

ORDINANCE 2020-15

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF LAKE WALES, FLORIDA, RELATING TO PUBLIC HEALTH; REQUIRING PERSONS THAT LIVE, WORK, VISIT OR DO BUSINESS IN THE CITY OF LAKE WALES, FLORIDA, TO WEAR FACE COVERINGS IN CERTAIN PUBLIC PLACES TO STOP OR SLOW THE SPREAD OF NOVEL CORONAVIRUS DISEASE 2019 (COVID-19); PROVIDING FOR EXCEPTIONS; ESTABLISHING ENFORCEMENT AND PENALTY PROVISIONS FOR VIOLATIONS; MAKING FINDINGS; PROVIDING AN EFFECTIVE DATE.

WHEREAS, on March 13, 2020, President Donald J. Trump issued a Proclamation Declaring a National Emergency concerning Coronavirus Disease 2019 ("COVID-19"); and

WHEREAS, on March 1, 2020, Governor Ron Desantis issued Executive Order Number 20-51 declaring a Public Health Emergency in the State of Florida due to the spread of COVID-19; and

WHEREAS, on March 9, 2020, Governor Ron Desantis issued Executive Order Number 20-52, declaring a State of Emergency for the State of Florida, extending to all sixtyseven (67) counties, which Executive Order Number 20-52 was extended for an additional sixty (60) days on May 8, 2020, by Executive Order Number 20-114; and

WHEREAS, between March 17, 2020, and the date hereof, Governor Ron DeSantis issued several Executive Orders placing numerous restrictions on individuals and businesses, including issuance of Executive Order Number 20-91 (as amended) on April 1, 2020, imposing a state-wide "Safer-At Home" Order, in response to the statewide threat of the spread of COVID-19 virus; and

WHEREAS, the Polk County Board of County Commissioners declared a local state of emergency for Polk County on March 11, 2020, and has extended its State of Emergency since initially declared; and

WHEREAS, the City of Lake Wales, by action of its Mayor, initially declared a State of Emergency on March 13, 2020, and the City Commission has extended the City's State of Emergency since initially declared; 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, the City Commission has determined it is appropriate to support the wearing of masks or similar face coverings in public as recommended by the CDC in addition to its recommendations of social distancing for purposes of limiting the spread of COVID-19 among the citizens and residents of the City; and

WHEREAS, the City Commission previously adopted Resolution 2020-23 on July 7, 2020, in support of wearing face coverings or masks and resolved that it would revisit the matter and make the wearing of face coverings or masks mandatory should it determine that the requirements of said Resolution were not being voluntarily complied with sufficiently to achieve the desired result of limiting the spread of the coronavirus disease.

WHEREAS, §252.38, Florida Statutes, authorizes political subdivisions, including municipalities, to declare a local state of emergency and to take whatever prudent action is necessary to ensure the health, safety and welfare of the community; and

WHEREAS, the City Commission has determined that voluntary compliance with the requirement of wearing face coverings or masks has not been sufficient to stem the spread of COVID-19, and now, based on the advice of medical professionals and in light of the exponential increase in COVID-19 cases, deems it necessary to mandate the wearing of face coverings or masks.

NOW THEREFORE BE IT RESOLVED by the City Commission of the City of Lake Wales that this Ordinance shall provide as follows:

1. "Business" as used herein shall mean any commercial or for-profit entity (regardless of corporate structure or formation) that provides goods or services directly to the public. "Business" as used herein does not include religious organizations or private clubs nor does it include any location under the control of the Polk County Public Schools or the Lake Wales Charter Schools, which shall establish their own policy for all locations within the City. "Business" as used herein also includes nonprofit and not-for-profit entities which offer goods or services for sale to the general public in indoor locations.
2. "Business operator" as used herein shall mean any individual that controls the operation of an indoor location of a business, regardless of the formal title or role held by that individual or entity.
3. "Face Covering" as used herein 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. Examples of compliant homemade masks may be found at

<https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/how-to-make-cloth-face-covering.html>.

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.

5. Unless an exemption contained in Paragraph 9 of this Ordinance is applicable, all persons within any indoor location of a business in the City of Lake Wales shall wear a face covering when not maintaining social distancing from other person(s), excluding family members or others residing in their home. Persons not exempt under Paragraph 9 of this Ordinance are subject to the penalties provisions of this Ordinance only if they fail to comply with this paragraph of the Ordinance after being asked to do so by a business operator or employee of a business.

6. 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 Fla. Stat. Chapter 876.

7. All business operators of an indoor location of a business that is open to the public in the City of Lake Wales shall make reasonable efforts to require all persons within the location to wear a face covering when not maintaining social distancing from other person(s), excluding family members or others residing in their home and subject to the exceptions in Paragraph 9 of this Ordinance. "Reasonable efforts" as used herein shall consist of the 4 steps contained in Paragraph 8 of this Ordinance.

8. Business operators must require individuals not exempt from wearing a face covering under Paragraph 9 of this Ordinance to comply with Paragraph 5 of this Ordinance by taking the following steps, at a minimum: (1) post signage on all public entrances indicating face coverings must be worn inside unless an exemption in Paragraph 9 of this Ordinance is applicable (printable compliant signage is available on Lake Wales' website); (2) if the business is equipped with a public announcement or "PA" system over which announcements to patrons are made, then make regular announcements reminding all persons that face coverings must be worn; (3) require all employees not exempt from wearing a face covering under Paragraph 9 of this Ordinance to wear a face covering in any indoor location of the business; and (4) make all other reasonable efforts, including asking patrons not wearing face coverings in compliance with Paragraph 5 of this Ordinance to do so. Business operators who take these steps shall be deemed in compliance with the requirement in Paragraph 7 of this Ordinance to make reasonable efforts to require all persons within the location to wear face coverings and shall not be subject to any penalty contained in this Ordinance.

9. Nothing herein shall require the wearing of face coverings by the following persons:

a. Persons under the age of eight 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; No business operator or employee shall ask a person not wearing a face covering pursuant to this exemption to identify a specific health condition or supply documentation thereof, nor shall any business operator or employee deny such person admittance or service because he/she is not wearing a face covering; 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. Children under the age of eighteen participating in private, public, or nonprofit organized youth activities, including youth sports teams and leagues, youth clubs and programs, child care, summer camps and youth recreation camps; and

J. 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

k. 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; and

l. The requirement shall not be applied in a manner that would conflict with the Americans with Disabilities Act (ADA).

10. All persons within any indoor location not subject to the requirements of this Ordinance are strongly encouraged to follow appropriate social distancing and safety protocols issued by the CDC.

11. The provisions of this Ordinance shall serve as minimum standards.

12. It is the intent of this Ordinance to seek voluntary compliance with the provisions contained herein and to educate and warn of the dangers of non-compliance. However, in the event voluntary compliance is not achieved then, as a last resort, violations of this Ordinance by a business operator or an individual as set out in Paragraph 5 may be enforced as provided below:

a. The Lake Wales Police Department is empowered to investigate any situation where a business/person is alleged to be violating this Ordinance. The Lake Wales Police Department is authorized to enforce this Ordinance through the issuance of a noncriminal civil citation as provided in § 162.21, Florida Statutes.

b. A violation of this Ordinance shall result in an initial warning for a first offense; a civil fine of \$50.00 for a second offense, and a civil fine of \$100.00 for a third offense.

c. It is the determination of the Lake Wales City Commission that a violation of this Ordinance presents a serious threat to the public health, safety, or welfare, and that the violation is irreparable or irreversible.

13. This Ordinance is not intended and does not in any way conflict with Chapter 790, Florida Statutes, which regulates concealed weapons and firearms.

14. The provisions of this Ordinance are severable and if any provision of this Ordinance is held to be invalid by a court of competent jurisdiction, the remainder of this Ordinance shall not be affected and shall remain in full force and effect.

15. This Ordinance shall remain in full force and effect during the COVID-19 pandemic. The Lake Wales City Commission will continue to closely monitor all data relating to COVID-19 and its intent will be to rescind this Ordinance by adoption of an Ordinance repealing this Ordinance at a time which the City Commission finds it appropriate to do so.

APPROVED and ADOPTED by the City Commission of the City of Lake Wales, Polk County, Florida, after a Second Reading and a Public Hearing this _____ day of _____, 2020.

Eugene Fultz, Mayor

Attest:

Jennifer Nanek, City Clerk