

AMENDED ORDINANCE NO. 5293

AN ORDINANCE TO PREVENT THE SPREAD OF THE NOVEL CORONAVIRUS, SARS-CoV-2, AND THE DISEASE IT CAUSES, COMMONLY REFERRED TO AS COVID-19 BY REQUIRING FACE COVERINGS IN CERTAIN INDOOR AND OUTDOOR LOCATIONS.

WHEREAS, on March 11, 2020, the World Health Organization declared the outbreak of the novel coronavirus, SARS-CoV-2, and the disease it causes, commonly referred to as COVID-19, a pandemic (for reference in this ordinance, this virus and the disease that it causes are referred to as “COVID-19”); and

WHEREAS, on March 12, 2020, Governor Ralph S. Northam issued Executive Order Number Fifty-One (“EO 51”) declaring a state of emergency for the Commonwealth of Virginia because of the COVID-19 pandemic; EO 51 acknowledged the existence of a public health emergency arising from the COVID-19 pandemic and that it constitutes a “disaster” as defined by Virginia Code § 44-146.16 because of the public health threat presented by a communicable disease anticipated to spread; and

WHEREAS, on March 14, 2020, effective at 5:00 p.m. and extending through June 10, 2020, at 5:00 p.m., or as may be amended by the City Council, the City Manager, in his capacity as Director of Emergency Management, issued a Declaration of Local Emergency applicable throughout the entire City of Alexandria, Virginia, pursuant to authority granted pursuant to City Code Section 4-3-5, Virginia Code Sections 44-146.21 and 15.2-1413, which City Declaration was unanimously consented to the by the City Council on March 14, 2020, pursuant to City Resolution No. 2928, as required by applicable law; on June 9, 2020, such Declaration of Local Emergency was extended by the City Manager and confirmed by the City Council through September 30, 2020; on September 22, 2020 such Declaration of Local Emergency was extended by the City Manager and confirmed by the City Council through March 31, 2021; on March 23, 2021 such Declaration of Local Emergency was extended by the City Manager and confirmed by the City Council through September 30, 2021.

WHEREAS, since Governor Northam issued EO 51 on March 13, 2020, he has issued several more Executive Orders jointly with Orders of Public Health Emergency issued by M. Norman Oliver, MD, MA, State Health Commissioner, pertaining to COVID-19; and specifically issued Executive Order Seventy Two addressing requirements for face coverings in certain indoor and outdoor locations (EO 72); and

WHEREAS, on September 12, 2020 City Council adopted Ordinance No. 5293 requiring face coverings in certain indoor and outdoor locations which was effective by its terms on October 20, 2020. The reasons and justifications for taking such action are described in detail in that adopted ordinance; and

WHEREAS, the City of Alexandria is an urban jurisdiction situated in the metropolitan Washington, DC region with a compact downtown area that attracts visitors from around the region, and across the country and world, and includes workers who live outside the City and

1 residents who regularly visit other jurisdictions, making it particularly susceptible to the spread
2 of COVID-19; and

3 **WHEREAS**, on April 27, 2021 the Centers for Disease Control (CDC) issued new
4 guidance for face coverings in indoor and outdoor locations given the number of people in the
5 country who have been vaccinated against COVID-19 and the decrease in the number of new
6 COVID-19 cases. On April 29, 2021, Governor Northam issued amendments to Executive Order
7 Seventy-Two which revise the face covering requirements to be consistent with the CDC's most
8 recent guidance. Since the CDC will continue to issue guidance as the pandemic response
9 evolves, the City Council would now like to also amend Ordinance 5293 to allow it to evolve
10 with the EO 72.

11
12 **NOW THEREFORE, THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS:**

13 **Sec. 1. Purpose**

14 For the reasons stated in the recitals, the purpose of this ordinance is to prevent the spread of
15 COVID-19.

16 **Sec. 2. Authority**

17 This ordinance is authorized by [Charter Section 2.04\(h\)](#) "to make and enforce all regulations
18 necessary to preserve and promote public health and sanitation and protect the inhabitants of the
19 city from contagious, infectious or other diseases." [Section 15.2-1102](#) of the State Code
20 generally and [Section 2.01](#) of the City Charter grants the authority for a City to exercise all
21 powers, not expressly prohibited by the state code or the constitution, that are necessary "to
22 promote the general welfare of the city and the safety, health, peace, good order, comfort,
23 convenience and morals of its inhabitants."

24 **Sec. 3. Definitions**

25 The following definitions apply to this ordinance:

- 26 A. "Face covering" means an item normally made of cloth or various other materials, often
27 with elastic bands or cloth ties, that is secured over the wearer's nose and mouth in an
28 effort to contain or reduce the spread of potentially infectious respiratory secretions at the
29 source (i.e., the person's nose and mouth).
30
- 31 B. "Physical Distancing" means maintaining the physical distance of separation, which may
32 change depending on the activity an individual is engaged in, as required by any
33 applicable Executive Order of the Governor or Order of Public Health Emergency of the
34 State Health Commissioner. In the event there is no other applicable requirement,
35 "physical distancing" means maintaining at least six feet of distance between persons
36 who do not regularly live together.
37
- 38 C. "Public place" means any place
39 1. That is:

- i. indoors, other than a person's residence or personal vehicle, or
- ii. outdoors ~~where physical distancing between persons not living in the same household cannot be maintained~~ and
2. generally open to the public including, but not limited to, public parks and open spaces, sidewalks, trails, retail stores, food establishments, theaters, personal care and personal grooming services, common areas of condo or apartment buildings, and transportation other than a personal vehicle.

Sec. 4. Face Coverings

A. *Face coverings required.* Face coverings must be worn by all persons in public places as described and required by EO 72, except as provided in Sections 4(B).

B. *Exemptions.* The requirements of this ordinance do not apply to the following persons:

1. *Children and Students.*

- i. Children ~~10 years of age and~~ under 5 years of age; ~~provided, that children under 10 years of age may be required to wear face coverings if a plan submitted to the Commonwealth for a school or other facility where children congregate so requires;~~
- ii. students in daycare centers or participating in-person classes in K-12 education or institutions of higher education shall be governed by the plans submitted to the Commonwealth for such institutions, if one exists, and not by this ordinance.

2. *Medical Condition or Disability.* Persons for whom:

- i. wearing a face covering poses a substantial mental or physical health risk, such as persons who have trouble breathing while wearing a face covering or are unconscious, incapacitated, or otherwise unable to remove the face covering without assistance;
- ii. persons with a health condition preventing the use of a face covering;
- iii. persons with a disability preventing the use of a face covering, or
- iv. persons seeking to communicate with the hearing impaired and for which the mouth needs to be visible.

Any person who declines to wear a face covering pursuant to this exception shall not be required to produce or carry medical documentation verifying the stated condition nor shall the person be required to identify the precise underlying medical condition.

3. *Physical Activity.* While persons are swimming, biking, jogging, or engaged in other physical activity where wearing a face covering has been determined to pose a health risk. Additionally, any outdoor activity considered "Recreational Sports" under the Governor's Executive Order 67 shall be governed by that Executive Order as the same may be amended, and not by this ordinance.

4. *Eating or drinking.* While a person is actively eating food or drinking a beverage.

Face coverings are still required to be worn while waiting to receive food or beverages, or during substantial breaks between periods of eating and drinking.

5. *Work Conditions.* If wearing a face covering would subject the person to an unsafe work condition, as determined by federal, state, or local occupational safety regulators or workplace safety guidelines.

6. *Government or medical services.* When temporary removal of the face covering is necessary to secure government or medical (including dental) services.

7. *Religious rituals.* Face coverings may be removed to participate in a religious ritual.

D. *Responsibility of adults accompanying minors.* Adults accompanying minors between the ages of 10 years old and 17 years old must attempt to prompt the minors to wear face coverings while in public places.

Sec. 7. Effect of More Restrictive Executive Order or Order of Public Health Emergency.

This ordinance, or any part thereof, shall not be effective if there is a more restrictive requirement in an Executive Order or an Order of Public Health Emergency in effect.

Sec. 8. Compliance

If the City Manager or his designee determines that a person subject to this ordinance is not in compliance, he will request compliance and work with the person to obtain voluntary compliance including the provision of a covering with no cost to the person.

D. Injunctive relief.

The City, the City Council, and any City officer authorized by law, may seek to enjoin the continuing violation of any provision of this ordinance by bringing a proceeding for an injunction in any court of competent jurisdiction.

Sec 9. Duration

This amended ordinance is effective ~~12:00 a.m., October 1, 2020~~ upon its adoption by City Council, and expires at 12:00 am on September 30, 2021; at the time the Local Declaration of Emergency expires, unless amended by the City Council; or when the waiver of Virginia Code § 18.2- 422, currently established in EO 67, Section (C)(3), or as it may be further amended or superseded, ends, whichever occurs first.

Sec. 10. Effect of this Ordinance on the Powers of the Director of Emergency Management.

This ordinance does not affect the powers of the City Manager, acting as the Director of Emergency Management, pursuant to Virginia Code § 44-146.21 during the COVID-19 disaster.

Sec. 11. Severability.

1 It is the intention of the City Council that any part of this ordinance is severable. If any part is
2 declared unconstitutional or invalid by the valid judgment or decree of a court of competent
3 jurisdiction, the unconstitutionality or invalidity does not affect any other part of this ordinance

4
5 JUSTIN WILSON
6 Mayor

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10 Public Hearing: May 15, 2021

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