

RESOLUTION NO. 2020-185

A RESOLUTION REVISING AND RESTATING RESOLUTION NO. 2020-165 REQUIRING FACE COVERINGS AT ALL INDOOR LOCATIONS THROUGHOUT THE CITY IN ORDER TO MINIMIZE SPREAD OF THE COVID-19 VIRUS, SUBJECT TO CERTAIN EXCEPTIONS; CREATING AN ADDITIONAL EXCEPTION FOR DAYCARE FACILITIES, AND PUBLIC AND PRIVATE SCHOOLS; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the corona virus (“COVID-19”) is a respiratory illness caused by a virus that can spread rapidly from person to person, and may result in serious illness and death; and

WHEREAS, in response to the Coronavirus Disease 2019 (“COVID-19”), Governor Ron DeSantis issued Executive Order No. 20-51, declaring a public health emergency in the State of Florida, and on May 8, 2020, Governor DeSantis issued Executive Order No. 20-114, extending the state of emergency for an additional 60 days; and

WHEREAS, consistent with the City's Comprehensive Emergency Management Plan, adopted pursuant to Ch. 252, Fla. Stat., and City Resolution No. 19-131, the Mayor of The City of Daytona Beach, Derrick L. Henry, issued a Declaration of a Local State of Emergency due to COVID-19 on March 13, 2020, and an Amended Declaration of a Local State of Emergency and Executive Order on March 17, 2020; and

WHEREAS, the City Commission has affirmed, endorsed, and extended the Local State of Emergency for successive additional seven-day periods, most recently by Resolution No. 2020-164, and on June 24, 2020, Mayor Henry issued Executive Order No. 9, extended the Local State of Emergency through midnight, July 1, 2020; and

WHEREAS, after Governor DeSantis issued Executive Order No. 20-91 on April 1, 2020, imposing statewide restrictions on non-essential businesses and activities due to COVID-

19 (Safer at Home Order), Governor DeSantis subsequently issued Executive Orders No 20-112, (April 29, 2020), Executive Order No. 20-120 (on May 9, 2020), Executive Order No. 20-123 (May 14, 2020), Executive Order No. 20-131 (May 22, 2020), and Executive Order No. 20-139 (June 3, 2020), removing and decreasing the restrictions of the Safer at Home Order in order to provide for the phased re-opening of the State of Florida; and

WHEREAS, the re-opening of the State of Florida will lead to more contact between individuals gathered together in public places, which is likely to increase the transmission of COVID-19 among individuals and the spread of COVID-19 within Florida communities; and

WHEREAS, the increased risk in transmission of COVID-19 associated with the re-opening of the State of Florida may be greater for a community, such as Daytona Beach, that is a known tourist and nightlife destination; and

WHEREAS, COVID-19 is spread through airborne transmission; and

WHEREAS, COVID-19 can be spread by individuals who are asymptomatic; and

WHEREAS, the Centers for Disease Control and Prevention (“CDC”) recommends use of facial coverings to reduce the spread of COVID-19<sup>1</sup>; and

WHEREAS, a recent meta-analysis funded by the World Health Organization supports the use of social distancing and facial coverings to minimize transmission of COVID-19<sup>2</sup>, and on June 5, 2020, the World Health Organization changed its position on the use of facial covering, and now supports their use; and

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<sup>1</sup> <https://www.cdc.gov/coronavirus/2019-ncov/community/large-events/considerations-for-events-gatherings.html>

<sup>2</sup> <http://www.thelancet.com/action/showPdf?pii=S0140-6736%2820%2931142-9>

WHEREAS, according to public data provided by the Florida Department of Health<sup>3</sup>, there has been a significant increase in coronavirus cases across the State of Florida and within Volusia County. The data includes the following:

- Among all Florida residents, the number of daily coronavirus cases among all Florida residents increased from 1,663 on June 11, 2020, to 5,028 on June 24, 2020;
- The overall positive rate for COVID-19 testing within the State of Florida increased from 5.4% on June 16<sup>th</sup>, 2020 to 6.6% on June 25<sup>th</sup>, 2020; and The overall percent positive rate for COVID-19 testing within Volusia County increased from 3.2% on June 16<sup>th</sup>, 2020 to 4.1% on June 25<sup>th</sup>, 2020; and
- Additional data presented by Deputy City Manager/Fire Chief during the June 26, 2020 special City Commission meeting; and

WHEREAS, during the June 26, 2020 special City Commission meeting, Doctor Andria Klioze, M.D., representing the Volusia County Medical Society, presented additional data and information regarding the recent increase in COVID-19 cases, including within Volusia County, and also advised that she and the Society support the local adoption of face covering requirements for certain indoor businesses; and

WHEREAS, based on the manner in which the coronavirus is spread, and correlation of infection rates with the presence (or absence) of social distancing measures, it is prudent to be concerned that COVID-19 cases will increase within The City of Daytona Beach if additional measures are not taken to stop or slow the spread of the virus; and

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<sup>3</sup> <https://floridahealthcovid19.gov/>

WHEREAS, the City's Comprehensive Emergency Management Plan, and Ch. 252, Fla. Stat., authorize the City Commission to take actions such as requiring face coverings when necessary during declared emergencies to ensure the health, safety, and welfare of the community; and

WHEREAS, the City Commission finds that extending facial covering requirements to all indoor spaces within The City, subject to conditions, would be beneficial to mitigating the spread of COVID-19; and

WHEREAS, in order to provide consistent application of exceptions to requirements for wearing face coverings at indoor locations as adopted by Resolution 2020-165, the City Commission approved, at its meeting on July 1, 2020, an additional exception to such requirements for daycare facilities and all public and private schools. Resolution 2020-165 is restated below with revisions thereto as underlined.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF DAYTONA BEACH, FLORIDA:

**SECTION 1. EMERGENCY ORDER REQUIRING FACIAL COVERINGS.**

(a) *Definitions.* As used in this Emergency Order, certain terms have the meaning ascribed below:

(1) "Companion" means a person who is accompanying another person.

(2) "Face Covering" means a material that securely covers a person's nose and mouth and remains affixed in place without the use of one's hands, whether store-bought or homemade, consistent with CDC guidelines. Examples of compliant home-made masks may be found at <https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/how-to-make-cloth-face-covering.html>.

(b) *Face Covering Required.* Except as provided below, every person working, living, visiting, or doing business in The City of Daytona Beach shall wear a Face Covering in any indoor location, other than their home or residence, when not maintaining social distancing from other person(s), excluding family members or Companion(s).

(c) *Effective Date; Expiration.* This Order shall become effective at 12:01 a.m. on June 28, 2020, and will remain in effect so long as the Local State of Emergency remains in effect, unless specifically rescinded by Mayoral Executive Order or action of the City Commission, or superseded by any federal or state regulation, including Governor Executive Order.

(d) *Exceptions.*

(1) Nothing herein shall require the wearing of face coverings by any of the following persons:

- A. Persons under the age of two years.
- B. Persons observing social distancing in accordance with CDC guidelines.
- C. Persons for whom a face covering would cause impairment due to an existing health condition.
- D. Persons working in a business or profession who do not have face-to-face interactions with other persons.
- E. Persons working in a business or profession who maintain social distancing from another person.
- F. Persons working in a business or profession where use of a face covering would prevent them from performing the duties of the business or profession.
- G. Persons exercising, while maintaining social distancing.

H. Persons who are separated from one another by means of barriers such as plastic face shields, plastic or glass barriers, or other devices that effectively prevent the transmission of the COVID-19 virus; and

I. Persons eating or drinking.

J. Public safety, fire and other life safety and health care personnel, as their personal protective equipment requirements will be governed by their respective agencies.

K. A person speaking with another individual who is hearing-impaired, where the hearing-impaired individual needs to see the person's mouth in order to understand what is spoken.

(2) Nothing herein shall require or allow a person to wear a Face Covering so as to conceal the identity of the wearer in violation of Fla. Stat. Chapter 876.

(3) This Order shall not control or restrict the conduct of any person while located within any public indoor facility owned or operated by a government agency other than The City. All such government agencies operating public indoor facilities within The City's jurisdictional boundaries are strongly encouraged to adopt and enforce their own policies to help mitigate the spread of COVID-19 within The City.

(4) This Order shall not control or restrict the conduct of any person while located within any child daycare facility or within any primary or secondary school facility, regardless of whether it is a private or public owned or operated institution. All such daycare and school facilities within The City's jurisdictional boundaries are strongly encouraged to adopt and enforce their own policies to help mitigate the spread of COVID-19 within The City.

(e) *Medical and Surgical Face Masks.* Medical and surgical face masks, such as "N95" masks or other similar medical or surgical masks, are in short supply and should be reserved for health care personnel and other first responders with the greatest need for such personal protective equipment.

(f) *Applicability.*

(1) This Order is in addition to the Executive Orders issued by Governor DeSantis.

(2) In the event that any provision of this Order conflicts with any State or Federal law or constitutional provision, or conflicts with or is superseded by a current or subsequently-issued Executive Order of the Governor or President of the United States, such provision shall be deemed inapplicable and deemed to be severed from this Order, with the remainder of the Order remaining intact and in full force and effect.

(3) Section 2 of City Resolution No. 2020-164, requiring the wearing of Face Coverings by all persons within City buildings, is amended to (i) Incorporate the definitions contained in this Order; and (ii) Expand the exceptions provided in Section 2 of City Resolution No. 2020-164, to incorporate all of the exceptions to this Order, as applicable.

(g) *Violations.* In accordance with Ch. 252, Fla. Stat., violations of this Order are second degree misdemeanors; however, verbal or written warnings only shall be issued for any violations occurring prior to 12:01 a.m. on July 16, 2020.

SECTION 3. The City Commission hereby ratifies Mayoral Executive Order No. 9, extending the Local State of Emergency, and hereby extends the Local State of Emergency through 11:59 p.m., July 1, 2020.

SECTION 4. This Resolution shall take effect immediately upon its adoption.

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DERRICK L. HENRY  
Mayor

ATTEST:

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LETITIA LAMAGNA  
City Clerk

Adopted: July1, 2020