



COUNCIL MEETING AGENDA

June 19, 2020

Members may attend ~~in-person~~ **online** or by telephone.

Jenn Daniels, *Mayor* • Scott Anderson, *Vice Mayor*
Yung Koprowski • Scott September • Bill Spence • Jared Taylor • Aimee Yentes

Special Meeting
6/19/2020 8:00:00 AM

Virtual Meeting
Gilbert, Arizona

AGENDA ITEMS MAY BE DISCUSSED IN A DIFFERENT SEQUENCE.
ITEMS WILL NOT BE DISCUSSED PRIOR TO POSTED MEETING TIME.

MEETING ACCESS

Email

Members of the public who wish to address the [Town Council](#) via email will need to send their comments to councilmeeting@gilbertaz.gov **no later than 5 p.m. the day before the Town Council meeting.** All emails received by this deadline will be distributed to members of the public body for their review and consideration, (and not read aloud at the meeting). Emails sent after this 5 p.m. deadline will not be distributed to members of the public body or read aloud at the meeting. In the email, please identify your name, city/town of residence, and either state that your comment pertains to the Communications from Citizens section of the public meeting or identify the particular Public Hearing item that your comments concern.

Online Comment Card

At least one hour before the [Town Council meeting](#), submit an online [public comment card](#) and indicate whether you are for or against the public hearing item. Online comment cards

not submitted by the deadline will not be read at the meeting.

Listening Via Conference Line Telephonically

A conference line will be available in order to listen to the [Town Council](#) meeting. The conference line number and access code for this meeting are:

+1-415-655-0001

Access code: 133 602 8172

WebEx Online Meeting Platform

Members of the public and Town staff will also have the availability to participate in [Town Council](#) meetings via WebEx.

The WebEx registration link is:

<https://gilbertaz.webex.com/gilbertaz/onstage/g.php?MTID=efd56f6e8216f398cc79ed12eb2353702>

Pre-registration is encouraged. If you are not able to pre-register on WebEx, you may still have the opportunity to view the meeting via WebEx.

If you have any issues accessing the WebEx platform, the link to WebEx technical support is below.

- [WebEx Technical Support](#) (1-866-229-3239)

PLEASE NOTE:

The following meeting platform below will only be utilized if the above-mentioned WebEx link and toll-free number become unavailable or if issues occur with the WebEx platform. This link will be operational within 15 minutes of WebEx becoming unavailable.

Microsoft Teams Online Meeting Platform

The Microsoft Teams link is below. Please sign into the meeting as a “Guest” when prompted to do so. No pre-registration is required for the Microsoft Teams platform.

The Microsoft Teams link is:

[JOIN MICROSOFT TEAMS MEETING \(Backup only\)](#)

If you have any issues joining the Microsoft Teams platform, the link to Microsoft technical support is below.

- [Joining Microsoft Teams](#)

AGENDA ITEM

CALL TO ORDER

PUBLIC HEARING

Items will be heard at one Public Hearing; at which time anyone wishing to comment on a Public Hearing Item may do so. Comments will be heard from those in support of or in opposition to an item. Hearings are noticed for 8:00 a.m.

In order to comment on a Public Hearing Item, you must fill out a public comment form, indicating the Item Number on which you wish to be heard. Once the hearing is closed, there will be no further public comment unless requested by a member of the Council. After the Public Hearing, the Council may act on all items not requiring additional staff, public, or Councilmember comment with a single vote.

- 1 EMERGENCY ORDER - consider adoption of an Emergency Order requiring the wearing of face coverings in public.

ADJOURN



Council Communication

TO: Honorable Mayor and Councilmembers

FROM: Christopher W. Payne, Town Attorney, 480-503-6168

MEETING DATE: June 19, 2020

SUBJECT: Emergency Order – Face Coverings

STRATEGIC INITIATIVE: N/A

MOTION FOR COUNCIL CONSIDERATION

A motion to adopt the emergency order requiring the wearing of face coverings in public.

BACKGROUND/DISCUSSION

On March 11, 2020, the Governor of the State of Arizona declared a state of emergency due to the spread of COVID-19. Similarly, on March 13, 2020, the President of the United States of America declared a national emergency due to the spread of COVID-19. In addition, on March 16, 2020, Mayor Daniels declared a State of Emergency to protect the health, safety, and welfare of the Town and its residents, which declaration was amended on May 20, 2020 and remains in effect.

On June 17, 2020, the Governor issued Executive Order 2020-40 entitled “Containing the Spread of COVID-19” that, among other things, authorized the Town to require the wearing of face coverings in public in order to limit the spread of COVID-19. The Centers for Disease Control and Prevention, the Arizona Department of Health Services, and the Maricopa County Disease Control Division all currently recommend the use of face coverings in public settings to slow the spread of COVID-19. Pursuant to A.R.S. § 26-307, Town Code Section 1-37, and Executive Order 2020-40, the Town Council has the authority to issue an Emergency Order to require the wearing of face coverings in public.

The Emergency Order was reviewed for form by Christopher W. Payne.

Respectfully submitted,

**Christopher W. Payne
Town Attorney**

Attachments: Proposed Emergency Order and Executive Order 2020-40.

Approved By

Chris Payne
Chris Payne
Laura Lorenzen

Approval

6/18/2020 7:08:37 AM
6/18/2020 7:08:51 AM
6/18/2020 7:31:06 AM

ORDER NO. _____

**AN EMERGENCY ORDER OF THE COMMON COUNCIL
OF THE TOWN OF GILBERT, ARIZONA REQUIRING
THE WEARING OF FACE COVERINGS IN PUBLIC**

WHEREAS, the Town of Gilbert (the “Town”) is continuing to respond to the spread of the coronavirus disease 2019 (“COVID-19”) in order to preserve the public health, safety, and welfare of the Town, its residents, businesses, visitors, and employees; and

WHEREAS, this Emergency Order is intended to provide additional assistance in these efforts; and

WHEREAS, on March 11, 2020, the Governor of the State of Arizona declared a state of emergency due to the spread of COVID-19; and

WHEREAS, on March 13, 2020, the President of the United States of America declared a national emergency due to the spread of COVID-19; and

WHEREAS, on March 16, 2020, Mayor Jenn Daniels declared a State of Emergency to protect the health, safety, and welfare of the Town and its residents, which declaration was amended on May 20, 2020 and remains in effect; and

WHEREAS, on June 17, 2020, the Governor issued Executive Order 2020-40 entitled “Containing the Spread of COVID-19” (“Executive Order 2020-40”) that, among other things, authorized the Town to require the wearing of face coverings in public in order to limit the spread of COVID-19; and

WHEREAS, the Centers for Disease Control and Prevention, the Arizona Department of Health Services, and the Maricopa County Disease Control Division all recommend the use of face coverings in public settings to slow the spread of COVID-19; and

WHEREAS, the Town will make a good faith effort to educate its citizens on the benefits of wearing face coverings in public; and

WHEREAS, the Town Council finds that it is appropriate and in the best interests of the public health, safety, and welfare for the Town Council to adopt this Emergency Order; and

WHEREAS, pursuant to A.R.S. § 26-307, Town Code Section 1-37, and Executive Order 2020-40, the Gilbert Town Council has the authority to issue this Emergency Order with the force of law.

NOW, THEREFORE, BE IT RESOLVED, that the Gilbert Town Council hereby issues the following Emergency Order:

#PORENFZJ0D0YEDv1

Section 1. Definitions.

“Face Covering” shall mean a piece of cloth, fabric, or other material without holes that fully and securely covers a person’s nose and mouth and remains affixed in place without the use of one’s hands. A Face Covering may be factory-made or may be handmade and improvised from household materials.

Section 2. Face Coverings required.

All persons shall wear Face Coverings:

- a. when entering and while inside Town-owned buildings and facilities; and
- b. when entering and while inside of a place of business or mode of transportation open to the public, and
- c. in such other 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 or in the following circumstances:

- a. Those who cannot wear a face covering due to a medical or behavioral condition.
- b. Children under 2 years of age.
- c. Restaurant patrons while they are dining.
- d. When complying with directions of law enforcement officers.
- e. In settings where it is not practical or feasible to wear a face covering, including when obtaining or rendering goods or services, such as the receipt of dental services or while swimming.
- f. Anyone who has trouble breathing, is unconscious, incapacitated, or otherwise unable to remove the mask without assistance.

This Emergency Order shall not strictly apply to the extent that it frustrates the primary purpose of a business.

Section 4. Effective Date, Limitations, and Area.

This Emergency Order shall become effective on June 22, 2020, and will remain in effect until modified or rescinded or until the Governor declares an end to the COVID-19 State of Emergency in Arizona, whichever occurs first. This Emergency Order is effective within the entirety of the territory of the Town of Gilbert.

Section 5. Posting of Emergency Order.

Each business in the Town that is open to the public shall post signage at its entrances and at other appropriate locations stating that customers (or visitors) are required to wear face coverings by order of the Gilbert Town Council. Other appropriate locations shall include alternative entrances (back doors, etc.) and transaction locations such as registers. Signage requirements will have an effective date of Monday, June 22, 2020.

Section 6. Implementation.

The intent of this Emergency Order is to encourage voluntary compliance by businesses and persons within the Town of Gilbert. Law enforcement and other Town personnel shall first educate and encourage voluntary compliance with this Emergency Order and give an opportunity to comply prior to any enforcement action being taken.

Section 7. Penalties.

Violations of this Emergency Order shall be subject to the provisions of A.R.S. §§ 13-707 and 26-317.

Section 8. Distribution.

This Emergency Order shall be (i) distributed to the news media and other organizations calculated to bring its contents to the attention of the general public and businesses; (ii) be filed with Town Clerk; and (iii) be distributed to others as necessary to ensure proper implementation of this Emergency Order.

Section 9. Conflicting laws.

All existing laws, ordinances, orders, rules, and regulations in conflict with this Emergency Order are suspended to the extent that they conflict with this Emergency Order.

PASSED AND ADOPTED BY THE COMMON COUNCIL OF THE TOWN OF GILBERT, ARIZONA THIS 19th DAY OF JUNE, 2020.

Jenn Daniels, Mayor

ATTEST:

Lisa Maxwell, Town Clerk

APPROVED AS TO FORM:

Christopher W. Payne, Town Attorney

I hereby certify that the above foregoing Order No. ____ was duly passed by the Common Council of the Town of Gilbert, Arizona at a regular meeting held on June 19, 2020, and that a quorum was present thereat and that the vote thereon was ___ ayes and ___ naves and ___ abstentions. ____ Councilmembers were absent or excused.

Lisa Maxwell, Town Clerk

STATE OF ARIZONA
★
EXECUTIVE ORDER

Executive Order 2020-40

**Containing the Spread of COVID-19
Continuing Arizona Mitigation Efforts**

WHEREAS, on March 11, 2020, pursuant to A.R.S. §§ 26-303 and 36-787, a declaration of Public Health State of Emergency was issued due to the necessity to prepare for, prevent, respond to, and mitigate the spread of COVID-19; and

WHEREAS, on March 30, 2020, the Director of the Arizona Department of Health Services (ADHS), based on an epidemiological assessment of Arizona specific data and in alignment with the Centers for Disease Control and Prevention (CDC) guidance, recommended the State implement enhanced mitigation strategies which are continuing; and

WHEREAS, on May 12, 2020, Executive Order 2020-36, *Stay Healthy, Return Smarter, Return Stronger*, was issued outlining requirements for businesses to assist in mitigating the spread of COVID-19 as they reopened and mandated that businesses adopt policies consistent with guidance from the CDC and the ADHS; and

WHEREAS, since that time, many individuals and businesses have demonstrated great responsibility in taking precautions when out in public to mitigate the spread of COVID-19 while attending to their daily activities and needs; and

WHEREAS, on or about June 12, 2020, a study was published that demonstrated the effectiveness of face coverings in preventing the transmission of COVID-19; and

WHEREAS, due to the availability of Personal Protective Equipment (PPE) and efforts taken to increase capacity in our hospitals and intensive care units, Arizona continues to be prepared to face the potential for an increase in patients needing treatment for COVID-19; and

WHEREAS, increased diagnostic and serology testing has accelerated in Arizona in partnership with private labs and the universities; and

WHEREAS, as of June 17, 2020, there have been 40,924 diagnosed cases of COVID-19 in Arizona including 1,239 deaths, and the State is seeing an increase in the number of cases and hospitalizations; and

WHEREAS, the local health departments have the primary responsibility for ensuring case investigation and contact tracing of communicable diseases within their jurisdiction to identify the cause of the increased number of cases; and

WHEREAS, the Arizona Department of Health Services has the ability to coordinate statewide activities to assist with case investigations and contact tracing using the resources available to the State; and

WHEREAS, the increased community spread has demonstrated the need for a consistent, statewide system for case investigation and contact tracing; and

WHEREAS, the increased case numbers and hospitalizations also necessitate the need for an increased focus on precautionary measures by both businesses and individuals; and

WHEREAS, the CDC and the ADHS continue to update their guidance for prevention and mitigation of COVID-19 with additional information to help individuals make decisions about going out while preventing and mitigating the spread of the virus; and

WHEREAS, pursuant to A.R.S. § 36-787(A), during a State of Emergency declared by the Governor, ADHS has primary jurisdiction, responsibility and authority for:

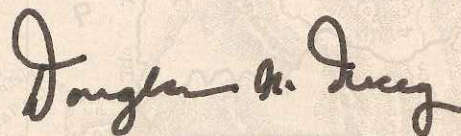
1. Planning and executing public health emergency assessment, mitigation, preparedness response and recovery of the State;
2. Coordinating public health emergency response among State, local and tribal authorities;
3. Collaborating with relevant federal government authorities, elected officials or other states, private organizations and private sector companies; and
4. Coordinating recovery operations and mitigation initiatives subsequent to public health emergencies.

NOW, THEREFORE, I, Douglas A. Ducey, Governor of the State of Arizona, by virtue of the authority vested in me by the Constitution and laws of the State, including but not limited to A.R.S. §§ 26-303 and 36-787, and after consultation with the Director of ADHS, do hereby order that effective June 18, 2020 at 12:00 a.m.:

1. The ADHS shall implement a consistent, statewide system for case investigation and contact tracing and manage these public health activities on behalf of the State. All local health departments shall follow the protocols of the statewide system until the ADHS has determined that adequate infrastructure and resources to support ongoing case investigation and contact tracing at the local level are available.
2. The Adjutant General shall have the authority to mobilize and call to activate all or such part of the Arizona National Guard as is determined necessary and appropriate to assist the ADHS in authorized contact tracing activities under this order.
3. Businesses shall assist in efforts to “Contain the Spread,” by updating and enforcing written policies in accordance with Executive Order 2020-36, *Stay Healthy, Return Smarter, Return Stronger*, that adopt guidance from the CDC, Department of Labor, Occupational Safety and Health Administration (OSHA) and ADHS to limit and mitigate the spread of COVID-19. This provision shall be enforced by law enforcement and regulatory agencies that have jurisdiction over the business as prescribed in paragraph 5.
4. Notwithstanding directives in Executive Order 2020-36, *Stay Healthy, Return Smarter, Return Stronger*, regarding A.R.S. § 26-307, a county, city or town may, based on conditions in its

4. Notwithstanding directives in Executive Order 2020-36, *Stay Healthy, Return Smarter, Return Stronger*, regarding A.R.S. § 26-307, a county, city or town may, based on conditions in its jurisdiction, adopt policies regarding the wearing of face coverings in public for the purpose of mitigating the spread of COVID-19. Any enforcement of such a policy shall focus first on educating and working to promote best practices to accomplish the goal of mitigation. An individual shall be notified of the provisions of this order or any policy adopted by a county, city or town and given an opportunity to comply prior to any enforcement action being taken.
5. Arizonans continue to act responsibly during this public health emergency. The intent of this Executive Order is to ensure that the State of Arizona continues to mitigate the spread of COVID-19 to the greatest extent possible. All law enforcement and regulatory agencies that have enforcement authority under existing law should focus first on educating and working to promote best practices to accomplish this goal. Upon an initial violation, notice of the provisions of this order and the associated guidance from ADHS shall be provided and an opportunity to comply shall be offered.
6. If any provision of this Executive Order or its application to any person or circumstance is held invalid by any court of competent jurisdiction, this invalidity does not affect any other provision or application of this Executive Order, which can be given without the invalid provision or application. To achieve this purpose, the provisions of this Executive Order are declared to be severable.
7. This order shall remain in place until further notice, and shall be considered for repeal or revision at least every two weeks following issuance.

IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Arizona.



GOVERNOR

DONE at the Capitol in Phoenix on this seventeenth day of June in the year Two Thousand and Twenty and of the Independence of the United States of America the Two Hundred and Forty-Fourth.

ATTEST:



Secretary of State



Facial Coverings in Gilbert?

19 June 2020

Created and shared by Councilmember Jared Taylor

Happy Juneteen!

- 155th Anniversary of the 13th Amendment!
- The Emancipation Proclamation only freed slaves in Confederate states
- Exceptions were made in certain parishes in Louisiana and a few counties in Virginia.
- Slaves in MD, DE, KY, and MO were also not freed as they stayed with the Union.
- This is important in American history because it restored INDIVIDUAL RIGHTS to all ALL Americans, something the Founders failed to do in '87

Problem #1 - Violation of Individual Rights

Thomas Jefferson - Declaration of Independence

“We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness.--That to secure these rights, Governments are instituted among Men, deriving their just powers from the consent of the governed”

Consent of the Governed

Do the words “Consent of the governed” give the majority unlimited rights over minorities?

- It does NOT give the majority the power to trample the rights of the majority
- “Efficiency and dispatch require government to operate according to the will of the majority, but constitutional provisions must be made to protect the rights of the minority”

Violation of the Arizona State Constitution

*“All political power is inherent in the people, and governments derive their just powers from the consent of the governed, and are established to protect and **maintain individual rights.**”*

Article 2, Section 2

Violation of Individual Rights

- Two political views in America - Collectivism vs Individualism
 - China the rights of minorities are regularly trampled as in Hong Kong
 - America - Individual Rights are recognized in things like 13th Amendment and 19th Amendment (women's right to vote - 26 August 1920)
- 2 wolves and 1 sheep voted on what to have for lunch
- America was designed to respect individual rights

Violation of Rights

- Gilbert is not an independent nation. We are created by the State of Arizona and subject to the Federal and State Constitution.
- Does NOT give the majority the power to trample the rights of the majority
- Legal action can and should be taken against the Town of Gilbert when our ordinances violate the individuals rights of our citizens.
 - Example - Reid vs Gilbert
- Gilbert citizens have had very little time to learn and weight in on this matter.

Problem #2 - No End Game

- No expiration date
- No exit criteria
- Required until a vaccine is found?

Problem #3 - Divisive

- Good policy solves problems
- Good policy resolves differences, not pits neighbor against neighbor
- Public shaming of those who don't wear masks must stop
 - Public shaming is a form of bullying and harassment
- Create fear and animosity between our citizens and the police

Problem #4 - Unenforceable

1. Wrong time to take our police officers away from fighting crime.
2. They are not trained in masks.
3. Will expose our police officers to more risk.
4. How will citizens with legitimate exceptions work with law enforcement?
 - a. Children
 - b. Respiratory issues
5. If we require it will we provide it?
6. Everyone will come up with an exception
7. Penalty of 6 months in jail and \$2,500 fine is punitive and wrong headed

Problem #6 - Masks

- All masks are not created equal
 - N95 masks work, not cloth masks
 - Cloth masks become a source of infection
 - Cloth masks lower oxygen levels, sometimes to dangerous levels
- Facial coverings like masks are not settled science
- Town will be liable for any issue caused by forced use of facial coverings
- Will the Town provide masks for those who don't have them?

Recommendations - Do What Works

1. What doesn't work...
 - a. Fear & Shame
 - b. Enforcement will NOT work. Impossible to accomplish.
2. What works...
 - a. Educate, Educate, Educate
 - i. Work with schools, churches, businesses, and other non-profits
 - b. Local control - let schools, churches, businesses, and private individuals to decide

Recommendation

What doesn't work...

- Fear & Shame
- Enforcement will NOT work. Impossible to accomplish.

What works...

- Educate, Educate, Educate
 - Work with schools, churches, businesses, and other non-profits
- Local control - let schools, churches, businesses, and private individuals to decide

DO NOT TAKE ACTION ON GOVERNOR'S ORDER

Individual Rights Matter

