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

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

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

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

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

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

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

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

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

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF NEW SMYRNA BEACH, FLORIDA:
SECTION 1: Findings.
The above recitals are adopted by the City Commission as legislative findings.

SECTION 2: Definitions.
“Face Covering” shall mean a uniform piece of 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, concurrent with CDC guidelines.

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

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

SECTION 3: Face Coverings Required.
   a. Every person living, working, visiting or doing business in the City of New Smyrna Beach shall wear a face covering in any indoor location, other than home or residence.
   b. Every person living, working, visiting or doing business in the City of New Smyrna Beach shall wear a face covering in any public outdoor location.
   c. 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.
   d. 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 Chapter 876, Florida Statutes.
   e. All business are encouraged to prohibit entry of any person who is not wearing a face covering with the exception of those below listed persons.

SECTION 4: Exceptions.
Nothing herein shall require the wearing of face coverings by the following persons:

   a. Persons under the age of two years; and
   b. Persons observing social distancing in accordance with CDC guidelines; and
   c. Persons for whom a face covering would cause impairment due to an existing health condition; and
   d. Persons working in a business or profession who do not have interactions with other persons; and

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

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; and

g. Persons exercising, while maintaining social distancing; and

h. Persons eating or drinking; and

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

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

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

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

APPROVED AS TO FORM AND CORRECTNESS:

[Signature]
CARRIE AVALLONE
City Attorney

DATE: 7/1/2020