the City of Birmingham.

(c) The requirement to wear face coverings or masks shall apply to all persons, whether employees or customers or clients of businesses within the City.

(d) Exceptions:

(1) Face coverings or masks are not required to be worn over the face during individual outdoor exercise, for example, walking or jogging, but must be worn when encountering and interacting with groups of other people in a park or other public place.

(2) Children ~~less than five (5)~~ two (2) years of age and under, as face coverings or masks may pose a risk of choking, strangulation or suffocation to infants and young toddlers. Carriers and strollers with coverings that allow the child to breathe comfortably are alternatives for infants and young toddlers. ~~are not required to wear face coverings or masks in public, unless exhibiting symptoms. Parents shall judgment in routinely using face coverings or masks with children under the age of five. Parents and guardians shall be responsible for ensuring proper masking of children over the age of two (2) years when in public but must ensure that the face covering or mask does not pose a choking hazard for children older than two (2) and can be safely worn without obstructing a child's ability to breathe. Parents and guardians shall also exercise judgment in and avoid bringing children not wearing masks into public places, especially where contact with persons with vulnerable conditions (age, certain chronic medical conditions) individuals is expected.~~

(3) Patients in examination rooms of medical or dental offices or clinics or hospitals where there is a necessity to examine or treat the mouth or nasal area, subject to the direction of the medical or dental professionals in charge of the office, clinic or hospital.

(4) When wearing a face covering or make poses a greater mental or physical health, safety or security risk such as anyone who has trouble breathing, or is unconscious, incapacitated or otherwise unable to remove the cover without assistance.

(e) Business owners, managers and supervisors shall ensure that employees, customers, clients and/or visitors observe the requirement for face coverings or masks while at the place of business. This shall not be interpreted as requiring businesses to provide face coverings or masks to employees.

(f) Reusable face coverings or masks must be kept clean and sanitary, including regular washing at least daily.

(e) (g) This ordinance shall remain in effect, subject to modification for evolving information on preventing the spread of COVID-19 or other direction from federal, state or local officials.

**SECTION 2.** To the extent that this ordinance is in conflict with other ordinances of the City, this ordinance shall supersede the others until this ordinance is amended or repealed.

**SECTION 3.** Failure to comply with this ordinance is punishable by a fine of up to \$500.00 and/or up to thirty (30) days in the municipal jail.

**SECTION 4.** If any subsection, sentence, clause, phrase, or word of this ordinance or any application of it to any person, structure, or circumstance is held to be invalid or unconstitutional by a decision of a court of competent jurisdiction, then such decision shall not affect the validity of the remaining portions or applications of this ordinance.

**SECTION 5.** This Ordinance shall become effective on May 1, 2020 and upon passage, approval and publication or as otherwise provided by law.