

EMERGENCY ORDINANCE NO. 2020-201

AN EMERGENCY ORDINANCE PROVIDING FOR NONCRIMINAL ENFORCEMENT AND PENALTIES FOR VIOLATIONS OF THE CITY'S EMERGENCY ORDER MANDATING FACIAL COVERINGS IN INDOOR LOCATIONS; PROVIDING FOR APPLICABILITY AND CONFLICT; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Commission of the City of Daytona Beach finds that the corona virus ("COVID-19") presents a danger to the health, safety, and welfare of the public; and

WHEREAS, the City is currently under a Local State of Emergency due to COVID-19; and

WHEREAS, COVID-19 is spread through airborne transmission from individuals sneezing, speaking, and coughing, and infectious droplet nuclei can spread for a great distance; and

WHEREAS, on June 26, 2020, the City Commission held a public meeting, during which the City Commission received and discussed evidence in regard to ongoing increases in the number of confirmed COVID-19 cases in Florida and in Volusia County, and the public health benefit of facial coverings in mitigating the spread of COVID-19; and

WHEREAS, based on this evidence, the City Commission approved Resolution No. 2020-165, which in addition to extending the Local State of Emergency, adopted an Emergency Order requiring all persons to wear "Face Coverings" as defined in said Order, while located in any indoor location other than their home or business, subject to certain exceptions; and

WHEREAS, on July 1, 2020, the City Commission approved Resolution No. 2020-185, which amended and restated the Emergency Order in Resolution 2020-165, to include an additional exception to the Facial Coverings requirements for day care and school facilities. Resolution No. 2020-185 is attached hereto and incorporated herein as **Exhibit A**; and

WHEREAS, on July 8, 2020, Mayor Derrick. L. Henry issued Executive Order No. 10, which extended the Local State of Emergency and established a requirement that all business establishments within the City post signage providing notice of the Facial Coverings requirements of the Emergency Order. Executive Order No. 10 is attached hereto and incorporated herein as **Exhibit B**. (The requirements of Resolution No. 2020-185, and Executive Order No. 10 are collectively referred to herein as “the Emergency Order”); and

WHEREAS, on July 15, 2020, the City Commission adopted Resolution No. 2020-194, which extended the Local State of Emergency through 11:59 p.m., July 22, 2020, and ratified Executive Order No, 10; and

WHEREAS, in accordance with § 252.50, Fla. Stat., the Emergency Order states that violations of the Emergency Order are punishable as a second degree misdemeanor, which provides for up to 60 days in jail and a fine of up to \$500.00; and

WHEREAS, the City Commission wishes to decriminalize violations of the Emergency Order and establish civil fines for such violations; and

WHEREAS, the City has “home rule” authority under § 2(b), Art. VIII of the Florida Constitution and § 166.021 Fla. Stat., and additional authority pursuant to Part II, Ch. 162, Fla. Stat., to provide that violations of the Emergency Order are noncriminal infractions, enforceable via civil citation.

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

SECTION 1. INCORPORATION OF RECITALS. The above recitals are incorporated herein, and are made fully a part of this Emergency Ordinance as if the recitals were set out in a section hereunder.

SECTION 2. PENALTIES AND ENFORCEMENT OF EMERGENCY ORDER REQUIRING FACIAL COVERINGS.

A. Section 1(g) of Resolution No. 2020-185 is hereby superseded and repealed.

B. A violation of the Emergency Order requiring Facial Coverings, as referenced in the Recitals, is a noncriminal infraction. A violation of said Emergency Order does not authorize the search or arrest of an individual. Prior to the City's issuance of a citation, the individual will be asked to comply with the Emergency Order, or be able to explain how an exception specifically provided for in the Emergency Order applies to them. Failure to comply with the Emergency Order presents a serious threat to the public health, safety, and welfare, and a citation may be issued for such a violation after the inquiry referenced above.

C. The penalty for a violation of Emergency Order requiring Facial Coverings is:

- (1) For a first offense, a fine of \$50.
- (2) For a second offense, a fine of \$100.00.
- (3) For a third and each subsequent offense, a fine of \$150.00.
- (4) All other remedies available at law or equity, including injunction, remain available to the City, even after issuance of a citation.

SECTION 5. APPLICABILITY AND CONFLICT. This Emergency Ordinance shall apply throughout the City's corporate limits. If any provision of this Emergency Ordinance conflicts with or is superseded by a subsequently-issued executive order of the Florida Governor or of the United States President, such provision shall be deemed inapplicable and deemed to be severed from this Emergency Ordinance, with all remaining provisions shall remain in full force.

SECTION 6. EFFECTIVE DATE; PERIOD OF EFFECT. This Emergency Ordinance shall take effect at 12:01 a.m. on Thursday, July 16, 2020 and shall remain in effect until the earlier of the date on which any of the following occurs:

- A. The City Commission rescinds this Emergency Ordinance;
- B. The Mayor or City Commission rescind the Emergency Order requiring Facial Coverings; or
- C. The Local State of Emergency expires or is rescinded by the City Commission.


DERRICK L. HENRY
Mayor

ATTEST:


LETITIA LAMAGNA
City Clerk

Adopted: July 15, 2020

EXHIBIT A: RESOLUTION NO. 2020-185 *(to be attached)*

EXHIBIT B: MAYOR EXECUTIVE ORDER NO. 10 *(to be attached)*