

Draft

EXECUTIVE ORDER

REQUIRING INDIVIDUALS TO WEAR FACE COVERINGS IN RETAIL AND FOODSERVICE ESTABLISHMENTS, AND MATTERS RELATED THERETO

Section 1. Definitions. As used herein, the terms below shall have the following meanings:

- 1) "Establishment" means a Foodservice Establishment or Retail Establishment.
- 2) "Face Covering" means a uniform piece of cloth, fabric, or other material that securely covers a person's nose and mouth and remains affixed in place without the use of one's hands. Face Coverings include, but are not limited to, bandanas, medical masks, cloth masks, scarves, and gaiters, provided that they are worn such that they securely cover the person's nose and mouth.
- 3) "Foodservice Establishment" means any establishment within the City that sells prepared food on a dine-in, delivery, carry-out, or drive-through basis.
- 4) "Overnight Accommodations Establishments" includes hotels, motels, condo hotels, rental properties, inclusive of Airbnb, VRBO style lodging, plus public and private campgrounds
- 5) "Responsible Person," with respect to an Establishment, means any individual associated with the Establishment who has the authority and ability to enforce the requirements of the Executive Order within the Establishment, such as an owner, manager, or supervisor. "Responsible Person" may also include an employee or other designee that is present at the Establishment but does not have the title of manager or supervisor, but who has the temporary or designated authority and ability to ensure that the requirements of this Executive Order are met while the Establishment is open to the public.
- 6) "Retail Establishment" means any retail business, organization, establishment, or facility open to the public within the City, including without limitation:
 - a) Grocery stores, convenience stores, and any other establishment engaged in the retail sale of non-prepared food.
 - b) Commercial stores engaged in the retail sale of goods or services to the public including without limitation sporting goods stores; beachwear stores; furniture and home-furnishings stores; clothing, shoe, and clothing-accessory stores; jewelry, luggage, and leather goods stores; department stores; hardware and home-improvement stores; book, craft, and music stores; florists and flower stores; and all other stores that sell supplies for household consumption or use.
 - c) Pharmacies and other stores that sell medications or medical supplies.
 - d) Alcoholic beverage stores.
 - e) Laundromats.
 - f) Barbershops and hair salons.
 - g) Gyms and fitness facilities.
 - h) Professional services businesses and facilities including but not limited to banks, real estate offices, accounting offices, attorney's offices, etc.

Section 2. Use of Face Coverings. Subject to the Exemptions listed in Section 3 of this Order:

- 1) All customers are required to wear Face Coverings while inside the enclosed area of any Retail Establishment or Foodservice Establishment.
- 2) All customers are required to wear Face Coverings while inside the enclosed common areas of any Overnight Accommodations Establishments.
- 3) All Retail Foodservice and Overnight Accommodations Establishments shall require staff to wear, and those staff shall wear, Face Coverings while working in areas open to the general public and areas in which interactions with other staff are likely in which social distancing of at least six feet cannot be observed.

Section 3. Exemptions. Face Coverings shall not be required:

- 1) In personal vehicles, or by pedestrians provided that a minimum acceptable social distancing of at least six feet is observed between groups of family or friends. No group shall exceed 10 individuals. For the purposes of this section “pedestrian” is defined as an individual actively engaged in the process of moving from one destination to another without the use of a motorized vehicle.
- 2) When a person is alone in enclosed spaces.
- 3) During outdoor or indoor physical activity, provided the active person maintains a minimum of six feet from other people at all times;
- 4) When wearing a face covering would prevent the receipt of personal services.
- 5) On the public beach provided that a minimum acceptable social distancing of at least six feet is observed between groups of family or friends. No group shall exceed 10 individuals.
- 6) In outdoor or unenclosed areas appurtenant to Retail, Foodservice, or Overnight Accommodations Establishments in which social distancing of at least six feet is possible and observed.
- 7) For people whose religious beliefs prevent them from wearing a Face Covering.
- 8) For those who cannot wear a Face Covering due to a medical or behavioral condition.
- 9) For children under 10 years old, provided that adults accompanying children age four through nine years old shall use reasonable efforts to cause those children to wear Face Coverings while inside the enclosed area of any Retail Establishment or Foodservice Establishment.
- 10) For patrons of Foodservice Establishments while they are dining.
- 11) In private, individual offices.
- 12) When complying with directions of law enforcement officers.
- 13) In settings where it is not practical or feasible to wear a Face Covering, including when obtaining or rendering goods or services such as the receipt of dental services or while swimming.
- 14) While exclusively with members of a family or the same household, and no person other than such family or household is within the same enclosed area.

Section 4. Individual Violations: Civil Infraction. Any person violating the provisions of this Executive Order by failing to wear a Face Covering when required shall be guilty of a civil infraction, punishable by a penalty of not more than \$100. Each day of a continuing violation of this Executive Order shall be considered a separate and distinct offense.

Section 5. Responsible Person Violations: Civil Infraction. Any Responsible Person violating the provisions of this Executive Order by failing to require employees of the Establishment to wear a Face Covering when required shall be guilty of a civil infraction, punishable by a penalty of not more than \$100. Each day of a continuing violation of this Executive Order shall be considered a separate and distinct offense.

Section 6. Responsible Person Violations: Revocation of Permits and Licenses. In addition to the penalties established by Section 5 hereof, repeated violations of this Executive Order by a Responsible Person by failing to require employees of the Establishment to wear a Face Covering may, subject to all procedural protections set forth in the City Code, result in the suspension or revocation of any occupancy permit or business license issued to business where the repeated violations occurred.

Section 7. Responsible Person Violations: Public Nuisance. In addition to the penalties established by Section 5 hereof, repeated violations of this Executive Order by a Responsible Person by failing to require employees of the Establishment to wear a Face Covering are additionally hereby declared to be a public nuisance, which may be abated by the City by restraining order, preliminary and permanent injunction, or other means provided for by the laws of this State. The foregoing notwithstanding, every effort shall be made to bring Establishments into voluntary compliance with the terms of this Executive Order prior to the commencement of any enforcement action.

Section 8. Duties of Establishments and Responsible Persons. Establishments and Responsible Persons shall have a duty to enforce the provisions of this Executive Order only against employees of the Establishment. Without limiting the generality of the foregoing, no Establishment or Responsible Person shall have any duty to require that customers, visitors, or other members of the general public wear Face Coverings.

Section 9. Suspension of Contrary Local Provisions. During the duration of the Civil Emergency, any City executive order, ordinance, resolution, motion, or City Code Provision that conflicts with the provisions hereof shall be and is hereby suspended and superseded.

Section 10. Severability. Should any provision, section, paragraph, sentence, or word of this Executive Order be rendered or declared invalid by any final court action in a court of competent jurisdiction or by reason of any preemptive legislation, the remaining provisions, sections, paragraphs, sentences, or words of this Executive Order as hereby adopted shall remain in full force and effect.

Section 11. Effective Date and Time. This Executive Order shall take effect on July 2, 2020 at 11:59 P.M. and shall remain in effect for 60 days, or until rescinded, or until the expiration of the Declaration of Civil Emergency, whichever is first.

John Pedersen, City Manager, City of Myrtle Beach