

RESOLUTION NO. 41-21

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, CONFIRMING A DECLARATION OF A STATE OF EMERGENCY; EXTENDING DIRECTIVES ON WEARING OF FACIAL COVERINGS CONSISTENT WITH PALM BEACH COUNTY COVID-19 ORDER NUMBER 2021-001; PROVIDING A CONFLICTS CLAUSE, AN EFFECTIVE DATE AND FOR OTHER PURPOSES.

WHEREAS, on March 9, 2020, Governor Ron Desantis issued Executive Order 20-52 declaring a state of emergency for the State of Florida as a result of COVID-19; and

WHEREAS, on March 13, 2020, Palm Beach County declared a local State of Emergency due to the Coronavirus pandemic, which has been extended in accordance with applicable law; and

WHEREAS, on March 13, 2020, a State of Emergency in the City of Delray Beach was proclaimed by the City Commission, which has been extended thirty-two times due to the spread of the Novel Coronavirus Disease 2019 (COVID-19); and

WHEREAS, the Florida Department of Health continues to stress the importance of social distancing and the wearing of facial coverings in order to mitigate the impacts and spread of Coronavirus; and

WHEREAS, on June 24, 2020, the Palm Beach County Board of County Commissioners issued Order No. 2020-012, providing for additional directives on the wearing of facial coverings in all businesses and establishments and outdoor public spaces where social distancing is not possible; and

WHEREAS, on September 21, 2020, the Palm Beach County Board of County Commissioners through the County Administrator issued Emergency Order No. 2020-026, extending its directive on facial coverings through 12:01 a.m. on October 22, 2020; and

WHEREAS, on September 25, 2020, Governor Ron Desantis issued Executive Order 20-244 moving all Florida counties into Phase 3, providing that no COVID-19 emergency ordinance prevent an individual from working or from operating a business, providing that restaurants, including any establishment with a food service license not be limited by a COVID-19 order to less than fifty percent (50%) of their indoor capacity and imposing certain requirements if such an establishment is limited to less than one hundred percent (100%) of its indoor capacity; and suspending the collection of fines and penalties associated with COVID-19 enforced upon individuals; and

WHEREAS, on September 29, 2020, the Palm Beach County Commission, through the County Administrator, issued Emergency Order Number 2020-28 providing

for Phase 3 Reopening in Palm Beach County consistent with the Governor's mandates; and

WHEREAS, on October 21, 2020, the Palm Beach County Commission, through the County Administrator, extended Executive Order 2020-12 until 12:01 a.m. on November 21, 2020; and

WHEREAS, on November 20, 2020, the Palm Beach County Commission, through the County Administrator, extended Executive Order 2020-12 until 12:01 a.m. on December 21, 2020; and

WHEREAS, on December 18, 2020, the Palm Beach County Commission, through the County Administrator, extended Executive Order 2020-12 until 12:01 a.m. on January 20, 2021; and

WHEREAS, on January 19, 2021, the Palm Beach County Commission, through the County Administrator, further extended Executive Order 2021-001 until 12:01 a.m. on February 19, 2021; and

WHEREAS, the City desires to remain consistent with the County's directives concerning facial coverings; and

WHEREAS, Chapter 95 of the City of Delray Beach Code of Ordinances authorizes the City Manager to take necessary measures in order to protect the health, safety and welfare of the citizens of Delray Beach and the public at large; and

WHEREAS, the City of Delray Beach wishes to adopt, by reference, Palm Beach County Emergency Order 2021-001 providing for the extension of Palm Beach County Order 2020-012.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, AS FOLLOWS:

Section 1. A declaration of a State of Emergency proclaimed on March 13, 2020 is hereby confirmed.

Section 2. The City of Delray Beach hereby adopts and incorporates by reference Palm Beach County Emergency Order Number 2021-001 dated January 19, 2021, attached hereto and incorporated herein as **Exhibit A**.

Section 3. This Resolution does not affect or limit the operations of Palm Beach County, the Palm Beach County School District, or any State or Federal office or facility.

Section 4. 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. Persons are encouraged to review and comply with the CDC and Florida Department of Health guidelines on personal protective equipment, including with respect to the use of a medical or surgical face mask, such as an "N95" mask or other similar medical or surgical mask. This Resolution should not be construed as to require the utilization of surgical masks or "N95" respirators. To the extent possible, persons should refrain from utilizing surgical masks and "N95" respirators, which are in short supply and which should be reserved for healthcare workers or other medical first responders as recommended by CDC guidance. Instead, persons are encouraged to utilize facial coverings as defined in Section 5 of Palm Beach County Emergency Order 2020-012.

Section 5. Any provision(s) within this Resolution that conflict 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 or President of the United States, shall be deemed inapplicable and deemed to be severed from this Resolution, with the remainder of the Resolution remaining intact and in full force and effect.

Section 6. In addition to the enforcement provisions listed in Palm Beach County Emergency Order 2020-017, violations of the provisions of this Resolution shall be subject to enforcement pursuant to Chapter 95 of the Delray Beach Code of Ordinances.

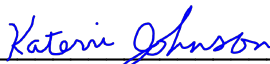
Section 7. This Resolution shall be effective immediately. This Resolution shall expire at 12:01 a.m. on February 19, 2021, consistent with Palm Beach County Emergency Order 2021-001.

PASSED AND ADOPTED on this the 21st day of January, 2021.



Jennifer Alvarez, Interim City Manager

ATTEST:



Katerine Johnson
City Clerk



**EMERGENCY ORDER NUMBER 2021-001
PALM BEACH COUNTY COVID-19
EXTENSION OF FACIAL COVERINGS DIRECTIVE**

WHEREAS, COVID-19, a respiratory illness caused by a virus that spreads rapidly from person to person and may result in serious illness or death, constitutes a clear and present threat to the lives, health, welfare, and safety of the people of Palm Beach County; and

WHEREAS, on March 9, 2020, Governor Ron DeSantis issued Executive Order 20-52, declaring a state of emergency for the State of Florida as a result of COVID-19; and

WHEREAS, on March 13, 2020, pursuant to Section 252.38(3)(a)(5), Florida Statutes, Palm Beach County declared a local State of Emergency due to the Coronavirus pandemic, which has since been extended in accordance with applicable law; and

WHEREAS, on March 24, 2020, Governor Ron DeSantis also issued Executive Order 20-83 directing the State Surgeon General and the State Health Officer to issue a public health advisory for senior persons and persons that have a serious underlying medical condition that places them at a high risk of severe illness from COVID-19 to stay at home. Such conditions include, but are not limited to, chronic lung disease or moderate to severe asthma, serious heart conditions, immunocompromised status, including those in cancer treatment, and severe obesity; and

WHEREAS, Governor Ron DeSantis has issued a number of subsequent Executive Orders in response to the COVID-19 pandemic, including Executive Order 20-112, a Phase 1: Safe Smart Step-by-Step Plan for Florida's Recovery, under which the Governor re-opened certain businesses, and Executive Order 20-120 which, among other things, served to include Palm Beach County under Phase 1, and Executive Order 20-123, in which the Governor extended and brought all Florida counties into Full Phase 1; and

WHEREAS, Palm Beach County operated under Phase 1 from May 11, 2020 to September 4, 2020, in accordance with Executive Orders 20-120, 20-123 and Order 20-139, and on September 3, 2020, Governor Ron DeSantis authorized Palm Beach County to move to Phase 2 of the *Safe. Smart. Step-by-Step. Plan for Florida's Recovery*; and

WHEREAS, the County Administrator determined that it was necessary and appropriate to issue an emergency order authorizing additional business re-openings in accordance with the

direction of Governor DeSantis and Step 1 of the *Incremental Phase 2 Re-Opening Plan* and Emergency Order 2020-024 was issued for that purpose on September 4, 2020; and

WHEREAS, on September 25, 2020, Governor DeSantis issued Executive Order 20-244 moving all of Florida's counties into Phase 3. This order authorized all businesses to be open with minimal restrictions; and

WHEREAS, in response to the Governor's Executive Order 20-244, the County Administrator, on September 29, 2020, issued Emergency Order 2020-028 repealing all prior emergency orders with the exception of Orders 2020-012 (facial coverings) and 2020-017 (enforcement). Order 2020-028 allowed all businesses and establishments to reopen with adherence to the facial covering order, social distancing, and enhanced cleaning protocols, and indicated that pursuant to Governor DeSantis' Executive Order 20-244, COVID-19 related collection of fines and penalties upon individuals is suspended; and

WHEREAS, the Centers for Disease Control and Prevention (CDC) has affirmed that cloth face coverings are a critical tool in the fight against COVID-19, citing increased evidence that cloth face coverings help prevent people who have COVID-19 from spreading the virus to others and evidence that masks also help reduce the inhalation of virus-laden droplets by the wearer; and

WHEREAS, the CDC continues to recommend the use of face coverings, the practice of social distancing, and enhanced cleaning and disinfection to prevent COVID-19 spread; and

WHEREAS, the County Administrator issued Emergency Order 2020-012, **Additional Directive on Wearing of Facial Coverings**, on June 24, 2020 mandating the wearing of facial coverings in all businesses, establishments, and in public spaces. The order also required retail establishments and restaurants to post signage containing information regarding sanitization, social distancing, and facial covering requirements. This order, as extended, will expire on January 20, 2021 at 12:01 a.m., unless further extended; and

WHEREAS, considering the most current data on COVID-19 spread in Palm Beach County and throughout the nation, the County's Phased Restart Resurgence Indicators, the CDC recommendations on wearing of facial coverings, and the reopening of all Palm Beach County businesses, establishments, and public schools, the County Administrator has determined that it is in the best interest of the County to protect the health, safety, and welfare of its residents and visitors at this time to extend Emergency Order Number 2020-012 for an additional thirty (30) days.

NOW, THEREFORE, IT IS HEREBY ORDERED pursuant to Palm Beach County Code Chapter 9, Article II, Section 9-35, as well as the authorities granted to me by Declaration of Emergency issued by Governor DeSantis in Executive Order 20-52, by Chapter 252, Florida Statutes, by the Board of County Commissioners, by the Palm Beach County Comprehensive Emergency Management Plan, and as otherwise provided by law, I hereby order as follows:

1. **Recitals.** The foregoing recitals are hereby incorporated herein by reference.

2. **Extension.** Executive Order 2020-012 is hereby extended until 12:01 a.m. on February 19, 2021.
3. **Conflicts.** Any provision(s) within this Order that conflict(s) with any state or federal law or constitutional provision, or conflict(s) with, or are superseded by, a current or subsequently-issued Executive Order of the Governor or the President of the United States, 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. To the extent application of some or all of the provisions of this Order is prohibited on the sovereign land of a federally or state recognized sovereign or Indian tribe, such application is expressly excluded from this Order. The provisions of this Order shall supersede the specific provisions of any previously issued County Emergency Order that is contrary to or in conflict with this Order.
4. **Effective Date.** This Order shall be effective as of 12:01 a.m. on January 20, 2021.

PALM BEACH COUNTY

By: 
County Administrator

1/19/2021
Date

APPROVED AS TO
LEGAL SUFFICIENCY

By: Denise Marie Nieman
County Attorney

ATTEST

CLERK & COMPTROLLER

By: 