

CITY OF PUNTA GORDA

EMERGENCY ORDINANCE NO. _____-2020

AN EMERGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PUNTA GORDA, FLORIDA IN RESPONSE TO THE PUBLIC HEALTH EMERGENCY WITHIN THE CITY OF PUNTA GORDA RESULTING FROM SPREAD OF THE CORONAVIRUS DISEASE 2019 (“COVID-19”); PROVIDING FINDINGS; PROVIDING DEFINITIONS; REQUIRING FACE COVERINGS AS MORE FULLY SPECIFIED HEREIN; ALLOWING FOR EXCEPTIONS TO THE FACE COVERING REQUIREMENT; PROVIDING FOR ENFORCEMENT; PROVIDING PENALTIES FOR VIOLATION; PROVIDING FOR SUNSET; PROVIDING FOR CONFLICTS AND SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, according to the United States Centers for Disease Control and Prevention (“CDC”), Coronavirus Disease 2019 (“COVID-19”) is a severe acute respiratory illness that can spread among humans by sneezing, speaking, and coughing, resulting in a serious threat to human health, including death; and

WHEREAS, the CDC has advised that a significant portion of individuals infected by COVID-19 lack symptoms making them unaware of the threat they may pose to others; and

WHEREAS, testing for COVID-19 has recently shown dramatic increases in infection rates within the State of Florida, particularly within the 18-34 age group; and

WHEREAS, on June 20, 2020, Scott A. Rivkees, M.D., as State Surgeon General and State Health Officer, issued a Public Health Advisory stating that with limited exceptions, “all individuals in Florida should wear face coverings in any setting where social distancing is not possible; and

WHEREAS, based upon its demographics, the population of the City of Punta Gorda is particularly vulnerable to effects of COVID-19; 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 Punta Gorda; and

WHEREAS, neither the Constitutions of the United States and the State of Florida grant individuals the freedom to behave however they may please; and

WHEREAS, from the earliest times of our nation and State, it has been recognized that local governments possess the power to enact regulations reasonably necessary to protect the public health and safety; and

WHEREAS, the City Council of the City of Punta Gorda finds that the inconvenience caused by the requirement to use face coverings for the protection of others is minimal compared to the risk to the health, safety, and welfare of the public; and

WHEREAS, it is necessary to adopt this ordinance by emergency adoption procedures authorized by Section 166.041(3)(b), Florida Statutes to address what the City Council perceives to be exigent circumstances; and

WHEREAS, to be valid, this ordinance must be adopted by at least a two-thirds vote of the City Council.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PUNTA GORDA, FLORIDA, THAT:

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

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

- (1) **Face Covering.** “Face covering” means material or a device that securely covers the nose and mouth and remains affixed in place without the use of one’s hands and serves as personal protective equipment. It can be secured to the head with ties or straps or simply wrapped around the lower face covering the mouth and nostrils, as described by applicable guidance from the CDC. A cloth face covering may be factory-made or sewn by hand or can be improvised from clothing or other household items. Examples of compliant homemade masks may be found at <https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/how-to-wear-cloth-face-coverings.html> A plexiglass face shield may be worn in place of a mask type covering. Persons who wear face coverings should review the CDC and Florida Department of Health guidelines regarding safely applying, removing, and cleaning face coverings.
- (2) **Social Distancing.** “Social distancing” means keeping space between yourself and other people by staying at least 6 feet (about 2 arm's length) from other people.
- (3) **Indoor Public Place.** “Indoor Public Place” means any location to which the public has or may obtain legally permissible access, whether publicly or privately owned, that is under a roof or is enclosed by two or more walls, doors or other means of weatherproof material, including fabric material such as that used for a tent. Permanent or temporary places of residence shall not be considered as an Indoor Public Place.

Section 3. Mandatory Requirements. Except as otherwise provided herein, all persons, whether owners, employees, agents, customers, patrons, clients, guests, or invitees, shall wear a face covering while in any Indoor Public Place within the City of Punta Gorda, Florida. All persons preparing or serving food or beverages for public consumption shall be required to wear a face covering.

Section 4. Exceptions. The face covering requirements provided herein shall not apply to:

- (1) Children under the age of two (2) years;
- (2) Persons observing social distancing;
- (3) Persons for whom a face covering would cause impairment due to an existing health condition or for whom compliance with the mandatory requirements imposed herein would conflict with the Americans with Disabilities Act;
- (4) Persons communicating with an individual who is hearing impaired who needs to see the mouth of the person speaking to facilitate communication;
- (5) Persons while working in a business or profession who do not have interactions with other persons;
- (6) Persons while working in a business or profession where use of a face covering would prevent them from performing the duties of the business or profession;
- (7) Persons exercising, while maintaining social distancing;
- (8) Persons while eating or drinking, provided they are maintaining social distancing. It is the intent of this provision that a face covering must be worn while traversing an Indoor Public Place for ingress and egress, when walking to and from restroom facilities, and while standing when unable to maintain social distancing;
- (9) Public safety, fire and other life safety or health care personnel, as their personal protective equipment requirements will be governed by their respective agencies or employers;
- (10) Persons who are engaged in obtaining a service involving the nose or face for which temporary removal of a face covering is necessary to perform the service;
- (11) Persons engaged in an activity where some other form of face covering is required pursuant to the regulations of the U.S. Occupational Safety and Health Administration.

Section 5. Signage. All persons owning, leasing, managing, or controlling any Indoor Public Place are encouraged, but not required, to post signage notifying all persons of the City of Punta Gorda's requirement to wear face covering.

Section 6. Enforcement.

(1) The provisions of this Ordinance shall be enforced as provided in Chapter 9A, City of Punta Gorda Code.

(2) City Code Inspectors and Law Enforcement Officers shall have the authority to assure compliance with and to seek enforcement of violations of the provisions of this Ordinance.

(3) Pursuant to the provisions of Section 9A-10, City of Punta Gorda Code, City Code Inspectors and Law Enforcement Officers are authorized to issue a citation to a violator when, based upon personal investigation, there is reasonable cause to believe that the violator has failed to comply with the provisions of this Ordinance. Prior to the issuance of a citation, the alleged violator will be asked to comply with this Ordinance, or to explain how the alleged violator is covered by an Exception as provided in Section 4 herein.

(4) Failure to comply with the requirements of this Ordinance presents a serious threat to the public health, safety, and welfare, and a citation may be issued for such a violation after the inquiry described above.

(5) The fine for a first offense of this Ordinance shall be \$25.00; the fine for a second offense shall be \$100.00; and all additional offenses shall be \$250.00 per offense. City Code Inspectors and Law Enforcement Officers shall have the discretion to issue a written warning instead of a citation for the first offense.

(6) Payment of fines, contests of citations, and enforcement of fines shall be as provided in Section 9A-10(d) – (h), City of Punta Gorda Code.

(7) All persons owning, leasing, managing, or controlling any Indoor Public Place are encouraged to have their employees, agents, customers, patrons, clients, guests, or invitees comply with the provisions of this Ordinance, or otherwise leave the Indoor Public Place for the safety of all other persons. When necessary, all persons owning, leasing, managing, or controlling any Indoor Public Place are encouraged to contact the City of Punta Gorda Police Department to assist in the enforcement of this Ordinance.

Section 7. This Ordinance was enacted by a two-thirds vote of the City Council pursuant to the provisions of Section 166.041(3)(b), Florida Statutes and is effective immediately.

Section 8. Unless extended by Resolution of the City Council, this Emergency Ordinance shall automatically sunset or expire ninety (90) days after adoption, unless repealed prior to such expiration date.

Section 9. Any Ordinances or parts of Ordinances in conflict herewith are hereby superseded to the extent of such conflict while this Emergency Ordinance is in effect.

PASSED and DULY ADOPTED this 8th day of July, 2020.

NANCY PRAFKE, Mayor

ATTEST:

KAREN SMITH, City Clerk

APPROVED AS TO FORM:

DAVID M. LEVIN, City Attorney