



Council Minutes – Special Council Meeting

July 14, 2020

CALL TO ORDER:

Mayor Spalding called to order the New Albany City Council Special Meeting of July 14, 2020 at 6:38 pm at the New Albany Village Hall, 99 West Main Street, New Albany, Ohio. Staff attending were Clerk of Council Jennifer Mason. *(Clerk's note: all council members and remaining staff were logged into a virtual meeting on the Zoom platform. This method was chosen to make all council, staff, and the public easier to see and hear.)* Staff attending virtually were City Manager Joseph Stefanov, Law Director Mitch Banchefsky, Police Chief Greg Jones, Finance Director Bethany Staats, Administrative Services Director Adrienne Joly, Community Development Director Jennifer Chrysler, Public Service Director Mark Nemec, and Chief Communications and Marketing Officer Scott McAfee.

Mayor Spalding led the assemblage in the Pledge of Allegiance.

ROLL CALL:

The following Mayor/Council Members answered Roll Call:

Mayor Sloan Spalding	P
CM Colleen Briscoe	P
CM Marlene Brisk	P
CM Michael Durik	P
CM Chip Fellows	P
CM Kasey Kist	P
CM Matt Shull	P

ACTION ON MINUTES:

Mayor Spalding asked if council had reviewed the proposed July 7, 2020 regular meeting minutes and asked if there were any additions or corrections. Clerk Mason reported getting a few changes from Finance Director Bethany Staats after distribution. Most were not substantive, except for the one correcting the RITA cost at \$440,000 and one clarification that showed that the city was receiving 1.94 mils, an increase over the statutory amount of 1.2 mils, for a total variance of \$475,000 in the General Fund. These changes were made to the original minutes. Mayor Spalding moved to adopt the July 7, 2020 regular meeting minutes. Council Member Shull seconded, and council voted with seven yes votes to approve the July 7, 2020 regular meeting minutes. Clerk Mason received permission to attach Mayor Spalding's electronic signature to the minutes.

ADDITIONS OR CORRECTIONS TO THE AGENDA:

NONE.

COUNCIL AND STAFF DISCUSSION OF AMENDMENT TO DECLARATION OF EMERGENCY DATED APRIL 8, 2020:

Mayor Spalding acknowledged that council was prepared on July 7th to discuss a drafted Amendment to the Declaration of Emergency. Earlier on July 7th, the Ohio Governor issued a new order. Council wanted to read that order and confirm it still had authority to take action. Council and staff had since determined that city still had authority.

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The same day as this meeting, Franklin County Board of Health issued a new order. Residents of Franklin County were therefore under two existing orders – one from the State of Ohio and one from the Franklin County Board of Health. Including the City of Columbus, nearly all of Franklin County was already covered on the Columbus' order.

New Albany City Council put a lot of time and effort into the Amendment to the Declaration document and wanted to have a discussion about what had been proposed. *Chief Communications and Marketing Officer Scott McAfee worked on getting a copy onto the city's website. Brad Griffith with Buckeye Interactive later was able to post the link to the document into the Zoom chat function. In the meantime, first Council Member Fellows shared his screen with the document. Later, Clerk Mason was able to share the working version of the document and showed changes as they were made by council.* Mayor Spalding suggested reviewing the document together. If council members had questions as they proceeded through the pages, they could address them by page.

Mayor Spalding spoke to city being very active in its response to the COVID-19 situation and worked very closely with the New Albany COVID-19 Task Force. The city has pushed information out to the community, not only from the city, but from the schools, the township, and particularly the medical community, many of whom lived in New Albany. The city has been in its messaging - making sure that the community understood that there was not one element that an individual could choose to protect them and their family completely from COVID-19. It was a layering of interventions. The city had been clear from the beginning that masks were a layer of protection that it highly recommended. Other layers included staying home if one was sick, good personal hygiene, disinfecting frequently touched areas, avoiding touching one's face, and maintaining and donning appropriate facial coverings when one was unable to social distance. Many of these themes would be discussed as council went through this document.

Mayor Spalding read the WHEREAS paragraphs in the Amendment. No changes were offered by staff or council. Council Member Brisk asked to add the order made that day by the Franklin County Board of Public as an additional WHEREAS paragraph. Council agreed.

Mayor Spalding read the first two sections. Council corrected a reference from Section 2 to 4. Council Member Durik noted the current language did not include language for use of a mask when outdoors. Council Member Brisk understood that both the governor's order and the Franklin County order had specification for wearing a mask when outdoors. Council Member Shull agreed. Law Director Mitch Banchevsky stated the drafting of this document focused on commercial buildings open to the public. City Manager Joseph Stefanov stated, the way that staff structured this, the governor's order and the Franklin County order put the responsibility of outdoor enforcement on Franklin County Public Health. Council Member Durik asked what Dublin, Worthington, and Westerville did in their orders and if they deferred to the county sheriff. City Manager Stefanov stated staff reviewed those orders, but he couldn't recall the exact wording. The challenge with some orders were that they were vague about what entity would take care of enforcement. New Albany wanted to craft an enforceable order.

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Law Director Banchefsky stated that New Albany, under the county's emergency order, had the ability to be one of the enforcement entities for the county. Council Member Durik asked why then the city omitted outdoor language if city police would already have to enforce. Council Member Brisk asked if the city had the obligation to enforce the state and county orders. Mayor Spalding wanted to separate the outdoor mask mandate discussion from the enforcement discussion.

Council Member Kist noted that a prior version of the Amendment had language which would cover when an outdoor event where social distancing was not advisable or possible - that mask wearing would be enforced. City Manager Stefanov stated that the prior language was taking out during revisions. Council Member Shull's requested revisions had added outdoor language.

City Manager Stefanov told council that outdoor enforcement would be challenging depending on the location of the violation. He gave an example of a citizen calling in a violation they observed while walking on a city leisure trail. It would be virtually impossible for the city to enforce. The city had to verify the violation. An easier scenario would be a party in a park. The city could still enforce a complaint on that. As staff looked at the state's, and today's county order, they felt that they could engage the Franklin County Health Department for enforcement assistance. City Manager Stefanov did not want to set up a situation where the city was receiving 911 calls for mask complaints. He did not know how successful enforcement of the state order would ultimately be. His recommendation was to pull the outdoor language out, but it was still something that could be reinserted. He outlined other outdoor violation examples.

Council Member Brisk understood City Manager Stefanov's goal and didn't think council was looking to have the police answering calls about the walking path. She observed that outdoor scenarios were the city's problem, whether it was in the city's order or not, because the city had an obligation to Franklin County and the State of Ohio. If council was saying they were in support of the state and county, then it was the right thing to put mirroring language in the city's order. Law Director Banchefsky stated that the city being silent on any point covered by the other orders, meant it would be covered by the other entities. He hoped that those types of calls could be directed to the Franklin County Board of Health's hotline set up for this purpose.

Council Member Fellows presented an example of a large outdoor party without masks or social distancing. City Manager Stefanov answered and Law Director Banchefsky confirmed that a gathering on private property would not be under the city's jurisdiction under this order. Council Member Kist pointed out language in the current draft of the Amendment specifying business versus residential property. City Manager Stefanov brought up the difficulty of having city staff routinely monitor parks for mask compliance through evenings and weekends. He didn't know how it would affect city resources. He didn't want to set an expectation of enforcement and then increase frustration because the city wasn't able to adequately police. The city encouraged compliance with the bike helmet law by rewarding kids wearing them. Very few citations were issued and this disappointed some resident's expectations.

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Council Member Durik didn't understand why New Albany would have different standards than other communities who issued outdoor mandates. The other communities had the same challenges. Council Member Durik asked how many mask calls the city had received thus far.

Council Member Brisk observed that, since the state's order, she was unaware of any 911 calls. She also thought the city didn't give the New Albany Police Department and its officers enough credit. They were the best goodwill ambassadors for the city. They were good at having congenial, respectful conversations with citizens and fixing situations. Being consistent with the county and state, and having the ability if COVID-19 got out of control to be able to deal with it, she thought that was the right decision.

Council Member Briscoe offered that, when the city wrote a law that was inconsistent with other laws covering the same jurisdiction, it created confusion. She was concerned that, if the city was not substantially consistent with the state and county orders, it would create confusion. This was never good when trying to enforce any law. She didn't think the state wrote its law artfully, but she was concerned about not matching other orders. City Manager Stefanov agreed that consistency was important.

Mayor Spalding thought that everyone saw passing on a leisure path as a different situation than a mass gathering of 10 or more people not in the same household, which was a violation of the state's order. He didn't think council was asking or suggesting that this Amendment apply to the passing on a leisure path situation. Council Member Kist stated that prior language exempted "strenuous exercise" activities, and walking on the leisure path could qualify as that. His experience on the paths had been that persons passing moved away, someone stepped onto the grass. Council could drop the word "strenuous" and just make it apply to exercise activities.

Council Member Shull volunteered this was his intent when adding in the outdoor language straight from the state's order and the Board of Health's recommendation. He supported taking out "strenuous" as that could help with enforcement. At his work there was a 15 minute time limit on personal encounters – which crossing on a path wouldn't even get close to. City Manager Stefanov offered to reincorporate Council Member Shull's prior language which addressed wearing a mask outdoors. Council members agreed. They further agreed they did not want to make rules for resident's homes.

Council and staff discussed how to apply the Amendment to the Licking County portion of New Albany. Council Member Kist asked and City Manager Stefanov replied that, currently, there were no retail businesses in New Albany on the Licking County side. Council Member Kist asked and City Manager Stefanov confirmed that Licking County was under the Restart Ohio state mandates.

Law Director Banchefsky directed council's attention to Section 8 of the Amendment which contained the termination date for the city's mandate. This specified that the city's order would continue until the Emergency no longer existed as determined by the city manager and/or council. Council and staff discussed whether the state-defined levels of emergency should control the city's mask orders. They

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further discussed if language including Licking County was necessary, particularly if the state-defined levels were removed. Council Member Shull preferred tying the mask requirements to the Public Health Advisory System levels. This helped address future requirements as circumstances changed.

Council Member Brisk expressed that the city's requirements should be uniform in both counties and an in order where the city chose when to terminate. Council Member Durik agreed. Council Member Kist asked and Law Director Banchefsky responded that the city manager or council could modify this Amendment quickly if another entity changed their levels or orders.

Council and staff discussed termination conditions. Mayor Spalding observed that a number of other municipalities' orders expired on July 31st. Every community was likely struggling to figure out when to end the Declaration of Emergency. Mayor Spalding felt the state's rating was a strong indicator as to when a mask requirement might cease, but if the city had enough flexibility to terminate its own order, he preferred to maintain the decision-making. He agreed with tying the decision to a standard, but didn't want termination to be automatic. Council Member Shull was not a fan of subjective guidelines and wanted to bring more objectivity and clarity to termination.

Council and staff further discussed how to word how the city's order applied and whether to distinguish between the counties. Law Director Banchefsky pointed out, under new Franklin County rules, if Franklin fell below level 2, the county could still maintain its county-wide mask mandate. Mayor Spalding thought the state's rating system would be a strong termination indicator. When the State of Emergency no longer existed – which medical professionals and county health departments determined – that could trigger the city's action, not just council's subjective belief. Council Member Brisk expressed agreement. Council added language to Section 8 regarding termination of the order. The order would remain in effect until the health emergency no longer existed as determined by the city manager and council in consideration of the recommendations of the Ohio Department of Health and Franklin County Public Health. Council and staff discussed and decided to leave these provisions at the end of the document.

Council and staff decided to remove the options which called out both counties since the Declaration applied to all of New Albany.

Under the new language in which the city chose the end date of the order, it was decided to remove the Public Health Advisory levels as they no longer applied.

Council discussed vehicle mask language which was addressed in the newly inserted language. It was decided to make when to wear a mask Section 3 and mask exemptions Section 4. Council reviewed more detailed exemption language now in Section 4.

City Manager Stefanov explained the language in Section 7 which described the process of what happened when a non-complying individual entered a business. Council Member Briscoe clarified and City Manager Stefanov agreed that, if a non-mask wearing individual was causing difficulty, that person could be charged with a trespass, disorderly conduct, or failure to obey a lawful order of a police

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officer. City Manager Stefanov stated that the business owner would have no liability in that situation. The owner had to ask the customer to comply with the mask order – the customer could state they were eligible for an exemption which would adequately relieve the owner of responsibility. Mayor Spalding noted the language gave the city administrator or his designee certain authority and the city partnered with Franklin County Public Health to provide a host of health services throughout New Albany. New Albany would partner with Franklin County on some of these complaints. The city's intention was to have an impact for individuals who were not wearing masks without being too burdensome on the businesses.

Council Member Kist had discussed Section 7 at length with staff. He understood the city didn't want an order in name only and knew that was going to be tough to accomplish. He appreciated the balance struck in this order. He didn't want to put the citizen in a bad place, but he wanted to protect his employees. He recommended that the city communicate with its retail businesses about when and who to call.

Council discussed when to call the police versus the city number on the signs. The number on the sign went to the city's Administration Department. When Administration received a call, it could follow up with the business owner and the complainant about the situation. The city could also send in a staff member to assess whether mask wearing was being properly addressed. If the owner wasn't following the order, that is when the warning process would start.

Council Member Fellows asked and City Manager Stefanov replied that the city line would not be staffed on the weekends. At this time, a complaint would have to wait until regular hours on Monday. Council Member Brisk pointed out that businesses wouldn't be calling the Administration phone number. If a businesses were doing their job and had a difficult patron, their job was to call the police.

City Manager Stefanov offered to create an FAQ to give businesses additional guidance. Council members voice support for the FAQ.

Chief Jones stated that, if there was trespassing or disorderly conduct or some type of confrontation, police would respond. That would be a traditional law enforcement situation. As with any type of violation of law, officers first tried to de-escalate and obtain compliance. If that wasn't possible, the police could issue a citation and summons.

Council agreed they were satisfied with the current draft and could move on to Public Comment.

POLL FOR PUBLIC COMMENT:

Administrative Services Director Adrienne Joly requested that attendees who wanted to make a public comment tap the "Raise Hand" button at the bottom of their screens. She would then unmute those persons and invite comment. She would go through the hand raisers and then ask if the one phone-in caller would like to speak.

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Dawn Justen wanted to speak out against the city mask mandate and all the enforcements that were discussed tonight. There had been many reports of violence lately between people over not wearing a mask. There were many articles - she did a quick search before coming into this meeting – of police departments refusing to respond to the Department of Health order.

Wearing a mask or not wearing a mask should not be moral issue. She knew that's not what was talked about tonight – but there was science behind not wearing a mask and strengthening one's immune system to avoid getting sick. It was not a reflection on people who were not wearing a mask – it wasn't that they didn't care about fellow humans. These individuals were not evil and they did not want to spread the virus just because they didn't wear a mask. People had other educational or personal reasons to not wear a mask. The city should not have to mandate nor move to set up a number where people could report on one another. The people of New Albany were intelligent enough to make their own decisions and shouldn't need the government to set up a tattle-tale line for their residents to report one another. This was a sad conversation when her neighbor could call to report her – someone she talked to at her son's football game - could now call and report her for not wearing a mask at a restaurant.

Ms. Justen also wanted to voice her opinion on a conversation around Section 8 where council talked about when this order would end. She requested that, if this Amendment would be further discussed or further amended, that the city would fall back on the recommendations of at least the Ohio Department of Health or the Franklin County Board of Health into ending this order, and not leave that up to the city manager or city council. She felt like the current language gave those individuals too much power in this situation and she did agree with Council Member Shull that it was going to be an objective decision, not one based on facts from other entities.

Ms. Justen was concerned about violence occurring in our city. She did know that there were groups of people who resided in New Albany that were going to be against wearing a mask and would probably not cite any of the exceptions. She didn't want to see New Albany show up on the news as a city that had been in a violent altercation from someone trying to enforce another law that the government thought that it needed to pass in telling people what to do and what to wear. She also felt that setting up this line for people to call and report encouraged us to be a nanny state. We were all educated adults. We should be able to make that decision for ourselves. Government should not have to sit here and tell us that – if you see someone who's not complying to call and report them. This had huge effects. People knew the effects of World War II and the Nazis, of the USSR. She was not, by any means, diminishing any of the people who were subjected to trials in those situations, but she felt like setting New Albany up in a manner where people were going to call and report on other people was not a good environment for us to live, and not a good environment for us to have our children be raised in. Thank you.

Dr. Joel Anders stated he was an ER doctor who had been in medicine for over 21 years. He was who people came to see if they got sick with COVID-19. He was hoping to bring some objectivity and some perspective and experience because he didn't want to anybody sick, he didn't want to see anybody ill or dead. He hoped his perspective meant something different from what other people

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offered. He noted that council spoke a lot of about ODH (*Ohio Department of Health*) recommendations. How many people at the ODH had put a COVID-19 patient on a ventilator or worked a single flu pandemic in the ER or treated somebody with tuberculosis in the last 20 years? He would guess about none of them.

Council said about an hour ago they were writing a law. It was a little concerning that council wasn't writing a law. That's what the legislator did in the country and state. He was not trying to disrespect anybody or council, but, if we're dealing with something that was "emergent or a state of emergency," we really better have that. City councils or legislators or public health officials or epidemiologists – they didn't do what he did. They had a hard time speaking to what was being talked about in general. As an ER doc, Dr. Anders had a hard time even getting where they were coming from.

So, perspective. His perspective on COVID-19 and mask mandates as an ER doctor with 21 years of experience was – it's different. He had seen it treated and intubated hundreds of patients with COVID-19. Hundreds. He had seen them by the car load. He had seen sick ones. He'd seen not-so-sick ones. But the "experts" in decision-making positions in the state and even above that, they had not even seen sick COVID-19 patients. So, to Dr. Anders, with his experience, there was nothing at all novel about the COVID pandemic. ER doctors like him had seen pandemics and infection for the past 21 years. He was not wanting attention. He did not want control of society like some epidemiologists wanted – wrongly – because for the first time in history that was exactly what they had. The collateral damage we were witnessing was because we had given these guys control.

Wearing masks with the thought of preventing any long term deaths from COVID-19 was just false. It was based on a "stereo" and it came from the wrong perspective. His perspective, after himself having COVID-19, and his entire family having COVID-19, and his extended family having COVID-19 in March - it was no different now than it was then. His question for the New Albany city council was – it was about perspective – but, if we had something called the flu that over the last 10 years had killed between 2.5 and 5 million people – we didn't wear masks for that – and it came back every year. We had diseases like tuberculosis that killed between 2-2 ½ million people and we didn't wear masks for that. In 2009, during the swine flu, he had 2 people under the age of 24 who were dead before 3 pm – as one ER doctor. We will not see that with COVID-19 ever. And we did not wear a mask for the swine flu. So why were we talking about masks 11 years later?

Some of the citizens in New Albany wanted to wear masks and he was not going to change their minds because they were just rightly scared. Even though he had tested thousands and treated hundreds of COVID patients - he had talked to them, he had touched them, he'd been right in their face, he'd held their hands – and his position was the same. He worked in medicine. He could tell council that both quarantining the healthy and masks for the healthy - they didn't work. And just because we were scared did not mean that everyone should be implementing mask-wearing protocols. If we paused to think that we had mostly well people with the virus, we should be watching the recovery data in gratitude, not in fear, and not overreacting in July as opposed to being hopeful for what we were actually seeing.

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A couple facts that the New Albany public should be aware of from an ER doctor who had been working for over 21 years and worked plenty of flu pandemics and seen hundreds of COVID patients: there was zero level one evidence to exist that healthy members of society should be wearing masks. There was zero evidence of effective prevention in any long term outcome despite all the data and the facts. The masks that we put on every day to work or to the coffee shop or to the grocery store were the most contaminated thing that the general public could wear. Within seconds of being worn and breathed into, they became the most contaminated item on the person – and we kept them all day and put them in our car - we hung them from our mirrors, etc. If people felt safer from doing that, that was one thing, but, in reality, they were not safer. In reality, they were not doing the right thing. All masks did was stifle breathing and stifle life. All for nothing.

When he walked into a room to see patients – he saw 400 to 600 patients a month – the first thing the patients told him these days was “can I take this thing off?” Masks stifled relationships and, as soon as we put them on, we’re not shoppers, we’re not diners, we’re not family members hanging out, we become patients and we become stiff and it broke the individual down and broke society down. And if it doesn’t have any long term benefits for anybody scientifically, then we had to ask ourselves what were we doing? Masks are for the sick, not the healthy.

Secondarily, masks were, frankly, illegal. This copycat phenomena that jurisdictions do, one after the other after the other, did not mean that there was empirical data to support what they were doing. Courts were striking down departments and local officials, one after the other, and he didn’t want New Albany to be in a court battle wasting our time and our money on something that really never mattered to begin with. If it did, as an ER doctor – as someone taking care of patients - he would be the first to say it. He had no skin in any other game. We had better things to do than talk for an hour and a half about a document that, honestly, didn’t mean anything.

What council didn’t realize was that COVID was going to travel through New Albany. It was going to travel through Ohio. It was not going away. Period. The number of us that were going to get it, were going to get it. If we wanted to stay in our homes and wear masks for 20 years, fine, but that wasn’t realistic. It was just not practical.

Dr. Anders suggested a few things. If council wanted to suggest a mask or recommend masks, fine, people could feel free. Wash your hands. If you’re sick, stay home. If you’re sick, wear a mask. But, really, we think there’s something new because of whatever perception the public or the media had put out there – think there’s something new with COVID-19. And there was absolutely not. No disrespect to council or any public health officials who he agreed were genuinely trying to protect people – we’re not dealing with something that was actually altered by any of what we were doing. Dr. Anders thanked those listening.

Mayor Spalding thanked Dr. Anders for his time and effort. Council appreciated everything he did on the frontlines of this fight. While council may agree or disagree on masks, everyone appreciated the service that he gave to the community and appreciated him calling in to share his observations. Hearing from a physician about masks in particular was helpful.

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Jarrold Skinner told council that he wore a mask and he was not scared. He was trying to rely on what the CDC had been telling us for the longest. That was his quick response.

His question was – he had a rising first grader – and he was wondering why there was going to be – maybe not arbitrary – but there seemed to be an age cut off for kids to wear masks. In his situation, his daughter was six. The mask order didn't apply to her while she was in the class. He was wondering why would it not be safest for us all to err on the side of caution – considering that this virus was evolving – just a week or two ago the CDC did mention that it could be airborne – stay in the air – the CDC just now made that statement – so we were learning more stuff about this every day. Wouldn't it make more sense to lower the age so (1) you were potentially protecting the students that were in class and (2) you were definitely protecting the teacher? He didn't understand why a six year old – she was supposed to have her mask on in the hallway and in certain places – but while she was in the classroom, she was going to take it off. It didn't seem consistent. It seemed to make more sense to make an age requirement that applied to schools - where she was in class with teachers and classmates and she should be wearing a mask, too. Thank you.

Mayor Spalding offered everyone with children, who were a little bit grown now, appreciated the fact that mass compliance was going to be difficult to administer for young children. That was part of the CDC's analysis. New Albany wanted to make its decisions on as much medical evidence as it could. Specifically, as it related to schools, the city felt that Franklin County Public Health and the State of Ohio Department of Public Health were going to be leading the charge on what schools would look like when they came back. Council had agreed that those decisions should be left to those entities. Council Member Briscoe also thought it had to do with the difficulty of keeping a mask on a little kid, but she understood Mr. Skinner's concern. Council Member Brisk understood that council specifically left schools off of the city's order to let the experts in education make those decisions for their population. The city wasn't taking a position on the school system. City Manager Stefanov added that the state had separate set of guidelines for school districts and that was one of the reasons for exempting them from this order.

Mr. Skinner volunteered that his daughter was in the Healthy New Albany program at the Heit Center. They were supposed to wear masks and she didn't seem have a problem wearing one all day. He understood certain kids would have difficulty. But he wanted to throw out there that something could be done.

John Kauffman told council, with regards to Section 8 of the drafted Amendment – when the government came up with the four-level system to detail where we were in our health crises and what actions we needed to take – if we did a good job of making it making it very fact-based - and making it so that people's anxiety around the mandate was relieved because it wasn't something that was objective or on a whim – if we're going to do this, he thought we should then stick with that system. If the city wanted to go it alone, fair enough, but then, in the document we should create our own detailed criteria so we are, again, not being subjective. He knew council said they weren't going to be subjective, but when Mr. Kauffman read this wording, it still felt subjective. Thank you.

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Brad Griffith appreciated the opportunity to speak and also hear opinions that he didn't necessarily agree with, but that were an important part of the process. He really appreciated that council was hopefully considering the vast majority of the scientific community and the healthcare community and their recommendations. There was room for multiple opinions, but he was sure council was considering, if the vast majority were recommending that we wear masks, the one place that he wanted government overreaching in his life was for health and safety, and helping to control people who were not necessarily going to be making the best decisions for the overall public. He encouraged council to pass this order as it made a great statement. It definitely said that New Albany was not too privileged to follow those best facts. He thanked council for their time.

Dr. Joel Anders stated that the data was actually not objective because, "we were not allowed to test in any county that was not already one of the top ten counties in cases." They couldn't even do rapid tests in 78 counties right now. Dr. Anders stated, "We think we're looking at objective data, but we're just not."

Council Member Shull said that based on some of the feedback council was hearing, he would like to re-address Section 8 and see if there was any additional language council could add to that that might be a little more objective. He wasn't sure what language, but he wanted to consider it. Council Member Briscoe responded that she liked it the way it was written. She thought that council would certainly look at the data from the Ohio Department of Public Health and from the county. Her concern was that things in the New Albany corner of Franklin County could be different in another corner. She wanted to make sure New Albany was ready. She understood what Council Member Shull was saying, but liked the current wording. Council Member Shull pointed out that New Albany was in a different situation today than other parts of Franklin County, but the city was still making guidelines as if New Albany was level 3. Council Member Briscoe noted that New Albany was following what it had to follow anyway because of the state and county, and would probably continue to do that. She preferred to leave the city ability. The Franklin County Department of Health's order was different than the state's, so that could be another problem. She trusted this council to lift the restriction as soon it was comfortable doing so.

Sarah Higgiston read a quote to council, "This anti-mask rhetoric is mind-blowing, dangerous, deadly and polarizing," said Dr. Peter Chin-Hong, professor of medicine and an infectious diseases specialist at UC San Francisco." Ms. Higgiston was surprised by some of the comments she had heard at this meeting that were anti-mask. She wanted that to be heard. Thank you so much.

Andrea Wiltout wanted to thank council for the public process, for working out the order. She was proud that *–unknown–* had done such a good job throughout this entire virus – about getting ahead of it and making smart decisions. She agreed with the proposed document as written. She thought Franklin County today made a smart decision when they decided to take the decision-making about when to go down in the mask requirement away from the state levels. She thought that was smart. She liked the way council had that language written out to continue with that. Thank you so much.

Dawn Justen wanted to clarify – she thought we were all kind of looking at when this ended. She wanted to review where it was talked about that a person had to wear a mask. There had been a lot of

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talk over Section 8, but at the beginning - Ms. Justen reread the wording. We were being required, because we were under a county ordinance or a county mandate and a state mandate – what was the grounds for this mandate? Was it because of the county and the state? If it was good enough to enforce us to have to wear a mask because that was what the state and county were doing, why was it not good enough to stop wearing the mask when the state and the county decided? She thought the health of New Albany was probably better than most of Franklin County.

Mayor Spalding responded that, in the WHEREAS clauses, the language did include that the ODH and the Franklin County Public Health Department had both declared emergencies and the spread was continuing. To Ms. Justen's point, the basis for the city for making the decision was in part because of those declarations, and in part because New Albany wanted to support its business community and didn't want to go back to a shelter-at-home situation. Those were two of the main driving factors in his mind. Ms. Justen's question was related to Council Member Shull's discussion earlier which was – what do we base our decision to end the mask requirement in New Albany on? He understood council tied that to the health orders of the ODH and Franklin County Public Health as being instructive to the city administrator as to when the end the mask ordinance requirement. Council Member Briscoe added that the state and county orders were not the same and did not have the same end date.

Clerk Mason told attendees that typed chat was not public comment. If someone put a full comment in chat, she would want them to raise their hand and get on the actual record.

Bonnie Cramm wanted to commend council on their mask policy because she did worry that – she would be very happy if Franklin County went to a level 2, however, infection rates fluctuated so much. She thought it was prudent for them to have their own policy and she liked the phrasing in Section 8 in terms of being a little subjective on when it would end. She commended council for that and wanted to tell council she appreciated it. Thank you.

Serina thanked council for taking questions and listening to everyone there. She knew the loudest voices had always been the ones who were against mask wearing. When she considered public official were elected for good reason – most of the times council represented the voiceless and our wonderful people who don't truly have the voice beyond them calling – to be as loud as those asking for us to not have masks. She thanked council for doing that. She wanted to say, it may not be the most popular decision, but it was doing the right thing to follow science. Let's do what is right. Thank you.

Peeples – Ms. Peeples wanted to thank the council members for their work and wanted to point out that this was a good thing they were doing. And, to the extent that they deviated from what the county and the state were doing, they were setting themselves up to empty the coffers of New Albany. If there was a standard that was set, a national standard or a state standard or a county standard, and the city chose to do less than these basic standards that they set – she knew that everyone in New Albany was very fond of their money and they should probably not want to lose it by doing something less than the minimums that had been established and accepted. She thought there was an attorney on the council who could talk about the different standards that were considered. She very much appreciated the efforts that council put into this and she hoped it all was worth it.

July 14, 2020

POLL FOR COUNCIL COMMENT:

As an extension of including outdoor provisions, Law Director Banchefsky proposed updating Section 7(E) so that it would read that a non-compliant individual, either in an indoor or outdoor setting, may be subject to a warning or prosecution for trespass. Council agreed.

Mayor Spalding stated, with the city administrator having to make a referral to Franklin County Public Health for a situation where there was a private house party where there were no masks or social distancing, and call was made, an investigation was completed - should 7(E) include other language stating a non-complying individual could fall under other applicable violations with other entities? Mayor Spalding stated he wasn't sure the city could impact the other jurisdictions as it was their prerogative. Law Director Banchefsky supported that addition.

Mayor Spalding polled each council member.

Council Member Kist stated, like the general public and some members of council, he didn't necessarily agree with some positions regarding masks. It was a controversial issue. He thought we all came back to whether one believed in the efficacy of the mask or not. Council wanted the community to feel safe to engage in the community, to visit the city's businesses. Council did not want the city to go back to a lockdown situation. Wherever one fell in the spectrum on mask opinions, the city wanted all of New Albany to feel safe enough to go out and enjoy what the city had to offer. This Amendment was targeted toward not just keeping New Albany healthy, but making New Albany feel safe.

Council Member Shull thanked everyone who got on-line and shared. Many meetings went by where council looked at some pretty important issues and reviewed documents and didn't always get the feedback that they'd love to have from the community. This was one of those times where he was very appreciative that the city had some energized folks on both sides of the mask issue. He couldn't agree more with Council Member Kist – and Brad Griffith said it best – council tried not to be overreaching, but when it came to health and safety, this was one area where everyone could agree that we wanted to make sure that everyone felt safe.

Having been and still being in the healthcare field for the last 30 years, he had read all of the data on the masks, and he would say that he agreed with Section 6 of the Amendment which stated, in addition to masks, that a comprehensive approach was important to hopefully stop spreading COVID. We needed to make sure we wash our hands, covered our mouth when we sneezed, avoided close contact, stay home when sick, got medical attention when needed, avoid touching your eyes, nose, and mouth, make sure that you clean everything. We needed to do all of those things to really feel like we're doing something in this COVID-19 situation.

He appreciated council's approach to doing this. He understood it wasn't the order everyone was looking to have, but it was a good way to move forward with public safety. His hope was, when we came out of this level 3, everyone would have a chance to sit down and continue this discussion of what the next steps might be.

July 14, 2020

Council Member Fellows didn't have anything to add beyond what Council Member Kist and Council Member Shull presented. He thought this was a well thought-out document. Something that was needed to keep the community safe. He knew that the discussion around masks had been all over the board since we were first faced with COVID. Council Member Fellows recalled the Surgeon General and others on the Presidential Task Force saying that masks weren't needed. And now those same individuals were saying that we needed masks. Council Member Fellows believed, overall, that it was a good public practice to keep our community safe. He appreciated the public's comments. Council Member Fellows was in favor of this Amendment.

Council Member Briscoe stated she had very little to add. She appreciated council's efforts and diligence in creating this document. She really appreciated the input of the community. She wanted everyone out there to stay safe.

Council Member Brisk wanted to reiterate that she was pleased with how council worked together on this. There was a lot of give and take to find a place where everyone could be comfortable. She appreciated the community and the public for the input council received. Council had gotten more input on the Amendment than anything else in her career on council. She knew council wasn't making everyone happy, it probably wasn't possible, but she had heard, loud and clearly - the vast majority of people that she had heard from felt safer with the masks. This was something the city needed to do. And it was consistent with the other entities that had power over the city's jurisdiction. She thought that this order was something the city had to do. It was not easy to curtail – to tell people to do something they didn't want to do – but we, as a society, sometimes had to make these tough choices. She was pleased with the way this was worked out together.

Council Member Durik stated he was very appreciative of all the community input council received. This was a critical and important issue to everyone. He thought council had achieved a document that was workable and incorporated everybody's input. When it came to public health and the safety of New Albany's residents and families and everyone else, he thought we had to do whatever we could to keep ourselves safe and healthy. The governor was very proactive early on. Council Member Durik thought those actions proved beneficial to the state. While this order may not be palatable to everybody, he thought council had to do what was important. Council Member Durik didn't want to live in a Florida, California, Texas, or Arizona – going through what they were going through because they were lenient and believed that masks and other things weren't important. Council Member Durik would rather be on the proactive side and protect the city's residents and state's residents, too. He was in favor of the Amendment.

Mayor Spalding didn't have much to offer beyond what was already said. He noticed - in side conversations, as communities around Ohio were requesting and demanding that their citizens wear mask -. Could anyone find some good science around mask maintenance? When folks were supposed to transition from one mask to another, or washing responsibilities, that type of advice? Mayor Spalding thought that would be good information for the city to gather and send out to the public. He hadn't found a definitive source for that information yet. Hopefully, everyone on the call could take a look at that – maybe the city could find something in the next week or so.

July 14, 2020

Mayor Spalding opened the forum up to staff comment. No further staff comments were offered.

ACTION ON AMENDMENT TO DECLARATION:

Council Member Briscoe moved that council authorize the city manager to add this Amendment to the Emergency Declaration as discussed that evening. Council Member Brisk seconded, and council voted with seven yes votes to approve the motion. Motion was adopted.

Clerk Mason asked and council affirmed that they wanted to review the final document. Clerk Mason stated she would email it out later that evening.

OTHER BUSINESS:

Mayor Spalding asked and City Manager Stefanov replied that the city was able to purchase one case of masks through its sources. The city had an adequate supply to distribute at least one box of masks to most, if not all, of the city's retail businesses. He was aware of three requests in response to a city email. City staff would follow up with another email. If the city needed to purchase additional masks, it would do so.

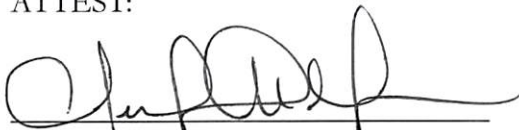
Clerk Mason reminded council to check their inboxes and reply to Chief Communications Officer McAfee regarding shooting a mask video on Thursday morning.

Council Member Brisk asked and City Manager Stefanov responded that the city had distributed signs to all Market & Main buildings. More signs would soon be available. He wanted to make sure that anyone who wanted a sign had access.

ADJOURNMENT:

With no further comments and all scheduled matters attended to, Mayor Spalding moved and Council Member Briscoe seconded to adjourn the July 14, 2020 special council meeting at 8:57 pm.

ATTEST:


Jennifer H. Mason, Clerk of Council

 
Sloan Spalding, Mayor Date

**AMENDMENT TO THE APRIL 8, 2020
DECLARATION OF A STATE OF EMERGENCY
IN THE CITY OF NEW ALBANY**

WHEREAS, Ohio and New Albany businesses have made great efforts to reopen in a safe manner in compliance with the State of Ohio's Responsible RestartOhio health orders; and the city supports this effort and desires to avoid another shutdown of our economy by acting responsibly to stop the spread of COVID-19; and

WHEREAS, the CDC recommends wearing face coverings in public where other physical distancing measures cannot be sustained to help prevent the spread of COVID-19 from asymptomatic or unknowing carriers to others; and

WHEREAS, on June 29, 2020, due to an increasing level of COVID-19 infections via community spread and the absence of a statewide face covering requirement, Franklin County Public Health passed a resolution expressing its commitment to upholding CDC recommendations regarding face covering; and

WHEREAS, on July 2, 2020, due to increased infection rates statewide, the state of Ohio announced a COVID-19 advisory system to monitor viral spread and risk at the county level, and placed Franklin County under a Level 3 advisory - approaching Level 4, which is the highest level; and on July 2, 2020, the Franklin County Board of Commissioners passed a resolution encouraging all Franklin County residents to wear face coverings; and

WHEREAS, on July 7, 2020, the Governor of the State of Ohio declared counties that trigger four or more of the key indicators in the Ohio Public Health Advisory System due to a very high exposure and spread of COVID-19 achieve a Level 3 advisory and all residents in those counties are now required to wear facial coverings; and

WHEREAS on July 8, 2020, the State of Ohio Department of Health issued an order requiring face coverings in certain Ohio counties including Franklin County; and on July 9, 2020, the Franklin County Commissioners issued a Covid-19 Situational Order in support of face coverings inside its jurisdiction; and

WHEREAS, the city desires to protect its residents, visitors, workforce and employees of New Albany while at the same time maximizing the layering of COVID-19 interventions, including: staying home when sick, maintaining proper social distancing, vigorous personnel hygiene and handwashing, disinfecting frequently touched surface areas, avoid touching one's face, and properly maintaining and donning appropriate fascial covering in accordance with this Declaration; and

WHEREAS, after consulting with the New Albany COVID-19 Task Force, considering the governor's order and the Ohio Department of Health (ODH) special order, and in order to prioritize the health and safety of residents, visitors, workforce and employees of the city, we declare that the public health will be best served by declaring a mandatory facial covering requirement for the City of New Albany, Ohio.

NOW THEREFORE, AT THE DIRECTION OF NEW ALBANY COUNCIL, BE IT DECLARED BY THE CITY MANAGER, JOSEPH F. STEFANOV AS FOLLOWS:

Section 1. The Declaration of a State of Emergency in the City of New Albany, issued April 8, 2020 remains in full force and effect, and is hereby amended and supplemented to include the following facial covering provisions.

Section 2. All individuals within the City of New Albany, whether patronizing business establishments or employed by business establishments, shall be required to wear a face covering over the individual's nose and mouth at all times while within said establishments and their associated appurtenances, including patios, subject to the exceptions listed in Section 3.

For the purposes of this Emergency Declaration, "business establishment" has the same general definition as "place of public accommodation" under Section 4112.01 (A)(9) of the Ohio Revised Code and means any: hotel or motel (excluding the rented room or suites), restaurants and bars (including outdoor seating for such facilities), barbershop or salon, public conveyance by air, land, or water, theater, grocery stores, retail stores, pharmacies, health care facilities, gyms and athletic facilities open to the public, other place for the sale of merchandise, or any other place of public accommodation or amusement of which the accommodations, advantages, facilities, or privileges are available to the public, but excluding religious facilities, schools and libraries.

All New Albany businesses, in both Franklin and Licking Counties, not open to the public for the sale of good and services or otherwise does not meet the definition of "business establishment" above, shall remain subject to and must abide by the requirements of the Responsible RestartOhio Health Orders.

Section 3. Public Health Advisory alerts. The Public Health Advisory System announces alerts as to the level of the Public Emergency that is based upon the indicators triggered. The alert levels are as follows:

- a. Level 1 (Yellow): 0-1 Public Health Advisory indicators triggered
- b. Level 2 (Orange): 2-3 Public Health Advisory indicators triggered.
- c. Level 3 (Red): 4-5 Public Health Advisory indicators triggered; however, a county in this category cannot improve its risk level unless it also drops below the CDC's threshold for high incidence (100 cases per 100,000 over the last 2 weeks).
- d. Level 4 (Purple): 6 or more Public Health Advisory indicators triggered during two reporting periods in a row. However, a county in this category cannot

improve its risk level until it has not triggered 6 or more indicators for two consecutive reporting periods.

OPT 1: The requirement to wear a facial covering shall continue until Franklin County and Licking County are both below level 3 in the Public Health Advisory System.

OPT 2: The requirement to wear a facial covering shall continue until a county is no longer designated at level 3 or level 4 in the Public Health Advisory System pursuant to this section.

Section 4. Face coverings are not required for the following:

- a. Individuals who cannot wear a face covering because of a medical condition, **including those with respiratory conditions that restrict breathing**, mental health condition or developmental disability, or who are unable to remove the face covering without assistance, and any individual who should not wear face coverings under the CDC guidance;
- b. Individuals engaging in strenuous exercise activities, although such individuals should make every effort to maintain six feet of physical distancing between other individuals;
- c. **Individuals actively participating in athletic practice, scrimmage, or competition that is permitted under a separate order;**
- d. Children under the age of 10 years old;
- e. **Individuals actively consuming food or beverage in a restaurant or bar;** an individual not seated at his or her table or the bar is required to wear face coverings;
- f. Individuals seeking to communicate with someone who is hearing-impaired in a way that requires the mouth to be visible;
- g. Individuals giving a speech for a broadcast to an audience;
- h. Individuals temporarily removing his or her face covering to secure government or medical services or for identification purposes;
- i. **Individuals is actively engaged in a public safety capacity, including but not limited to law enforcement, firefighters or emergency medical personnel**
- j. **Individual is an officiant of a religious services;**
- k. Individuals whose sincere religious belief prevents them from wearing a face covering;
- l. Individuals employed in positions where a face covering is either dangerous or not recommended by CDC guidelines;
- m. Individuals in private, individual offices **and which space is not intended for use or access by the public;**
- n. s;
- o. Individuals engaged in dental work or medical procedures;
- p. Individuals receiving a facial treatment, shave, or other services on the part of the head which the face covering covers or by which the face covering is secured;
- q. **Facial coverings are prohibited by law or regulation;**
- r. **Facial coverings are in violation of documented industry standards;**
- s. **Facial coverings are in violation of a business's documented safety policies;**

- t. Individuals or events who are otherwise exempted by the Franklin County Board of Public Health or the Ohio Department of Health.

Section 5. For the purposes of this Emergency Declaration, “face covering” means a piece of cloth, fabric, or other material that fully covers the mouth and nose that is secured with ear straps or otherwise ties so as to prevent slipping. A face covering may be factory-made or may be handmade and improvised from household materials. Face coverings include, but are not limited to, bandanas, scarves, medical masks, and cloth masks; and also include respirators, N95 masks, face shields or other personal protective equipment that provides a higher level of protection than a face covering defined in this Section. A face covering shall be worn so as to cover the mouth and nose in compliance with the CDC’s guidance on wearing face coverings.

Section 6. In addition to the face covering requirement, all persons are strongly encouraged to:

- a. Wash your hands often with soap and water or appropriate sanitizer;
- b. Cover your cough or sneeze with your arm or elbow, NOT your hands;
- c. Avoid close contact, especially with people who are sick and maintain physical/social distance of at least 6 feet;
- d. Stay at home when you are sick, except to get medical care;
- e. Avoid touching your eyes, nose and mouth;
- f. Clean and disinfect frequently touched objects and surfaces.

Section 7. Enforcement Process and Penalty

A. Initial warning. An initial verbal warning shall be issued to the business establishment owner/operator, where a violation of this Emergency Declaration has occurred, along with written information pertaining the requirements of this Emergency Declaration, by the City Manager or designee (City official or Franklin County Public Health official) provided that the City’s official is made aware of a violation and is able to witness or otherwise verify said violation.

B. Second warning. A second written warning shall be issued to the business establishment owner/operator where a violation of this Emergency Declaration has occurred, along with written information pertaining the requirements of this Emergency Declaration, by the City official, provided that the City official is made aware of a violation and is able to witness or otherwise verify said violation.

C. Following a second warning, any subsequent violation may subject the business establishment owner/operator to a fine of not more than \$100.00, pursuant to New Albany Codified Ordinance Section 101.99.

D. Defense. Business ~~establishment owner/operators and property owners~~, including government entities, are hereby authorized to trespass from their property individuals who fail to wear a face covering while such individuals are entering, exiting, waiting in line to enter, or engaged in activities inside of the property intended for the use of the general public not

otherwise exempted under Section 4. Business ~~establishment owner/operators and property owners~~ shall advise such non-complying individual(s) of the City's facial covering requirement and request that said individual either wear a facial covering or leave the premises.~~and If the non-complying individual still refuses to wear a face covering or leave the premises, the business establishment owner/operator shall trespass~~ the non-complying individual(s) from such property. Such actions shall serve as a complete defense to a violation set forth in this Section.

E. Non-Compliant Individual. A non-compliant individual may be subject a warning and/or prosecution for trespass or other applicable violations under the New Albany City Code.

Section 8. This Amendment to the State of Emergency Declaration shall be in full force and effect from July 7, 2020 and will remain in effect until the emergency no longer exists, as determined by City Manager and/or City Council.

**AMENDMENT TO THE APRIL 8, 2020
DECLARATION OF A STATE OF EMERGENCY
IN THE CITY OF NEW ALBANY**

WHEREAS, Ohio and New Albany businesses have made great efforts to reopen in a safe manner in compliance with the State of Ohio's Responsible RestartOhio health orders; and the city supports this effort and desires to avoid another shutdown of our economy by acting responsibly to stop the spread of COVID-19; and

WHEREAS, the CDC recommends wearing face coverings in public where other physical distancing measures cannot be sustained to help prevent the spread of COVID-19 from asymptomatic or unknowing carriers to others; and

WHEREAS, on June 29, 2020, due to an increasing level of COVID-19 infections via community spread and the absence of a statewide face covering requirement, Franklin County Public Health passed a resolution expressing its commitment to upholding CDC recommendations regarding face covering; and

WHEREAS, on July 2, 2020, due to increased infection rates statewide, the state of Ohio announced a COVID-19 advisory system to monitor viral spread and risk at the county level, and placed Franklin County under a Level 3 advisory - approaching Level 4, which is the highest level; and on July 2, 2020, the Franklin County Board of Commissioners passed a resolution encouraging all Franklin County residents to wear face coverings; and

WHEREAS, on July 7, 2020, the Governor of the State of Ohio declared counties that trigger four or more of the key indicators in the Ohio Public Health Advisory System due to a very high exposure and spread of COVID-19 achieve a Level 3 advisory and all residents in those counties are now required to wear facial coverings; and

WHEREAS on July 8, 2020, the State of Ohio Department of Health issued an order requiring face coverings in certain Ohio counties including Franklin County; and on July 9, 2020, the Franklin County Commissioners issued a Covid-19 Situational Order in support of face coverings inside its jurisdiction; and

WHEREAS on July 14, 2020, the Franklin County Board of Health adopted an emergency order requiring face coverings in its jurisdiction; and

WHEREAS, the city desires to protect its residents, visitors, workforce and employees of New Albany while at the same time maximizing the layering of COVID-19 interventions, including: staying home when sick, maintaining proper social distancing, vigorous personnel hygiene and handwashing, disinfecting frequently touched surface areas, avoid touching one's face, and

properly maintaining and donning appropriate facial covering in accordance with this Declaration; and

WHEREAS, after consulting with the New Albany COVID-19 Task Force, considering the governor's order and the Ohio Department of Health (ODH) special order, and in order to prioritize the health and safety of residents, visitors, workforce and employees of the city, we declare that the public health will be best served by declaring a mandatory facial covering requirement for the City of New Albany, Ohio.

NOW THEREFORE, AT THE DIRECTION OF NEW ALBANY COUNCIL, BE IT DECLARED BY THE CITY MANAGER, JOSEPH F. STEFANOV AS FOLLOWS:

Section 1. The Declaration of a State of Emergency in the City of New Albany, issued April 8, 2020 remains in full force and effect, and is hereby amended and supplemented to include the following facial covering provisions.

Section 2. All individuals within the City of New Albany, whether patronizing business establishments or employed by business establishments, shall be required to wear a face covering over the individual's nose and mouth at all times while within said establishments and their associated appurtenances, including patios, subject to the exceptions listed in Section 4.

For the purposes of this Emergency Declaration, "business establishment" has the same general definition as "place of public accommodation" under Section 4112.01 (A)(9) of the Ohio Revised Code and means any: hotel or motel (excluding the rented room or suites), restaurants and bars (including outdoor seating for such facilities), barbershop or salon, public conveyance by air, land, or water, theater, grocery stores, retail stores, pharmacies, health care facilities, gyms and athletic facilities open to the public, other place for the sale of merchandise, or any other place of public accommodation or amusement of which the accommodations, advantages, facilities, or privileges are available to the public, but excluding religious facilities, schools and libraries.

All New Albany businesses, in both Franklin and Licking Counties, not open to the public for the sale of good and services or otherwise does not meet the definition of "business establishment" above, shall remain subject to and must abide by the requirements of the Responsible RestartOhio Health Orders.

Section 3. All individuals within the City of New Albany shall always be required to wear a face covering over the individual's nose and mouth when:

- a. In any indoor location that is not a residence;
- b. Outdoor and unable to consistently maintain a distance of six feet or more from individuals who are not members of their household; or
- c. Waiting for, riding, driving, or operating public transportation, a taxi, a private car service, or a ride sharing vehicle. This does not apply to private or rental vehicles

where members of a family are sharing a vehicle. This does not apply to vehicles engaged in direct travel through a county that does not stop in that county.

Section 4. The requirement to wear a facial covering does not apply when:

- d. Individuals who cannot wear a face covering because of a medical condition, including those with respiratory conditions that restrict breathing, mental health condition or developmental disability, or who are unable to remove the face covering without assistance, and any individual who should not wear face coverings under the CDC guidance;
- e. Individuals engaging in strenuous exercise activities, although such individuals should make every effort to maintain six feet of physical distancing between other individuals;
- f. Individuals actively participating in athletic practice, scrimmage, or competition that is permitted under a separate Ohio Department of Health order;
- g. Children under the age of 10 years old;
- h. Individuals actively consuming food or beverage in a restaurant or bar; an individual not seated at his or her table or the bar is required to wear face coverings;
- i. Individuals seeking to communicate with someone who is hearing-impaired in a way that requires the mouth to be visible;
- j. Individuals giving a speech for a broadcast to an audience; or
- k. Individual is an officiant of a religious services;
- l. Individuals temporarily removing his or her face covering to secure government or medical services or for identification purposes;
- m. Individuals is actively engaged in a public safety capacity, including but not limited to law enforcement, firefighters or emergency medical personnel;
- n. Individuals whose sincere religious belief prevents them from wearing a face covering;
- o. Individuals employed in positions where a face covering is either dangerous or not recommended by CDC guidelines;
- p. Individuals in private, individual offices and which space is not intended for use or access by the public;
- q. Individuals engaged in dental work or medical procedures;
- r. Individuals receiving a facial treatment, shave, or other services on the part of the head which the face covering covers or by which the face covering is secured;
- s. Facial coverings are prohibited by law or regulation;
- t. Facial coverings are in violation of documented industry standards;
- u. Facial coverings are in violation of a business's documented safety policies;
- v. Individuals or events who are otherwise exempted by the Franklin County Board of Public Health or the Ohio Department of Health.

Section 5. For the purposes of this Emergency Declaration, “face covering” means a piece of cloth, fabric, or other material that fully covers the mouth and nose that is secured with ear straps or otherwise ties so as to prevent slipping. A face covering may be factory-made or may be handmade and improvised from household materials. Face coverings include, but are not limited to, bandanas, scarves, medical masks, and cloth masks; and also include respirators, N95 masks, face shields or other personal protective equipment that provides a higher level of protection than a face covering defined in this Section. A face covering shall be worn so as to cover the mouth and nose in compliance with the CDC’s guidance on wearing face coverings.

Section 6. In addition to the face covering requirement, all persons are strongly encouraged to:

- a. Wash your hands often with soap and water or appropriate sanitizer;
- b. Cover your cough or sneeze with your arm or elbow, NOT your hands;
- c. Avoid close contact, especially with people who are sick and maintain physical/social distance of at least 6 feet;
- d. Stay at home when you are sick, except to get medical care;
- e. Avoid touching your eyes, nose and mouth;
- f. Clean and disinfect frequently touched objects and surfaces.

Section 7. Enforcement Process and Penalty

A. Initial warning. An initial verbal warning shall be issued to the business establishment owner/operator, where a violation of this Emergency Declaration has occurred, along with written information pertaining the requirements of this Emergency Declaration, by the City Manager or designee (City official or Franklin County Public Health official) provided that the City’s official is made aware of a violation and is able to witness or otherwise verify said violation.

B. Second warning. A second written warning shall be issued to the business establishment owner/operator where a violation of this Emergency Declaration has occurred, along with written information pertaining the requirements of this Emergency Declaration, by the City official, provided that the City official is made aware of a violation and is able to witness or otherwise verify said violation.

C. Following a second warning, any subsequent violation may subject the business establishment owner/operator to a fine of not more than \$100.00 pursuant to New Albany Codified Ordinance Section 101.99.

D. Defense. Business establishment owner/operators, including government entities, are hereby authorized to trespass from their property individuals who fail to wear a face covering while such individuals are entering, exiting, waiting in line to enter, or engaged in activities inside of the property intended for the use of the general public not otherwise exempted under Section 4. Business establishment owner/operators shall advise such non-complying individual(s) of the City’s facial covering requirement and request that said individual either wear a facial covering or leave the premises. If the non-complying individual still refuses to wear a face

covering or leave the premises, the business establishment owner/operator shall trespass the non-complying individual(s) from such property. Such actions shall serve as a complete defense to a violation set forth in this Section.

E. Non-Compliant Individual. A non-compliant individual, either in an indoor or outdoor setting, may be subject a warning and/or prosecution for trespass or other applicable violations under the New Albany City Code or other jurisdictions.

Section 8. This Amendment to the State of Emergency Declaration shall be in full force and effect within the City of New Albany from July 7, 2020 and will remain in effect until the health emergency no longer exists, as determined by City Manager and/or City Council, in consideration of the recommendations the Ohio Department of Health and the Franklin County Department of Health.