TOWN OF INDIALANTIC, FLORIDA

LOCAL EMERGENCY ORDER NO. 2020-19
REGARDING COVID-19

Declaring a Local State of Emergency; and
Requiring Use of Face Masks in Certain Facilities

WHEREAS, Governor DeSantis issued Executive Order No. 20-51 on March 1, 2020 directing the Florida Department of Health to issue a Public Health Emergency; and

WHEREAS, the State of Florida Surgeon General and State Health Officer declared on March 1, 2020 that a public health emergency exists in the State of Florida as a result of COVID-19; and

WHEREAS, Governor DeSantis issued Executive Order No. 20-52 on March 9, 2020 declaring a state of emergency for the entire State of Florida as a result of COVID-19; and

WHEREAS, President Donald J. Trump and the Centers for Disease Control and Prevention ("CDC") issued the 15 Days to Slow the Spread guidance on March 16, 2020 advising individuals to adopt far-reaching social distancing measures, and avoiding gatherings of more than 10 people; and

WHEREAS, Governor DeSantis issued Executive Order No. 20-68 on March 17, 2020, in partial response to information reflecting individuals were not adhering to the CDC's social distancing measures and gathering limitations; and

WHEREAS, between March 17, 2020 and the date hereof, Governor DeSantis issued several Executive Orders placing numerous restrictions on individuals and businesses in response to the Statewide level and threat of the COVID-19 virus; and

WHEREAS, President Donald J. Trump updated and extended the previously issued 15 Days to Slow the Spread guidance on March 31, 2020, renamed it 30 Days to Slow the Spread, and along with the White House Coronavirus Task Force urged Americans to continue to adhere to the guidelines and expand community mitigation efforts; and

WHEREAS, the Town of Indialantic ("the Town") adopted Local Emergency Order No. 2020-01 declaring a local state of emergency and closing the beaches for the Town regarding the COVID-19 emergency; and

WHEREAS, the foregoing Local Order has been extended several times due to the COVID-19 emergency; and

WHEREAS, as part of the Local Order which the Town Council later ratified, the Town Council authorized the exercise of its authority and powers regarding the COVID-19 emergency to be exercised under the direction of the Mayor or the Deputy Mayor in the absence of the Mayor to the extent necessary to protect the public health, safety and welfare and the best interests of the Town; and

WHEREAS, on April 29, 2020, Governor DeSantis issued Executive Order No. 20-112 as modified by Executive Order No. 20-120 on May 9, 2020, and Executive Order No. 20-123 on May 14, 2020, in response to the recommendations set forth in Phase One of the Plan issued by the Task Force to Re-Open Florida, and adopted a phased approach to remove or decrease certain restrictions imposed pursuant to the Executive Order No. 20-91, Safer-At-Home Order; and

WHEREAS, on June 3, 2020, Governor DeSantis issued Executive Order No. 20-139, moving all counties in Florida, other than Miami-Dade, Broward, and Palm Beach counties, into Phase Two issued by the Task Force to Re-Open Florida, which order supersedes Executive Order No. 20-91, the Safer-At-Home Order, and supersedes in part, and extends and modified, other provisions of Executive Order No. 20-112; and

WHEREAS, guidance released by the CDC on June 15, 2020 states that (i) the COVID-19 virus is mostly spread by respiratory droplets released when people cough, sneeze and talk and (ii) that a person can get COVID-19 by touching a surface or object that has the virus on it and then by touching their mouth, nose 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, the CDC has expressly found that "COVID-19 spreads mainly from person to person through respiratory droplets produced when a person coughs, sneezes or talks. These droplets can land on the mouths or noses of people nearby and possibly inhaled into the lungs. Studies and evidence on infection control report that these droplets usually travel around 6 feet (about "2 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 "pubic settings where other social distancing measures are difficult to maintain"; and

WHEREAS, on June 20, 2020, the State of Florida 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 of the Florida Statutes, make it unlawful to wear a mask, however, pursuant to Section 876.155, Florida Statutes, this prohibition of mask wearing only applies when there is also evidence that there is an intent to intimidate other people, deprive them equal protection under the law, or engage in criminal conduct; and

WHEREAS, based on the information provided by the Florida Department of Health in Brevard County, and updated daily, the COVID-19 in the Town of Indialantic has been rising substantially since the re-opening of the State of Florida; and

WHEREAS, based on the advice of medical professionals, the number of COVID-19 cases will continue to rise unless measures are instituted to stop the spread of the COVID-19 virus; and

WHEREAS, the State of Florida has the highest percentage of population in the United States 65 years of age and older, as well as the second largest population of that demographic; and

WHEREAS, based upon recent updated census estimates, the demographic of residents 65 years of age and older living in the Town of Indialantic is approximately 20%; and

WHEREAS, according to the CDC, the vast majority of persons that test positive for the COVID-19 virus that are hospitalized or die from the virus are persons over the age of 65 years and/or have underlying health conditions; and

WHEREAS, according the CDC, overall, 31% of cases, 45% of hospitalizations, 53% of ICU admissions, and 80% of deaths associated with COVID-19 were among adults aged 65 years of age and older with the highest percentage of severe outcomes among persons aged 85 years of age and older; and

WHEREAS, on July 7, 2020, the Governor of the State of Florida issued Executive Order No. 20-166, which extends until September 5, 2020, the state of emergency declared by the Governor pursuant to Executive Order No. 20-52; and

WHEREAS, the Town Council makes a legislative finding that an emergency situation exists because of COVID-19, the increase in COVID-19 cases in Florida and Brevard County, and the issuance of Executive Order No. 20-166, that an "emergency" exists supporting the approval of this Local Emergency Order pursuant to Chapter 252, Florida Statutes; and

WHEREAS, the Town Council resolves that it is in the best interest of the residents and businesses of the Town of Indialantic, and it is in furtherance of the public health, safety, and welfare, to formally adopt this Local Emergency Order to require face coverings in indoor Town owned and operated facilities, to require all businesses to post their face covering policy to alert older persons and persons with underlying conditions of whether or not all other persons within a business will have face coverings as a way to make informed decisions to enter a business, and to require businesses that are deemed

"essential" by this Local Emergency Order to the needs of all residents to require face coverings for all patrons.

WHEREAS, Section 252.38(3)(a) Florida Statutes, gives authority to Town of Indialantic to declare and enact a State of Local Emergency for a period of up to seven (7) days, thereby waiving the procedures and formalities otherwise required of the Town by law; and

WHEREAS, Executive Order 20-52, issued on March 9, 2020, provides political subdivisions within the State with the authority to waive procedures and formalities otherwise required by law pertaining to: performing of public work and taking whatever prudent action is necessary to ensure the health, safety, and welfare of the community; entering into contracts; incurring obligations; employment of permanent and temporary workers; utilization of volunteer workers; rental of equipment; acquisition and distribution, with or without compensation, of supplies, materials and facilities; and appropriation and expenditure of public funds; and

WHEREAS, the Mayor and the Town Manager of the Town of Indialantic have determined that it is necessary to declare a State of Local Emergency and to exercise certain necessary powers permitted by Chapter 252, Florida Statutes, so as to ensure the preparations and response of the Town will be sufficient to address COVID-19; and

WHEREAS, the Mayor, or in his absence the Deputy Mayor, is authorized to issue additional Emergency Orders relating to the State of Public Emergency authorized from time to time, as well as extensions of this Local Emergency Order.

NOW, THEREFORE, THE TOWN COUNCIL OF THE TOWN OF INDIALANTIC, by virtue of the above-mentioned authority, and all other applicable laws and ordinances, does hereby promulgate the Local Emergency Order.

Section 1. Recitals. Each and all of the recitals ("WHEREAS" clauses) are hereby incorporated herein.

Section 2. Definitions. The following terms used in this Local Emergency Order are defined as follows, unless the context of usage clearly and affirmatively contemplates to the contrary:

"Face Covering" shall mean a uniform piece of material that securely covers a persons' 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 yourself and other people by staying at least 6 feet (or approximately 2 arms' length) from other people.

Section 3. Face Coverings Required in Town Owned and Operated Facilities.

(a) Every Person living, working, or visiting the Town of Indialantic shall wear a face covering in every indoor Town owned and operated facility.

(b) Exceptions. The following exceptions to Section 3.(a) of this Local Emergency Order are hereby adopted. This Local Emergency Order shall not apply to:

(1) Persons under the age of 6 years old; or

(2) Persons for whom a face covering would cause impairment due to an existing health condition; or

(3) Persons working in a business or profession who do not have contact with other people; or

(4) Persons working in a business or profession who maintain social distancing from another person; or

(5) Persons working in a business or profession where working with a face covering would prevent them from performing the duties of the business or profession; or

(6) Persons exercising while maintaining social distancing; or

(7) Persons eating or drinking while seated in the establishment; or

(8) Public safety, police, fire, and other life safety and public health personnel, as their personal protection equipment will be governed by their respective agencies; or

(9) Any person who is hearing impaired and needs to see the mouth of someone wearing a face covering in order to communicate.

Section 4. Businesses Required to Post Face Coverings Policy on their Doorway.

(a) Every business in the Town of Indialantic with a storefront or business front that allows customers or invitees in their building for the purpose of purchasing goods or services, is required to post in writing their Policy requirements for Face Coverings for their customers, patrons and employees at the entrance to the storefront or business front. The Policy shall be posted on the entry doorway in a clearly visible and conspicuous manner for all customers or other invitees to read prior to entering the business. The business shall regularly maintain the posted Policy so that it remains clear, visible, and easily readable.

(b) All businesses are encouraged to prohibit entry of any person who is not wearing a face covering with the exception of the below listed persons:

(1) Persons under the age of 6 years old; or

(2) Persons for whom a face covering would cause impairment due to an existing health condition; or

(3) Persons exercising while maintaining social distancing; or

(4) Persons eating or drinking while seated in the establishment; or

(5) Any person who is hearing impaired and needs to see the mouth of someone wearing a face covering in order to communicate.

Section 5. "Essential" businesses required to mandate Face Coverings for all customers, invitee, and employees.

(a) Every business in the Town of Indialantic with a storefront or business front that allows customers or invitees in their building for the purpose of purchasing goods or services that are deemed to be "essential" by this Local Emergency Order shall require all customers, patrons, invitees, and employees, to utilize Face Coverings at all times while in the store or business. This requirement shall apply to the following businesses or stores which are deemed "essential" pursuant to this Local Emergency Order: convenience stores (such as a 7-11 or similar type of store); grocery or food stores; hardware stores (such as an ACE Hardware of similar type of store); and drug stores (such as a CVS, vitamin supply, or similar type of store).

(b) Every business deemed essential by this Local Emergency Order in the Town of Indialantic with a storefront or business front that allows customers or invitees in their building for the purpose of purchasing goods or services, is required to post in writing the Policy requirements set forth in this Local Emergency Order for Face Coverings for their customers, patrons, invitees, and employees at the entrance to the storefront or business front with verbiage stating required by law. The Policy shall be posted on the entry doorway in a clearly visible and conspicuous manner for all customers, patrons, employees, or other invitees, to read prior to entering the business. The business shall regularly maintain the posted Policy so that it remains clear, visible, and easily readable.

(c) Essential businesses are required to notify any person who is not wearing a face covering entering their business that face coverings are mandatory with the exception of the below listed persons :

(1) Persons under the age of 6 years old; or
(2) Persons for whom a face covering would cause impairment due to an existing health condition; or
(3) Persons eating or drinking while seated in the establishment; or
(4) Any person who is hearing impaired and needs to see the mouth of someone wearing a face covering in order to communicate.

(d) Every person living, working, or visiting the Town of Indialantic shall wear a face covering in every essential business with the exception of the below listed persons :

(1) Persons under the age of 6 years old; or
(2) Persons for whom a face covering would cause impairment due to an existing health condition; or
(3) Persons eating or drinking while seated in the establishment; or
(4) Any person who is hearing impaired and needs to see the mouth of someone wearing a face covering in order to communicate.

Section 6. That the Town Manager shall coordinate with other beachside municipalities in Brevard County and with Brevard County in an effort to recommend and take appropriate actions as may be necessary to secure the public health, safety, and welfare during the COVID-19 emergency. The Town Manager shall report to the Mayor and Town Council from time to time with regard to any recommendations for further actions.

Section 7. Issuance of Future Orders. The Mayor, or in his absence the Deputy Mayor, is authorized to issue additional Local Emergency Orders all relating to the State of Public Emergency authorized from time to time, as well as extensions of this Local Emergency Order.

Section 8. Citations. Any person violating the terms of this Local Emergency Order and found in violation may be punished and fined as provided in Section 252.50, Florida Statutes. Each day a violation by any person occurs of any provision of this Local Emergency Order shall constitute a separate offense, and each act in violation by any person of the provisions of this Local Emergency Order shall be considered a separate and distinct offense.

Section 9. Severability. In the event a court of competent jurisdiction shall hold or determine that any part of this Local Emergency Order is invalid or unconstitutional, the remainder of the Local Emergency Order shall not be affected, and it will be presumed that the Town Council for the Town of Indialantic did not intend to enact such invalid or unconstitutional provision. It shall further be assumed that the Town Council would have enacted the remainder of this Local Emergency Order without said invalid and unconstitutional provision thereby causing said remainder to remain in full force and effect.

Section 10. Effective Date. That this Local Emergency Order declaring a Local State of Emergency; and Requiring Use of Face Masks in Certain Facilities shall be in effect for seven (7) days from the 9th day of September, 2020 at 12:01 a.m., and shall terminate, at 12:01 a.m. on the 16th day of September, 2020, whichever. This Local Emergency Order may be renewed from time to time, in the manner as provided herein.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the Town to be affixed at Indialantic, Florida, this 9th day of September, 2020.

David Berkman, Mayor

(Seal)

ATTEST:

Rebekah Raddon, CMC, Town Clerk