



Rick Staly, Sheriff
FLAGLER COUNTY SHERIFF'S OFFICE
"An honor to serve, a duty to protect."

Myth Busters - A Message to Flagler County and Palm Coast
Residents about Palm Coast Resolution 2020-71 — Commonly Known as
Mandatory Face Mask Wearing within the City of Palm Coast

Date: Thursday, July 9, 2020

FROM THE DESK OF FLAGLER COUNTY SHERIFF RICK STALY:

There is a lot of misinformation concerning the City of Palm Coast's "Required Face Coverings" Resolution 2020-71 that was passed by the Mayor and City Council on Tuesday night. The media and Facebook bloggers have various opinions and are using the words "mandatory" when discussing this issue in a hotly debated and opinionated discussion.

Here are the facts: a resolution is not a law; it is not an ordinance or an emergency order with teeth under Florida law. So what is a resolution? It is an unenforceable recommendation. That's all it is! The resolution does not include ANY legally enforceable action for persons or businesses that violate the resolution. The Resolution passed by the Mayor and City Council did NOT include any sanctions for violating the "resolution" so in effect **it is a recommendation and only encouragement** for residents, visitors, businesses, and workers to follow. It is NOT a law that can be violated that imposes any type of sanction and it contains many exceptions. Therefore, it is not enforceable by the Sheriff's Office. The Resolution states:

"Section 3: Face Coverings Required.

- a. Every person living, working, visiting or doing business in the City of Palm Coast 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 Palm Coast 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.

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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 or cannot personally apply or remove the mask; and
- d. Persons working in a business or profession who do not have interactions with other persons; and
- 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."

As you can see from reading these excerpts or the full resolution (below) there is absolutely NO provision for enforcement, fines, arrests, trial or appeal. It is **not** an ordinance and is not a civil infraction or criminal offense for violations. In fact, in Section 3(e) the resolution uses the words "encouraged to," which is the weakest form of governmental control of behavior.

In closing, a City Council, elected by you, absolutely has the right to pass resolutions, ordinances and take action that they, as a body, believe are needed and appropriate for the safety of the community, especially in these unprecedented times. They are the rule-making legislative body. That is their role.

The Sheriff does not make laws or rules. As Sheriff, it is my role to enforce **criminal law violations** passed by the legislative body and protect the constitutional rights of all. The resolution passed by the City of Palm Coast is not law. **It is for these reasons the Sheriff's Office cannot and will not enforce a resolution. It's just not legally enforceable.**

It is my hope that our residents and businesses will follow the CDC and Florida Department of Health recommendations during this pandemic for the safety of themselves and others and so we can all get through this pandemic together quickly, as a community united, to return to our normal lives.

View The City of Palm Coast Resolution 2020-71 below:

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**RESOLUTION 2020-71
REQUIRED FACE COVERINGS**

**A RESOLUTION OF THE CITY OF PALM COAST
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 City of Palm Coast declared a State of Local Emergency on March 15, 2020, which has been extended for additional periods of seven days each effective, March 21, March 27, April 2, April 9, April 16, April 23, April 30, May 7, May 14, May 21, May 28, June 3, June 10, June 17, June 23, June 30 and July 6; 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

WHEREAS, based on recent information and data from the Florida Department of Health, the number of confirmed cases of COVID-19 in the State of Florida 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

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WHEREAS, based on advice from medical professionals the number of confirmed cases of COVID-19 in Flagler County and the City of Palm Coast 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 23-58 of the City Code,” the City Council is authorized to make such orders and rules as are necessary for emergency preparedness; 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 Palm Coast; and

WHEREAS, the City Council of the City of Palm Coast 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 COUNCIL OF THE CITY OF PALM COAST, FLORIDA:

SECTION 1: Findings. The above recitals are adopted by the City Council 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 Palm Coast 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 Palm Coast 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 or cannot personally apply or remove the mask; and
- d. Persons working in a business or profession who do not have interactions with other persons; and
- 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.

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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. This Resolution shall take effect immediately upon adoption by the City Council.

DULY PASSED AND ADOPTED by the City Council of the City of Palm Coast, Florida, on this 7th day of July 2020.

CITY OF PALM COAST, FLORIDA

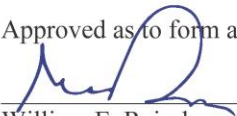

MILISSA HOLLAND, MAYOR

ATTEST:


VIRGINIA A. SMITH, CITY CLERK



Approved as to form and legality:


William E. Reischmann, Jr.
City Attorney

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