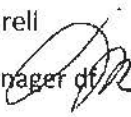


MEMORANDUM

TO: Mayor England
Vice Mayor Kostka
Commissioner George
Commissioner Sarnora
Commissioner Rumrell

FROM: Max Royle, City Manager 

DATE: June 29, 2020

SUBJECT: Topics for Emergency Meeting

Last Friday, St. Augustine's City Commission approved a resolution that mandates the wearing of face masks indoors if physically distancing requirements can't be met. Mayor England has suggested that you have an emergency meeting to consider a similar resolution. It has been scheduled for Thursday, July 2, 2020, at 5:30 p.m.

For the meeting, there are two topics:

- a. For you to decide that the meeting is an emergency.
- b. For you to decide whether to adopt the resolution prepared by the City Attorney.

You can decide before you undertake each topic when to allow public comment on each and how long the comment period (two or three minutes) is to be for each speaker.

ITEM A. EMERGENCY MEETING

Section 1-5 (a) states that the Mayor may call emergency meetings of the City Commission. A requirement of the section is the following: "A vote that the meeting is an emergency shall be the first order of business. The affirmative vote of the majority of the commissioners present plus one shall be necessary to confirm that the meeting is an emergency. Failure to obtain this affirmative vote shall preclude conducting further business at the meeting except adjournment. The only subjects that may be considered at this meeting must relate to the stated emergency. An affirmative vote of two-thirds (2/3) of a quorum shall be necessary for all other actions taken at an emergency meeting".

Action Requested

It is that you decide by motion and vote whether the meeting is an emergency. If you do, then you can proceed to Item B, the resolution.

ITEM B. CONSIDERATION OF RESOLUTION

For your discussion, we have attached the following information:

- Page 1-4, an email from City Attorney Lex Taylor, in which he describes the powers the City Commission has to promulgate emergency orders, such as the resolution.
- Pages 5, Chapter 252.46, Florida Statutes, the orders and rules for emergency management.

- Pages 6-8, Chapter 252.38, Florida Statutes, the emergency powers of counties and cities. Please note in particular Section 252.38 (2): "Municipalities without emergency management programs shall be served by their respective county agency. If a municipality elects to establish an emergency management program, it must comply with all laws, rules and requirements applicable to county emergency management agencies. Each municipal emergency management plan must consistent with and subject to the applicable county emergency management plan."

Thus, for our City to have its own emergency management plan, it must have an emergency management director and, as you'll note from the last sentence of the quote above, the City's plan would still have to be consistent with and subject to the County's plan.

- Pages 9-13, the resolution that the St. Augustine City Commission approved on June 26th.
- Pages 14-17, the resolution that the City Attorney has written for our City.

ACTIONS REQUESTED

There are three basic actions:

1. That you have Mr. Taylor explain what emergency powers the City has under State law.
2. That you discuss the provisions in the proposed resolution (pages 6-10) that Mr. Taylor has prepared.
3. That you decide whether to approve the resolution.

Once the resolution has been approved or not approved, the meeting can be adjourned

DOUGLAS LAW FIRM

Charles T. Douglas, Jr.
Christopher W. LoBianco
Linda L. Campbell
Lex Morton Taylor, III
Cindy Marvin

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Memo on Emergency Powers of the City of Saint Augustine Beach

Dated: June 29, 2020

From: Douglas Law Firm

To: Max Royle, City Manager for City of Saint Augustine Beach

Florida has one of the more intricate emergency management programs in the United States. However, the focus, unsurprisingly, is hurricanes. Florida requires dedicated emergency management directors and there is a dedicated staff across the state that plans for all types of emergencies. This type of emergency planning is not without its economic costs. As a practical matter many smaller municipalities rely upon their counties and the State for emergency management as it is not cost efficient for small municipalities to dedicate the resources of dedicated emergency management staff.

Our normal emergency events, such as hurricanes, last only a day or two and the area might be in recovery for weeks. During that time normal government is usually unable to function or meet as normal. We are presented with a novel emergency in the current COVID-19 Pandemic. The emergency response to the pandemic is currently roughly three months old and it would appear that we can expect to remain in an emergency for at least the next few months, at a minimum.

As such emergency management powers are designed for quick responses to events and those quick responses happen outside the normal timetables for broad debates in the Sunshine. The emergency orders are not permanent and only last while a state of emergency has been enacted. During emergencies, we think of the citizens being either evacuated or hunkered down. A pandemic is different. At times, our citizens have been hunkered down, but they have at all times had access to newspapers, radios, televisions, phones, and the internet and thus they can follow what their elected leaders are proposing for solutions. But elected officials do not have time to follow normal constitutional debate timelines as we need to make health decisions that for maximum effectiveness need to be decided finally as soon as possible.

As the City of Saint Augustine is the oldest city in Florida, its charter is quite unique and dedicates significant powers to their city manager that are outside the norms for a similarly sized municipality. I have not gone through the legal analysis to verify that the City of Saint Augustine has or does not have the requirements under the statute or its charter to enact

emergency orders. However, the City of Saint Augustine has enacted an Emergency Order 2020-22 requiring wearing of face coverings within its city limits and the question today is whether the City of Saint Augustine Beach could enact a mirror Emergency Order should the commissioners decide to do so.

The City of Saint Augustine Beach Charter was most recently updated January 2, 2011. In Article IV, Section 2-120 – Emergency Management: “The City of Saint Augustine Beach is designated as the emergency management agency for the city in accordance with F.S. Ch. 252. In its capacity as the emergency management agency, the city commission shall be vested with all the powers and responsibilities provided by Florida law, and without limitation thereof, the power to appoint a director and perform all emergency management functions allowable by law.”

Florida Statutes Chapter 252 is the controlling Chapter of Florida law. Chapter 252.46(2) states:

Municipalities. — Legally constituted municipalities are authorized and encouraged to create municipal emergency management programs. Municipal emergency management programs shall coordinate their activities with those of the county emergency management agency. Municipalities without emergency management programs shall be served by their respective county agencies. If a municipality elects to establish an emergency management program, it must comply with all laws, rules, and requirements applicable to county emergency management agencies. Each municipal emergency management plan must be consistent with and subject to the applicable county emergency management plan. In addition, each municipality must coordinate requests for state or federal emergency response assistance with its county. This requirement does not apply to requests for reimbursement under federal public disaster assistance programs.

Specifically, municipalities without emergency management programs shall be served by their respective county agencies and if the municipality elects to establish an emergency management program, it must comply with all the laws, rules, and requirements applicable to county emergency management agencies. Florida’s goal is to create an integrated emergency management system that is well prepared and able to stay in communication with each other even during catastrophic emergencies such as a hurricane. The requirements for municipalities are burdensome, expensive, and often duplicative when each county is already required to have dedicated personnel.

The City of Saint Augustine Beach has adopted an emergency management plan, most recently in 2018 and there is a draft plan for 2020. The document is a thorough, twenty-two (22) page, document. There is a dedicated emergency operations group which includes the Police Chief, City Manager, Public Works Director, Building Official, and Commission Liaison at the County’s Emergency Operations Center. The focus of the emergency plan is responses to hurricanes. But in the first paragraph of the emergency operations plan states:

Under Chapter 252, Florida Statutes, St. Johns County is responsible for implementing a county-wide emergency management plan. While the City of St. Augustine Beach could, under Chapter 252.38(2), develop its own emergency management plan, it has chosen not to do so because it lacks the resources to comply with the requirements of Chapter 252.

While the City Commission can consider in the future the political and economic merits of relying upon the County in emergency situations, the City has chosen not to meet the requirements of Chapter 252.46(2) and as such currently calls in question whether the City has the power in the current emergency.

The current emergency is a pandemic, not a hurricane, and as such the Florida Statutes were not established with this particular emergency in mind. The City charter attempts to give the City as much power as possible and while the pandemic is without question an emergency which has been declared at all levels of government, it is not the type of emergency that is over in days and the emergency has not disrupted our ability to communicate, especially since the Governor has authorized by multiple executive orders the ability to meet electronically. In fact, the City of Saint Augustine Beach has met several times under proper social distancing guidelines and in the Sunshine to discuss the merits of its proposals during this emergency. The City's government is still intact and functional during this emergency, but the City does require the ability to make quick decisions in response to ever changing emergency conditions. Additionally, the City Commission is the closest elected government to its citizens and should be responsible for protecting their community interests in the emergency.

As such we have proposed the compromise which is supported by the law and so long as the City receives the support of the County allows for narrowly tailored emergency orders for the City of Saint Augustine Beach. We believe it is reasonable under the law for the City Commission for the City of Saint Augustine Beach to promulgate emergency orders applicable to its locality and then for the County to ratify those emergency orders by emergency order and when possible a vote of the County Commission. The City would have a duty under Florida Statutes Chapter 525 to coordinate with the County even if the municipality has emergency powers. While certainly the County has the power to trump the City's emergency orders under this compromise, we believe that politically the County should defer to the emergency orders voted for by the local officials of that community. The County would not be required to implement the same emergency orders for the entire county that are requested by any municipality. But when a local municipality can have meetings in the Sunshine and requests emergency orders, we believe Courts will ultimately uphold the will of the local municipality, though this is certainly untested in a Court of law or Attorney General Opinion.

Nothing in this memo should be used to construe the City of Saint Augustine Beach concedes any power to enact emergency orders. We in fact believe that the City of Saint Augustine Beach can make credible legal arguments that it does have the power to issue emergency orders under Florida law, especially in this novel emergency situation where most normal government function are able to work in some capacity.

As such we believe that if the City of Saint Augustine Beach were to, by resolution at a properly noticed meeting, enact emergency orders for its locality, they should have the effect of law if not directly overruled by the Saint Johns County and we would request that Saint Johns County ratify any emergency orders enacted by the City Commission as soon as possible in order to remove any question of the emergency orders validity.

Yours truly,

/s/ Lex Morton Taylor III

Lex M. Taylor, III

Florida Bar Number: 0123365

Select Year: 2019

The 2019 Florida Statutes

Title XVII

MILITARY AFFAIRS AND RELATED MATTERS

Chapter 252

EMERGENCY MANAGEMENT

[View Entire Chapter](#)

252.46 Orders and rules.—

(1) In accordance with the provisions of chapter 120, the political subdivisions of the state and other agencies designated or appointed by the Governor or in the state comprehensive emergency management plan are authorized and empowered to make, amend, and rescind such orders and rules as are necessary for emergency management purposes and to supplement the carrying out of the provisions of ss. 252.31-252.90, but which are not inconsistent with any orders or rules adopted by the division or by any state agency exercising a power delegated to it by the Governor or the division.

(2) All orders and rules adopted by the division or any political subdivision or other agency authorized by ss. 252.31-252.90 to make orders and rules have full force and effect of law after adoption in accordance with the provisions of chapter 120 in the event of issuance by the division or any state agency or, if promulgated by a political subdivision of the state or agency thereof, when filed in the office of the clerk or recorder of the political subdivision or agency promulgating the same. All existing laws, ordinances, and rules inconsistent with the provisions of ss. 252.31-252.90, or any order or rule issued under the authority of ss. 252.31-252.90, shall be suspended during the period of time and to the extent that such conflict exists.

(3) In order to attain uniformity so far as practicable throughout the country in measures taken to aid emergency management, all action taken under ss. 252.31-252.90 and all orders and rules made pursuant to such sections shall be taken or made with due consideration of the orders, rules, actions, recommendations, and requests of federal authorities relevant thereto and, to the extent permitted by law, shall be consistent with such orders, rules, actions, recommendations, and requests.

History.—s. 1, ch. 74-285; s. 1, ch. 77-174; s. 12, ch. 78-95; s. 23, ch. 81-169; s. 29, ch. 83-334; s. 18, ch. 93-211; s. 35, ch. 2001-61.

Select Year: 2019 ▼

The 2019 Florida Statutes

Title XVII

MILITARY AFFAIRS AND RELATED MATTERS

Chapter 252

EMERGENCY MANAGEMENT

[View Entire Chapter](#)

252.38 Emergency management powers of political subdivisions.—Safeguarding the life and property of its citizens is an innate responsibility of the governing body of each political subdivision of the state.

(1) COUNTIES.—

(a) In order to provide effective and orderly governmental control and coordination of emergency operations in emergencies within the scope of ss. 252.31-252.90, each county within this state shall be within the jurisdiction of, and served by, the division. Except as otherwise provided in ss. 252.31-252.90, each local emergency management agency shall have jurisdiction over and serve an entire county. Unless part of an interjurisdictional emergency management agreement entered into pursuant to paragraph (3)(b) which is recognized by the Governor by executive order or rule, each county must establish and maintain such an emergency management agency and shall develop a county emergency management plan and program that is coordinated and consistent with the state comprehensive emergency management plan and program. Counties that are part of an interjurisdictional emergency management agreement entered into pursuant to paragraph (3)(b) which is recognized by the Governor by executive order or rule shall cooperatively develop an emergency management plan and program that is coordinated and consistent with the state comprehensive emergency management plan and program.

(b) Each county emergency management agency created and established pursuant to ss. 252.31-252.90 shall have a director. The director must meet the minimum training and education qualifications established in a job description approved by the county. The director shall be appointed by the board of county commissioners or the chief administrative officer of the county, as described in chapter 125 or the county charter, if applicable, to serve at the pleasure of the appointing authority, in conformance with applicable resolutions, ordinances, and laws. A county constitutional officer, or an employee of a county constitutional officer, may be appointed as director following prior notification to the division. Each board of county commissioners shall promptly inform the division of the appointment of the director and other personnel. Each director has direct responsibility for the organization, administration, and operation of the county emergency management agency. The director shall coordinate emergency management activities, services, and programs within the county and shall serve as liaison to the division and other local emergency management agencies and organizations.

(c) Each county emergency management agency shall perform emergency management functions within the territorial limits of the county within which it is organized and, in addition, shall conduct such activities outside its territorial limits as are required pursuant to ss. 252.31-252.90 and in accordance with state and county emergency management plans and mutual aid agreements. Counties shall serve as liaison for and coordinator of municipalities' requests for state and federal assistance during postdisaster emergency operations.

(d) During a declared state or local emergency and upon the request of the director of a local emergency management agency, the district school board or school boards in the affected area shall participate in emergency management by providing facilities and necessary personnel to staff such facilities. Each school/board providing transportation assistance in an emergency evacuation shall coordinate the use of its vehicles and personnel with the local emergency management agency.

(e) County emergency management agencies may charge and collect fees for the review of emergency management plans on behalf of external agencies and institutions. Fees must be reasonable and may not exceed

the cost of providing a review of emergency management plans in accordance with fee schedules established by the division.

(2) **MUNICIPALITIES.**—Legally constituted municipalities are authorized and encouraged to create municipal emergency management programs. Municipal emergency management programs shall coordinate their activities with those of the county emergency management agency. Municipalities without emergency management programs shall be served by their respective county agencies. If a municipality elects to establish an emergency management program, it must comply with all laws, rules, and requirements applicable to county emergency management agencies. Each municipal emergency management plan must be consistent with and subject to the applicable county emergency management plan. In addition, each municipality must coordinate requests for state or federal emergency response assistance with its county. This requirement does not apply to requests for reimbursement under federal public disaster assistance programs.

(3) **EMERGENCY MANAGEMENT POWERS; POLITICAL SUBDIVISIONS.**—

(a) In carrying out the provisions of ss. 252.31-252.90, each political subdivision shall have the power and authority:

1. To appropriate and expend funds; make contracts; obtain and distribute equipment, materials, and supplies for emergency management purposes; provide for the health and safety of persons and property, including emergency assistance to the victims of any emergency; and direct and coordinate the development of emergency management plans and programs in accordance with the policies and plans set by the federal and state emergency management agencies.

2. To appoint, employ, remove, or provide, with or without compensation, coordinators, rescue teams, fire and police personnel, and other emergency management workers.

3. To establish, as necessary, a primary and one or more secondary emergency operating centers to provide continuity of government and direction and control of emergency operations.

4. To assign and make available for duty the offices and agencies of the political subdivision, including the employees, property, or equipment thereof relating to firefighting, engineering, rescue, health, medical and related services, police, transportation, construction, and similar items or services for emergency operation purposes, as the primary emergency management forces of the political subdivision for employment within or outside the political limits of the subdivision.

5. To request state assistance or invoke emergency-related mutual-aid assistance by declaring a state of local emergency in the event of an emergency affecting only one political subdivision. The duration of each state of emergency declared locally is limited to 7 days; it may be extended, as necessary, in 7-day increments. Further, the political subdivision has the power and authority to waive the procedures and formalities otherwise required of the political subdivision by law pertaining to:

- a. Performance of public work and taking whatever prudent action is necessary to ensure the health, safety, and welfare of the community.
- b. Entering into contracts.
- c. Incurring obligations.
- d. Employment of permanent and temporary workers.
- e. Utilization of volunteer workers.
- f. Rental of equipment.
- g. Acquisition and distribution, with or without compensation, of supplies, materials, and facilities.
- h. Appropriation and expenditure of public funds.

(b) Upon the request of two or more adjoining counties, or if the Governor finds that two or more adjoining counties would be better served by an interjurisdictional arrangement than by maintaining separate emergency management agencies and services, the Governor may delineate by executive order or rule an interjurisdictional area adequate to plan for, prevent, mitigate, or respond to emergencies in such area and may direct steps to be taken as necessary, including the creation of an interjurisdictional relationship, a joint emergency plan, a provision for mutual aid, or an area organization for emergency planning and services. A finding of the Governor pursuant to this paragraph shall be based on one or more factors related to the difficulty of maintaining an efficient and

effective emergency prevention, mitigation, preparedness, response, and recovery system on a unijurisdictional basis, such as:

1. Small or sparse population.
2. Limitations on public financial resources severe enough to make maintenance of a separate emergency management agency and services unreasonably burdensome.
3. Unusual vulnerability to emergencies as evidenced by a past history of emergencies, topographical features, drainage characteristics, emergency potential, and presence of emergency-prone facilities or operations.
4. The interrelated character of the counties in a multicounty area.
5. Other relevant conditions or circumstances.

History.—s. 1, ch. 74-285; s. 1, ch. 77-174; s. 22, ch. 81-169; s. 21, ch. 83-334; s. 102, ch. 92-279; s. 55, ch. 92-326; s. 14, ch. 93-211; s. 132, ch. 95-148; s. 5, ch. 2000-140; s. 34, ch. 2001-61.

RESOLUTION NO. 2020-22

**A RESOLUTION OF THE CITY COMMISSION OF THE
CITY OF ST. AUGUSTINE, FLORIDA PROVIDING FOR
MANDATORY INDOOR USE OF FACE COVERINGS IN
RESPONSE TO CONTINUED SPREAD OF
CORONAVIRUS DISEASE 2019.**

WHEREAS, on March 13, 2020, President Donald J. Trump issued a Proclamation Declaring a National Emergency concerning Coronavirus Disease 2019 ("COVID-19"); and

WHEREAS, on March 1, 2020, Governor Ron DeSantis issued Executive Order Number 20-51 declaring a Public Health Emergency in the State of Florida due to the spread of COVID-19; and

WHEREAS, on March 9, 2020, Governor Ron DeSantis issued Executive Order Number 20-52, declaring a State of Emergency for the State of Florida, extending to all sixty-seven (67) counties, including St. Johns County and the City of St. Augustine due to COVID-19, which Executive Order Number 20-52 was extended for an additional sixty (60) days on May 8, 2020, by Executive Order Number 20-114; and

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

WHEREAS, on April 29, 2020, Governor Ron DeSantis issued Executive Order Number 20-112, as modified by Executive Order Number 20-120 on May 9, 2020, and Executive Order Number 20-123 on May 14, 2020, in response to the recommendations set forth in Phase 1 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 Number 20-91, Safer-At-Home Order; and

WHEREAS, on June 3, 2020, Governor Ron DeSantis issued Executive Order Number 20-139, moving all counties in Florida, other than Miami-Dade, Broward and Palm Beach Counties, into Phase 2 of the plan issued by the Task Force to Re-Open Florida, which

Order supersedes Executive Order Number 20-91, the Safer at Home Order, and supersedes in part, and extends and modified other provisions of, Executive Order Number 20-112; and

WHEREAS, on March 17, 2020 the St. Johns County Board of County Commissioners issued Emergency Proclamation Number 2020-1 declaring a local state of emergency in response to a county-wide threat from COVID-19, which Proclamation has been extended numerous times, and most recently on June 23, 2020; and

WHEREAS, between March 12, 2020, and the date hereof, the City Manager has issued several Administrative Orders in response to the city-wide threat of the spread of COVID-19; and

WHEREAS, based on recent information and data from the Florida Department of Health, the number of confirmed cases of COVID-19 in St. Johns County and the City of St. Augustine has increased significantly since additional re-openings were authorized under Phase 2 of the Governor's Plan for Florida's Recovery, which increase may result in additional deaths; and

WHEREAS, in response to the dramatic increase in COVID-19 cases, the Florida Medical Association, the state's largest physician's organization, encourages all local officials to adopt regulations requiring individuals to wear face coverings in public places; and

WHEREAS, based on advice from medical professionals the number of confirmed cases of COVID-19 in St. Johns County and the City of St. Augustine will increase exponentially if additional measures to stop or slow the spread of COVID-19 are not instituted; 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 lengths)"; 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, consistent with Governor DeSantis' Executive Order Number 20-51, as extended, modified or amended, Chapter 252.46, Florida Statutes, and Sec. 3.05 of the City Charter, the City Commission is authorized to make such orders and rules as are necessary to ensure the health, safety and welfare of the community during a state of emergency; and

WHEREAS, the City Commission for the City of St. Augustine finds that it is in the best interest of public health, safety, and general welfare that the following be adopted consistent with the requirements of Section 166.021(4), Florida Statutes.

THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF ST. AUGUSTINE, FLORIDA:

Section 1. 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. Types of coverings include a face mask, homemade mask, or other covering, such as a scarf, bandana, handkerchief, or other similar cloth covering or shields.

Social Distancing shall mean keeping space between yourself and other people by staying at least six (6) feet (about 2 arms' length) from other people.

Companion shall mean a person by whom you are accompanied.

Section 2. Face Coverings Required.

- a. Every person working, living, visiting, or doing business in the City of St. Augustine shall wear a face covering in any indoor location, other than their home or residence, when not maintaining social distancing from other person(s), excluding family members or companions.
- b. Nothing herein shall require or allow a person to wear a face covering so as to conceal the identity of the wearer in violation of Chapter 876, Florida Statutes.
- c. All businesses are encouraged to prohibit entry of any person who is not wearing a face covering with the exception of those below listed persons.

Section 3. Exceptions.

Nothing herein shall require the wearing of face coverings by the following people:

- a. Persons under the age of two years; and
- b. Persons observing social distancing in accordance with CDC guidelines; and
- c. Persons for whom a face covering would cause impairment due to an existing health condition; and
- d. Persons working in a business or profession who do not have interactions with other persons; and
- e. Persons working in a business or profession who maintain social distancing from another person; and
- f. 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
- g. Persons exercising, while maintaining social distancing; and
- h. Persons eating or drinking; and
- i. 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
- j. The requirement shall not apply when a person who is hearing impaired needs to see the mouth of someone wearing a face covering in order to communicate; and
- k. The requirement does not apply to any outdoor activity permitted under City, County, or State order, but face coverings should be readily available when coming within six (6) feet of an individual not part of a person's immediate family or cohabitating living unit.

Section 4. Enforcement.

Pursuant to Sec. 252.46, Florida Statutes, this Resolution shall have the full force and effect of law, and pursuant to Chapter 2, Article VI, of the Code of the City of St. Augustine, a violation of this Resolution shall be a non-criminal civil infraction, enforceable under Chapter 2, Article VI, Division 2, of the City Code, which carries a penalty of up to a \$500.00 fine.

Section 5. Effective Date; Expiration Date.

- a. This Resolution shall become effective on June 27, 2020, at 12:01 AM.
- b. This Resolution shall remain in effect in the City of St. Augustine for so long as a state of emergency is in effect or unless otherwise modified or repealed.

ADOPTED in Emergency Session of the City Commission of the City of St. Augustine,
Florida, this ____ day of _____, 2020.

ATTEST

Tracy Upchurch, Mayor-Commissioner

Darlene Galambos, City Clerk
(SEAL)

RESOLUTION NO. 2020-

**A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF
ST. AUGUSTINE BEACH, FLORIDA PROVIDING FOR
MANDATORY INDOOR USE OF FACE COVERINGS IN
RESPONSE TO CONTINUED SPREAD OF CORONAVIRUS
DISEASE 2019.**

WHEREAS, on March 13, 2020, President Donald J. Trump issued a Proclamation Declaring a National Emergency concerning Coronavirus Disease 2019 (“COVID-19”); 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 lengths) 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 March 1, 2020, Governor Ron DeSantis issued Executive Order Number 20-51 declaring a Public Health Emergency in the State of Florida due to the spread of COVID-19 and subsequently, Governor Ron DeSantis issued multiple additional executive orders extending the Public Health Emergency and coordinating a multi-phase plan for protecting the public from COVID-19; and

WHEREAS, based on recent information and data from the Florida Department of Health, the number of confirmed cases of COVID-19 in St. Johns County and the City of St. Augustine Beach has increased significantly, which increase may result in additional deaths; and

WHEREAS, on March 17, 2020 the St. Johns County Board of County Commissioners issued Emergency Proclamation Number 2020-1 declaring a local state of emergency in response to a county-wide threat from COVID-19, which Proclamation has been extended numerous times, and most recently on June 23, 2020, the County Commission passed two resolutions which strongly encourage local business to mandate that employees and customers wear face coverings while inside their establishments in order to further prevent the spread of COVID-19 and entered into an agreement for the “Pledge St. Johns County” which promotes following the CDC guidelines; and

WHEREAS, on June 26, 2020, the City of Saint Augustine passed resolution 2020-22 which provides for mandatory indoor use of face coverings; and

RES 2020-XX

WHEREAS, pursuant to Sec. 252.38, Florida Statutes, power is vested in both municipalities and counties and the City of Saint Augustine Beach is required to coordinate with Saint Johns County to enact emergency orders; and

WHEREAS, the City Commission for the City of St. Augustine Beach recognizes that face coverings are only a component of reducing the spread of COVID-19, other components include frequent hand washing, proper social distancing, and any other components the CDC has implemented for the reducing the spread of COVID-19; and

WHEREAS, the City Commission for the City of St. Augustine Beach finds that it is in the best interest of public health, safety, and general welfare that the following be adopted consistent with the requirements of Section 166.021(4), Florida Statutes.

THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF SAINT AUGUSTINE BEACH, FLORIDA:

Section 1. Definitions.

Face Covering shall mean a uniform piece of material that securely covers a person's nose and mouth which remains affixed in place without the use of one's hands. Types of coverings include a face mask, homemade mask, or other covering, such as a scarf, bandana, handkerchief, or other similar cloth covering or shields.

Social Distancing shall mean keeping space between yourself and other people by staying at least six (6) feet (about 2 arms' length) from other people.

Companion shall mean a person by whom you are accompanied.

Section 2. Face Coverings Required.

a. Every person working, living, visiting, or doing business in the City of St. Augustine Beach shall wear a face covering in any indoor location, other than their home or residence, when not maintaining social distancing from another person(s), excluding family members or companions.

b. Nothing herein shall require or allow a person to wear a face covering to conceal the identity of the wearer in violation of Chapter 876, Florida Statutes.

c. All businesses are encouraged to prohibit entry of any person who is not wearing a face covering with the exception of those below listed persons.

d. If a permit is issued for an outdoor event by the City of Saint Augustine Beach greater than or equal to fifty (50) persons, that permit shall require wearing the face coverings as

RES 2020-XX

condition of issuance of the permit and those that attend are required to conform to this resolution.

Section 3. Exceptions.

Nothing herein shall require the wearing of face coverings by the following people:

- a. Persons under the age of five years; and
- b. Persons observing social distancing in accordance with CDC guidelines; and
- c. Persons for whom a face covering would cause impairment due to an existing health condition; and
- d. Persons working in a business or profession who do not have interactions with other persons; and
- e. Persons working in a business or profession who maintain social distancing from another person; and
- f. 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, especially if the wearing of a face covering may present a health hazard such as excessive heat; and
- g. Persons exercising, while maintaining social distancing; and
- h. Persons eating or drinking; and
- i. 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
- j. The requirement shall not apply when a person who is hearing impaired needs to see the mouth of someone wearing a face covering to communicate; and

Section 4. Enforcement.

Pursuant to Sec. 252.46, Florida Statutes, this Resolution shall have the full force and effect of law, and pursuant to Chapter 1, Section 1-9 of the Code of the City of Saint Augustine Beach, a violation of this Resolution shall be a non-criminal civil infraction, enforceable under Chapter 1, Section 1-9, of the City Code, which carries a penalty of up to a \$500.00 fine.

Section 5. Effective Date; Expiration Date.

- a. This Resolution shall become effective on July 3, 2020, at 12:01 AM.
- b. This Resolution shall remain in effect in the City of St. Augustine Beach for so long as a state of emergency is in effect or unless otherwise modified or repealed.

Section 6. Ratification by Saint Johns County.

This resolution serves as formal notice to Saint Johns County that the City of Saint Augustine Beach is enacting this Emergency Order to regulate the wearing of facial coverings during the current emergency. The City of Saint Augustine Beach formally requests that Saint Johns County coordinate with the goals of this Resolution and ratify this Resolution at its quickest opportunity.

ADOPTED in Emergency Session of the City Commission of the City of Saint Augustine Beach, Florida this ____ day of _____, 2020.

ATTEST

Max Royle
City Manager

Margaret England
Mayor-Commissioner

(SEAL)