

EMERGENCY ORDINANCE NUMBER 2020-2203

AN EMERGENCY ORDINANCE OF THE CITY OF NEW PORT RICHEY, FLORIDA SETTING INDOOR PUBLIC SAFETY REQUIREMENTS; MANDATING THAT INDIVIDUALS WEAR A FACE COVERING IN PUBLIC INDOOR PLACES; ESTABLISHING EXCEPTIONS; ESTABLISHING PROHIBITIONS; PROVIDING FOR PENALTIES; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE SUSPENSION OF ALL CITY ORDINANCES INCONSISTENT HEREWITH; AND PROVIDING FOR AN EFFECTIVE DATE AND SUNSET

WHEREAS, according to the Center for Disease Control, Novel Coronavirus Disease 2019 (COVID-19) is a severe acute respiratory illness, spreadable among humans through respiratory transmission; and

WHEREAS, the Governor of the State of Florida (“Governor”) issued Executive Order No. 20-51 on March 1, 2020, declaring a Public Health Emergency in the State of Florida in response to COVID-19 and Executive Order No. 20-52 (“EO 20-52”) on March 9, 2020, declaring a State of Emergency in the State of Florida, extended by Executive Order No. 20-114 on May 8, 2020, which remains in effect at this time; and

WHEREAS, the Governor issued Executive Order 20-139 on June 5, 2020, implementing provisions of the “Safe. Smart. Step-by-Step. Plan for Florida’s Recovery,” which encourages Florida residents to avoid large groups and for in-store businesses follow appropriate social distancing and sanitation protocols; and

WHEREAS, Section 252.38, Florida Statutes, authorizes the City of New Port Richey (“City”) to declare a state of local emergency which it has done on April 7, 2020 and which has been duly extended by the City Manager and further authorizes the City to take whatever prudent action is necessary to ensure the health, safety, and welfare of the community; and

WHEREAS, testing for COVID-19 has recently shown dramatic increases in infection rates within the State of Florida and the City has determined that COVID-19 continues to present an increasing danger to the health, safety, and welfare of the community; and

WHEREAS, the Center for Disease Control (“CDC”) advises that COVID-19 spreads from person to person through airways when an infected person coughs, sneezes, or talks within 6 feet of another person, even if they are asymptomatic or pre-symptomatic; and

WHEREAS, the CDC and the Surgeon General for the State of Florida advises that the public wear cloth face coverings in public settings where other social distancing measures are difficult to maintain to slow and prevent the transmission of COVID-19; and

WHEREAS, the CDC does not advise the use of cloth face coverings for children under the age of 2 or anyone who has trouble breathing, is unconscious, is incapacitated, or is otherwise unable to remove a mask without assistance; and

WHEREAS, the CDC advises that the general public use simple cloth face coverings and not surgical masks or N-95 respirators because those should be reserved for medical workers; and

WHEREAS, cloth face coverings are relatively inexpensive, readily available, and can be made from household supplies with the CDC's instructions; and

WHEREAS, business operations have an increased risk for COVID-19 as identified by CDC guidance and it is necessary for the health, safety, and welfare of the community to impose stricter mitigation measurements on business operations within the City that ensures that employees and customers wear a face covering in areas of the business accessible to the public; and

WHEREAS, the City finds any inconveniences resulting from this Emergency Ordinance requiring the usage of face coverings minimal compared to the danger COVID-19 presents to the health, safety, and welfare of the community; and

WHEREAS, pursuant to Section 2.14 of the New Port Richey City Code, the City Council has determined that COVID-19 is public emergency affecting the life, health, property or the public peace of the City's residents and is authorized to adopt this Emergency Ordinance at the meeting at which it is introduced; and

WHEREAS, the City finds implementation of this Emergency Ordinance necessary for the preservation of the health, safety, and welfare of the community; and

WHEREAS, the State of Florida has not preempted local governments from regulating in the field of minimum health requirements with respect to COVID-19; and

WHEREAS, the stricter mitigation measures imposed by this ordinance are necessary only until the threat of a widespread outbreak of COVID-19 within the City has passed and is intended to be temporary.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NEW PORT RICHEY, FLORIDA, IN SESSION DULY ASSEMBLED:

Section 1. Findings. The above recitals are adopted by the City as legislative findings.

Section 2. Definitions. For purposes of this ordinance, the following terms are defined as follows:

1. "Business" as used herein shall mean any business entity (regardless of corporate structure or formation) that provides goods or services directly to the public.
2. "Government Operation" as used herein shall mean operations in any facility under the control of the City of New Port Richey.
3. "Business Operator" as used herein shall mean any individual or entity that owns a business or that controls the operation of a business, regardless of the formal title or role held by that individual or entity.
4. "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 home-made masks may be found at <https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/how-to-make-cloth-face-covering.html>.

Section 3. Mandatory requirements and prohibitions.

1. Medical and surgical face masks, such as N-95 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.
2. 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.
3. All persons within any indoor location of a business or government operation that is open to the public in the City of New Port Richey shall be required to wear a Face Covering when not maintaining social distancing from other person(s), excluding family members or others residing in their home.
4. All businesses shall be required to ensure compliance with and enforce the provisions of this Emergency Ordinance. Business Operators and building owners, and those authorized on their behalf, shall be required to ensure compliance with this Emergency Ordinance and shall (1) deny admittance to any indoor business location under their control to any persons who fail to comply with the requirements of this Emergency Ordinance and (2) require or compel the removal from any indoor business location

under their control of any persons who fail to adhere to the requirements of this Emergency Ordinance.

5. Every business is strongly encouraged to develop and implement a health and safety plan consistent with this Emergency Ordinance requiring protective Face Coverings and adherence to CDC guidelines and to post the plan in a conspicuous location sufficient to provide notice to persons within the business of the requirements of the plan.
6. 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 whom a Face Covering would cause impairment due to an existing health condition; 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 engaging in indoor sporting activities, so long as the facility has its own health and safety plan consistent with this Emergency Ordinance; and
 - i. Persons eating or drinking; 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

1. The requirement shall not be applied in a manner that would conflict with the Americans with Disabilities Act.

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

Section 4. **Enforcement.** It is the intent of this Emergency Ordinance to seek voluntary compliance with the provision contained herein and to educate and warn of the dangers of non-compliance. However, in the event voluntary compliance cannot be achieved, then, as a last resort, a violation of this Emergency Ordinance may be enforced through any legal processes available to the City including, but not limited, to ch. 162, Florida Statutes (parts I and II), and may be punishable as a civil citation with a maximum fine of \$250.00.

Section 5. **Severability.** If any section, subsection, sentence, clause, or provision of this Emergency Ordinance is held by a court of competent jurisdiction to be invalid, the remainder of this Emergency Ordinance shall not be affected by such invalidity.

Section 6. **Applicability and Conflict.** All ordinances and portions thereof which conflict with this ordinance are suspended to the extent of such conflict.

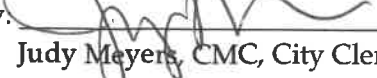
Section 7. **Effective Date.** This Emergency Ordinance shall become effective immediately upon its adoption, except that the enforcement of this Emergency Ordinance shall become effective at 5:00 p.m. on July 1, 2020.

Section 8. **Sunset Date.** Unless rescinded or extended by subsequent act of the City, this ordinance shall sunset upon the expiration of the State of Emergency of the State of Florida as it may be extended pursuant to law.

Section 9. **Codification.** Due to the temporary nature of this Emergency Ordinance, the City directs the Clerk to send the Emergency Ordinance to the Municipal Code for publication on its website but with instructions to not codify the Emergency Ordinance within the New Port Richey City Code.

The above and foregoing Emergency Ordinance was read, approved, and adopted on first reading at a duly convened meeting of the City Council of the City of New Port Richey, Florida, this 30th day of June, 2020.

ATTEST:

By: 
Judy Meyers, CMC, City Clerk

By: 
Rob Marlowe, Mayor-Council Member

(Seal)

APPROVED AS TO FORM

By: 
Special Counsel

