ORDINANCE NO. 20-5329

AN EMERGENCY ORDINANCE OF THE CITY OF SARASOTA, FLORIDA, REQUIRING FACE COVERINGS AS MORE FULLY SPECIFIED HEREIN; ALLOWING FOR EXCEPTIONS TO THE FACE COVERING REQUIREMENT; PROVIDING A PENALTY FOR VIOLATION; PROVIDING FOR SEVERABILITY; PROVIDING FOR READING BY TITLE ONLY; AND PROVIDING FOR 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 Ron DeSantis, Governor of the State of Florida, issued Executive Order No. 20-52 in which the Governor declared a State of Emergency exists in the State of Florida and on May 8, 2020 the Governor issued Executive Order No. 20-114 which extended the declaration of a State of Emergency for an additional period of sixty (60) days, which declaration remains in effect through July 7, 2020; and,

WHEREAS, between March 17, 2020 and the date hereof, the Governor 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 March 13, 2020 the City of Sarasota declared a City-wide Public Health Emergency pursuant to Chapter 13 of the Sarasota City Code with said declaration being extended by the City Manager for additional periods of seven (7) days each effective March 20, March 27, April 3, April 10, April 17, April 24, May 1, May 8, May 15, May 22, May 29, June 5, June 12, June 19, 2020; 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 Sarasota; and,

WHEREAS, the Reopen Florida Task Force, in its Report to the Governor, noted that there is currently no vaccine to prevent contraction of COVID-19 and that all Floridians have a responsibility to continue practicing mitigation measures; and,

WHEREAS, on April 29, 2020, subsequent to his receipt of said Report, the Governor issued Executive Order 20-112 which is effective from May 4, 2020 until the Governor issues a subsequent order which terminates or modifies it; and,

WHEREAS, Executive Order 20-112 began Phase 1 of the safe, smart, step-by-step approach to reopen Florida while continuing the social distancing CDC guidance of limiting gatherings to no more than 10 persons and distancing from other parties by six feet; and,

WHEREAS, on June 3, 2020 the Governor issued Executive Order 20-139 which also extended and further modified Executive Order 20-112 by commencing Phase 2 of the "Plan for Florida's Recovery" as part of the safe, smart, step-by-step approach to reopen Florida; and,

WHEREAS, Executive Order 20-139 provides that all persons in Florida are encouraged to follow appropriate social distancing and safety protocols issued by the CDC and Occupational Safety and Health Administration (OSHA) and that senior citizens and individuals with a significant underlying medical condition are strongly encouraged to avoid crowds and that all persons in Florida are encouraged to avoid congregating in groups larger than 50 persons and that in store retail businesses should maintain appropriate social distancing and sanitation protocols; and,

WHEREAS, Executive Order 20-139, among other things, allows City Commission and board meetings to be conducted using communications media technology; and,

WHEREAS, guidance released by the CDC on June 15, 2020, states (i) that the virus that causes COVID-19 is mostly spread by respiratory droplets released when people cough, sneeze, or talk and (ii) that a person can also get COVID-19 by touching a surface or object that has the virus on it and then touching their own nose, mouth, or possibly their eyes. This guidance goes on to state that "personal prevention practices (such as staying home when sick, social distancing, wearing a cloth face covering, and handwashing) and environmental prevention practices (such as cleaning and disinfection) are important ways to prevent the spread of COVID-19;" and,

WHEREAS, guidance released by the CDC dated June 15, 2020, indicates that the risk of contracting COVID-19 is increased by a variety of factors, including (i) interacting with more people; (ii) engaging with new people (e.g., those who don't live with you); and (iii) being close to people who may be infected. According to this guidance "[i]t's important that you and the people around you wear a cloth face covering when in public and particularly when it's difficult to stay 6 feet away from others consistently;" 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' length)"; 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, on June 20, 2020, the State of Florida's Surgeon General, Scott A. Rivkees, M.D., issued a Public Health Advisory recommending the wearing of face coverings in any setting where social distancing is not possible except under certain circumstances; and ,

WHEREAS, Sections 876.12 through 876.15, Florida Statutes, make it unlawful to wear a mask, however, pursuant to Section 876.155, Florida Statutes, this prohibition against mask wearing only applies when there is also evidence of an intent to intimidate other people, deprive them of equal protection under the law, or engage in criminal conduct; and,

WHEREAS, based on recent information and data from the Sarasota County Emergency Management, the number of confirmed cases of COVID-19 in Sarasota County has increased significantly since additional reopenings were authorized under Phase 2 of the Governor's Plan for Florida's Recovery; and,

WHEREAS, based on advice from medical professionals the number of confirmed cases of COVID-19 will increase exponentially if additional measures to stop or slow the spread of COVID-19 are not instituted; and,

WHEREAS, the City Commission resolves that it is in the best interests of the residents of the City of Sarasota and it is in the furtherance of the public health, safety, welfare to formally adopt this ordinance to require face coverings as more fully specified herein on an emergency basis in accordance with Article IV, Section 3 of the City Charter.

NOW THEREFORE BE IT ENACTED BY THE PEOPLE OF THE CITY OF SARASOTA, FLORIDA:

Section 1. Emergency Ordinance No. 20-5329, entitled "Face Covering Requirements", originally passed by the City Commission on June 29, 2020, effective July 1, 2020, and as amended and restated on July 20, 2020, effective July 22, 2020, to provide as follows:

A. 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, or a clear face shield that covers a person's eyes, nose and mouth which wraps around the sides of the face and extends to below the chin.

"Physical Distancing" or "Social Distancing" shall be synonymous terms meaning keeping space between oneself and other people by staying at least 6 feet (about 2 arms' length) apart.

B. Face Covering Required.

1. Every person living, working, visiting or doing business in the City of Sarasota shall wear a face covering in any indoor location, other than home or residence, subject to the exceptions in Section C below. For the purposes of this paragraph, if a home or residence is located within a multi-family condominium or apartment complex, the "home or residence" exception does not extend to the common areas of the condominium or apartments, including but not limited to lobbies, elevators, mailrooms and meeting rooms.

2. Every person living, working, visiting or doing business in the City of Sarasota shall wear a face covering in any public outdoor location, except when solely with or among members of their household, and subject to the exceptions in Section C below.

3. 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.

C. Exceptions.

Nothing herein shall require the wearing of face coverings by the following persons or in the following locations:

1. Persons observing physical or social distancing; and

2. Persons eating or drinking; and

3. Persons inside of motor vehicles, except that persons inside of vehicles-for-hire shall still be required to wear face covering; and

4. Schools or daycare facilities, which may apply their own public safety policies and procedures; and

5. County, State, or Federal governmental facilities, including but not limited to courthouses, fire stations, and administrative offices which may apply their own public safety policies and procedures; and

6. Persons inside in a hotel room, motel room, vacation rental, or similarly situated accommodation which is not accessible to the public. This exception does not extend to the common areas of the lodging establishment, including but not limited to lobbies, elevators, meeting rooms, restaurants, bars and event spaces.

7. If a person is under the age of 18, use of a face covering is left to the discretion of that person's parent, guardian, or accompanying adult. Persons under the age of 2 are not required to wear a mask under any circumstances as CDC guidelines state that a face covering is not appropriate for this age group; and

8. Persons whose compliance would be detrimental to their health, safety, or welfare. If this exception is being asserted for health reasons, the person asserting this exception is not required to carry or produce documentation verifying the heath condition or to specifically identify the health condition to the compliance officer or law enforcement officer; and

9. Persons working in a business or profession who do not have interactions with other persons; and

10. Persons working in a business or profession who maintain social distancing from another person; and

11. 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

12. Persons exercising, while maintaining social distancing; and

13. 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

14. Persons communicating with a hearing-impaired person who needs to see the person's mouth in order to communicate.

D. Enforcement and Penalty for Violation.

This Ordinance is adopted pursuant to the home rule powers conferred by the Constitution of the State of Florida and by general law and shall have the full force and effect of law. A violation of this Ordinance shall be a noncriminal civil infraction which

carries a penalty of up to Five Hundred Dollars ($500.00). If a person elects not to contest a citation, the civil penalty shall be Fifty Dollars ($50.00).

Section 2. The Code of the City of Sarasota, Chapter 2, Administration, Article V, Boards, Commissions and Committees, Division 5, Code Compliance System, Section 2-309, Jurisdiction, is hereby amended by the addition of new text as follows:

a) The magistrate shall have the jurisdiction and authority to hear and decide alleged violations of the following provisions of this code, as the same may be amended from time to time:

...

24) Face Covering Required, Ordinance No. 20-5329.

Section 3. It is hereby declared to be the intention of the City Commission that the sections, paragraphs, phrases, clauses and sentences of this Ordinance shall be deemed severable, and if any section, paragraph, phrase, clause or sentence of this Ordinance is declared unconstitutional or otherwise invalid by the judgment of a court of competent jurisdiction, then such unconstitutionality or invalidity shall not affect the validity of this Ordinance as a whole, or any of the remaining sections, paragraphs, phrases, clauses or sentences, other than the part held or declared to be invalid.

Section 4. This Ordinance shall take effect at 12:01 a.m. on Wednesday, July 22, 2020.

Section 5. As required by Article IV, Sec. 3 of the City Charter, this ordinance has been adopted by the affirmative vote of at least four (4) Commissioners and shall sunset or expire sixty (60) days after the original effective date of July 1, 2020, unless otherwise extended or repealed prior to such expiration date.

PASSED on first reading by title only, in accordance with the emergency

procedure set forth in Article IV, Section 3 of the City Charter, this 20th day of July, 2020.

CITY OF SARASOTA, FLORIDA

Jen Ahearn-Koch, Mayor

ATTEST:

Shayla Griggs
City Auditor and Clerk

YES	Mayor Jen Ahearn-Koch
YES	Vice Mayor Shelli Freeland Eddie
YES	Commissioner Liz Alpert
YES	Commissioner Hagen Brody
YES	Commissioner Willie Charles Shaw