

ORDINANCE NUMBER 3071

AN ORDINANCE OF THE CITY OF BRADENTON, FLORIDA, REQUIRING BUSINESS ESTABLISHMENTS TO POST SIGNAGE REGARDING FACE COVERINGS AS MORE FULLY SPECIFIED HEREIN; REPEALING AND REPLACING EMERGENCY ORDINANCE 3067; 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, and on July 7, 2020, the Governor issued Executive Order No. 20-166, which extended the declaration of a State of Emergency an additional sixty (60) days, which declaration remains in effect through September 5, 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 18, 2020 the City of Bradenton declared a City-wide Public Health Emergency pursuant to Resolution 20-35; 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 Bradenton; 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 United States Centers for

Disease Control and Prevention ("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 Council 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 facecovering 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 information and data from the Manatee County Emergency Management and advice from medical professionals, on July 15, 2020 the City Council passed and duly adopted Emergency Ordinance 3067; and,

WHEREAS, Emergency Ordinance 3067 is scheduled to expire sixty (60) days after adoption; and,

WHEREAS, the State of Florida remains under a State of Emergency due to COVID-19 pursuant to Executive Order No. 20-166; and,

WHEREAS, the City Council resolves that it is in the continued best interests of the residents of the City of Bradenton and it is in the continued furtherance of the public health, safety, welfare to formally adopt this ordinance to require signage by business establishments regarding the wearing of face coverings, as more fully specified herein.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF
THE CITY OF BRADENTON, FLORIDA:**

Section 1. The foregoing whereas clauses are hereby adopted as findings of fact.

Section 2. This Ordinance Number 3071, entitled "Face Covering Signage Requirements during COVID-19", is hereby created to provide as follows:

A. **Definitions.**

"Business establishment" shall mean any location where members of the public are regularly invited inside of a building to conduct business, service, governmental, social, recreational or not-for-profit activities. This definition shall specifically include but shall not be limited to retail, office, professional or service establishments, restaurants, fitness centers, bars, places of assembly, governmental buildings and public lodging establishments.

"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 oneself and other people by staying at least 6 feet apart.

B. Face Covering Signage Required.

Each business establishment shall post a sign visible at each public point of entry, which sign shall either (1) advise persons entering that face coverings are required or requested to be worn within the business establishment; or (2) notify persons entering that the United States Center for Disease Control and Prevention recommends the wearing of face coverings in public, particularly where social distancing cannot be maintained.

C. Legislative Intent.

The Legislative intent of this Ordinance is to educate and encourage members of the public to wear face coverings within enclosed business establishments. Nothing contained herein shall be construed to mandate the wearing of face coverings nor require the owner or operator of any business establishment to mandate or otherwise enforce the wearing of face coverings.

Section 3. This Ordinance shall replace and repeal Emergency Ordinance 3067.

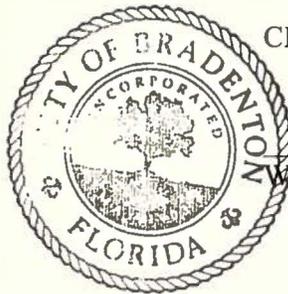
Section 4. This Ordinance shall not be codified in the City of Bradenton Code of Ordinances.

Section 5. It is hereby declared to be the intention of the City Council 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.

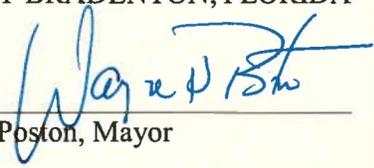
Section 6. This Ordinance shall take effect upon its adoption. This Ordinance shall remain in full force and effect for so long as the declared State of Emergency for Covid-19 remains in effect pursuant to Executive Orders No. 20-52, No. 20-114, and No. 20-166, or any successor Executive Order.

FIRST READING: August 26, 2020
PUBLICATION DATE: August 28, 2020
SECOND READING: September 9, 2020

PASSED AND DULY ADOPTED, BY THE CITY COUNCIL OF THE CITY OF BRADENTON, FLORIDA, with a quorum present and voting, this 9th day of September, 2020.



CITY OF BRADENTON, FLORIDA


Wayne Poston, Mayor

ATTEST:

By: 
Sharon Beauchamp, City Clerk

APPROVED AS TO FORM:

By: 
Scott Rudacille, City Attorney