

## **RESOLUTION NO. 2020-172**

### **A RESOLUTION URGING PERSONS TO WEAR A FACE COVERING IN PLACES OPEN TO THE PUBLIC THROUGHOUT THE CITY OF COCOA IN ORDER TO MINIMIZE THE SPREAD OF THE COVID-19 VIRUS, SUBJECT TO CERTAIN EXCEPTIONS; PROVIDING FOR THE REPEAL OF PRIOR INCONSISTENT RESOLUTIONS; APPLICABILITY; SEVERABILITY AND 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 on March 1, 2020, 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, 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, COVID-19 is spread through airborne transmission from individuals, sneezing, speaking, and coughing; and

WHEREAS, COVID-19 can be spread by individuals who are asymptomatic, and the infectious droplet nuclei can spread for a great distance, although how far is not fully understood at present; and

WHEREAS, on June 20, 2020, the Florida Department of Health issued a Public Health Advisory recommending that residents wear a face covering, which helps the resident protects others from exposure as well as themselves; and

WHEREAS, the Centers for Disease Control and Prevention (“CDC”) recommends use of facial coverings to reduce the spread of COVID-19; 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, and on June 5, 2020, the World Health Organization changed its position on the use of facial covering, and now supports their use; and

WHEREAS, according to public data provided by the Florida Department of Health, there has been a significant increase in coronavirus cases across the State of Florida and within Brevard County; 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 significantly increase within the City of Cocoa if additional measures are not taken to stop or slow the spread of the virus; and

WHEREAS, COVID-19 continues to pose an imminent health hazard and an increased risk of infection to residents of the City and healthcare, first responders, and emergency medical service workers caring for patients with COVID-19; and

WHEREAS, the City's Comprehensive Emergency Management Plan, and Ch. 252, Fla. Stat., authorize the City Council 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, this Resolution is issued to protect the health and safety of the citizens, residents and visitors of the City of Cocoa, to assist the healthcare delivery system in its ability to serve those persons infected by COVID-19, and to preserve the public's access to essential services and maintaining the operation of critical infrastructure; and

WHEREAS, it is also necessary to protect the economy and businesses and their customers by taking actions such as requiring face coverings to protect the health and safety of the citizens, residents and visitors of the City of Cocoa; and ,

WHEREAS, this Resolution is also issued in support of the implementation of Florida's Safe.Smart.Step-by-Step Plan for Florida's Recovery and Florida's economic recovery from COVID-19.

**NOW THEREFORE, BE IT RESOLVED** by the City Council of the City of Cocoa as follows:

**Section 1. Recitals.** The foregoing recitals are hereby adopted by the City Council as material findings of the City of Cocoa and are further fully incorporated herein by this reference as part of this Resolution.

**Section 2. Definitions.** The following words used in this Resolution shall have the meaning ascribed below:

“Companion” means a person who is accompanying another person.

“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, consistent with CDC guidelines. See <https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/how-to-make-cloth-face-covering.html>

“Place open to the Public” shall mean a place to which the public has access, including, but not limited to, shops, businesses, non-profit and other institutional agencies, places of assembly, streets, public parks, transportation facilities, common areas of buildings, and such other places where the public is free to go. A person’s home or residence is not a place open to the public.

“Social Distancing” shall mean the practice of a person physically distancing themselves from another person by staying at least six (6) feet apart. Social distancing shall exclude requiring distancing between family members and Companions.

**Section 3. Face Covering Required.**

(a) Except as specifically stated below, every person working, living, visiting, or doing business in the City of Cocoa is urged to wear a Face Covering consistent with the current CDC guidelines while within or at a place open to the public within the jurisdictional limits of the City of Cocoa.

(b) All business operators of an indoor location of a business that is a place open to the public are urged to require all persons within the location to wear a Face Covering when not social distancing. Further, all business operators are urged to ensure compliance with this Resolution.

**Section 4. Exceptions.** A Face Covering shall not be required for the following persons:

- (a) Persons under the age of 2 years.
- (b) Persons observing and maintaining social distancing from other persons in accordance with CDC guidelines at outdoor locations
- (c) Persons for whom a Face Covering would cause impairment due to an existing health condition or disability.
- (d) Persons working in a business or profession who are not interacting face-to-face with the public.
- (e) Persons working in, or patrons of, a business or profession where use of a Face Covering would prevent them from performing the duties or receiving the services of the business or profession.
- (f) Persons exercising, while maintaining social distancing.
- (g) Persons eating or drinking.
- (h) Public safety, fire, and other life safety and health care personnel, as their personal protective equipment requirements will be governed by their respective agencies.
- (i) A person speaking with another individual who is hearing impaired where the hearing impaired individual needs to observe the person's mouth in order to understand what is spoken.
- (j) Persons for whom a Face Covering would conflict with the American with Disabilities Act (ADA).
- (k) Students at any location under the control of the school, which shall establish its own policy for all of its school locations.

**Section 5. Compliance.** This Resolution is intended as an emergency measure in furtherance of the State of Florida Declaration of Emergency – COVID-19 and the provisions of Section 252-47 and 252.50, Florida Statutes. The City seeks voluntary compliance with the provisions contained in this Resolution and to educate and warn of the dangers of non-compliance.

**Section 6. Repeal of Prior Inconsistent Resolution.** All prior resolutions or parts of resolutions inconsistent with this resolution are hereby repealed to the extent of the conflict.

**Section 7. Applicability; Conflicts and Severability.**

(a) This Resolution is in addition to the Executive Orders issued by Governor DeSantis and Brevard County. Any provision within this Resolution that conflicts with any State or Federal law or constitutional provision, or conflicts with or are superseded by a current or subsequently issued Executive Order of the Governor, the President of United States, or Brevard County shall be deemed inapplicable and deemed to be severed from this Resolution, with the remainder of this Resolution remaining intact and in full force and effect. This Resolution has no application outside of the municipal boundaries of the City of Cocoa.

(b) Should any section or provision of this resolution, or any portion thereof, any paragraph, sentence or word be declared by a Court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remainder hereto as a whole or part thereof to be declared invalid.

(c) Nothing contained 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.

**Section 8. Effective date.** This Resolution shall become effective July 1, 2020, at 12:00 AM, and shall remain in effect in the City of Cocoa for so long as a state of emergency related to COVID-19 is in effect within the City of Cocoa pursuant to the Governor’s Executive Order, or unless otherwise modified, repealed or terminated.

**ADOPTED** by the City Council of the City of Cocoa, Florida, in a regular meeting assembled on the 30th day of June, 2020.

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Jake Williams, Jr., Mayor

ATTEST:

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Carie Shealy, MMC, City Clerk