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RESOLUTION NO. 23-20

**A RESOLUTION OF THE CITY OF NEW SMYRNA
BEACH REQUIRING FACE COVERINGS WITH CERTAIN
EXCEPTIONS; AND PROVIDING AN EFFECTIVE DATE.**

WHEREAS, Novel Coronavirus Disease 2019 (COVID-19) is a severe acute respiratory illness that can spread among humans through respiratory transmission and causes symptoms similar to those of influenza, and in some cases death; and

WHEREAS, on March 13, 2020, President Donald J. Trump issued a Proclamation Declaring a National Emergency concerning COVID-19; and

WHEREAS, on March 9, 2020, Governor Ron DeSantis issued Executive Order No. 20-52, declaring a State of Emergency in the State of Florida; and

WHEREAS, the County of Volusia declared a State of Local Emergency on March 13, 2020, which has been extended for additional periods of seven days each effective, March 24, March 31, April 7, April 14, April 21, April 28, May 5, May 12, May 19, May 26, June 2, June 9, June 16, June 23, and June 30; and

WHEREAS, the City of New Smyrna Beach declared a State of Emergency in the City on March 17, 2020 by adoption of Declaration 01-20, which has been extended by Declaration 02-20 for additional periods of seven days concurrent with the extensions provided by the County of Volusia; and

WHEREAS, between March 17, 2020 and the date hereof, Governor DeSantis issued several Executive Orders placing numerous restrictions on individuals and businesses in response to the state-wide threat of the spread of COVID-19; and

WHEREAS, on April 29, 2020, Governor DeSantis issued Executive Order No. 20-112, as modified by Executive Order No. 20-120 on May 9, 2020, and Executive Order No. 20-123 on May 14, 2020, in response to the recommendations set forth in Phase 1 of the plan issued by the Task Force to Re-Open Florida, and adopted a phased approach to remove or decrease certain restrictions imposed pursuant to Executive Order No. 20-91, Safer-at-Home Order; and

WHEREAS, on June 3, 2020, Governor DeSantis issued Executive Order No. 20-139, moving all counties in Florida, other than Miami-Dade, Broward and Palm Beach Counties, into Phase 2 of the plan issued by the Task Force to Re-Open Florida, which Order supersedes Executive Order No. 20-91, the Safer-at-Home Order, and supersedes in part, and extends and modified other provisions of, Executive Order No. 20-112; and

43 **WHEREAS**, based on recent information and data from the Florida Department of
44 Health, the number of confirmed cases of COVID-19 in Volusia County has increased
45 significantly since additional re-openings were authorized under Phase 2 of the Governor’s Plan
46 for Florida’s Recover, which increase may result in additional deaths; and
47

48 **WHEREAS**, in response to the dramatic increase in COVID-19 cases, the Florida
49 Medical Association, the state’s largest physician’s organization, encourages all local officials to
50 adopt regulations requiring individuals to wear face coverings in public places; and
51

52 **WHEREAS**, based on advice from medical professionals the number of confirmed
53 cases of COVID-19 in Volusia County and the City of New Smyrna Beach will increase
54 exponentially if additional measures to stop or slow the spread of COVID-19 are not instituted;
55 and
56

57 **WHEREAS**, the United States Centers for Disease Control and Prevention (“CDC”) has
58 expressly found that: “COVID-19 spreads mainly from person to person through respiratory
59 droplets produced when an infected person coughs, sneezes, or talks. These droplets can land in
60 the mouths or noses of people who are nearby or possibly be inhaled into the lungs. Studies and
61 evidence on infection control report that these droplets usually travel around 6 feet (about two
62 arms lengths)”;

63
64 **WHEREAS**, the CDC therefore specifically recommends that as businesses and
65 communities reopen, and people resume their daily activities, people should wear face coverings
66 to slow the spread of COVID-19, particularly “in public settings where other social distancing
67 measures are difficult to maintain”; and
68

69 **WHEREAS**, consistent with Governor DeSantis’ Executive Order Number 20-51, as
70 extended, modified or amended, Chapter 252.46, Florida Statutes, and Section 10 of the City
71 Charter, the City Commission is authorized to make such orders and rules as are necessary to
72 ensure the health, safety and welfare of the community during a state of emergency; and
73

74 **WHEREAS**, mitigating the effects of COVID-19 and protecting the health of its
75 citizens and visitors is a high priority of the City of New Beach; and
76

77 **WHEREAS**, the City Commission for the City of New Smyrna Beach finds that it is in
78 the best interest of the public health, safety, and general welfare that the following resolution be
79 adopted.
80

81 **NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE**
82 **CITY OF NEW SMYRNA BEACH, FLORIDA:**
83
84
85

86 **SECTION 1: Findings.**

87 The above recitals are adopted by the City Commission as legislative findings.

88

89 **SECTION 2: Definitions.**

90 “Face Covering” shall mean a uniform piece of material that securely covers a person’s nose and
91 mouth and remains affixed in place without the use of one’s hands, whether store-bought or
92 homemade, concurrent with CDC guidelines.

93

94 “Social Distancing” shall mean keeping space between yourself and other people by staying at
95 least 6 feet (about 2 arms’ length) from other people.

96

97 “Companion” shall mean a person by whom you are accompanied.

98

99 **SECTION 3: Face Coverings Required.**

100 a. Every person living, working, visiting or doing business in the City of New Smyrna
101 Beach shall wear a face covering in any indoor location, other than home or residence.

102

103 b. Every person living, working, visiting or doing business in the City of New Smyrna
104 Beach shall wear a face covering in any public outdoor location.

105

106 c. Medical and surgical face masks, such as N95 masks or other similar medical or
107 surgical masks, are in short supply and should be reserved for health care personnel and other
108 first responders with the greatest need for such personal protective equipment.

109

110 d. Nothing herein shall require or allow a person to wear a face covering so as to conceal
111 the identity of the wearer in violation of Chapter 876, Florida Statutes.

112

113 e. All business are encouraged to prohibit entry of any person who is not wearing a face
114 covering with the exception of those below listed persons.

115

116 **SECTION 4: Exceptions.**

117 Nothing herein shall require the wearing of face coverings by the following persons:

118

119 a. Persons under the age of two years; and

120

121 b. Persons observing social distancing in accordance with CDC guidelines; and

122

123 c. Persons for whom a face covering would cause impairment due to an existing health
124 condition; and

125

126 d. Persons working in a business or profession who do not have interactions with other
127 persons; and

128

129 e. Persons working in a business or profession who maintain social distancing from
130 another person; and

131
132 f. Persons working in a business or profession where use of a face covering would
133 prevent them from performing the duties of the business or profession; and

134
135 g. Persons exercising, while maintaining social distancing; and

136
137 h. Persons eating or drinking; and

138
139 i. Public safety, fire and other life safety and health care personnel, as their personal
140 protective equipment requirements will be governed by their respective agencies; and

141
142 j. The requirement shall not apply when a person who is hearing-impaired needs to see
143 the mouth of someone wearing a face covering in order to communicate.

144
145 **SECTION 5: *Conflicting Resolutions.*** That all resolutions or parts thereof that are in conflict
146 with this resolution are hereby rescinded and repealed.

147
148 **SECTION 6: *Effective Date.*** That this resolution shall take effect immediately upon its final
149 adoption and shall automatically expire upon termination of the local state of emergency that has
150 been declared by the City as a result of COVID-19.

151
152
153 **APPROVED AS TO FORM AND CORRECTNESS:**

154 
155 _____

156 **CARRIE AVALLONE**
157 **City Attorney**

158
159 **DATE:** 7/1/2020
160