

## **RESOLUTION 17-2020 -extended**

**A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, PURSUANT TO THE GENERAL POWERS RESERVED TO THE TOWN COUNCIL IN THE TOWN CHARTER; MAKING LEGISLATIVE FINDINGS; PROVIDING FOR DEFINITIONS; REQUIRING ALL PERSONS TO WEAR FACE COVERING AT DESIGNATED TOWN FACILITIES; PROVIDING FOR EXCEPTIONS; PROVIDING FOR SUNSET; PROVIDING FOR SEVERABILITY, CONFLICTS AND EFFECTIVE DATE.**

WHEREAS, Novel Coronavirus Disease (COVID-19) is a severe acute respiratory illness that can spread among humans through respiratory transmission and causes symptoms similar to those of influenza, and in some cases death; 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 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 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, based on the advice of medical professionals, the number of COVID-19 cases may continue to rise unless measures are instituted to slow the spread and stop the introduction 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**, according to the CDC, the vast majority of persons that test positive for the COVID-19 virus that are hospitalized are persons over the age of 65 years and/or have underlying health conditions; and

**WHEREAS**, according the CDC the highest percentage of severe outcomes among persons are aged 85 years of age and older; and

**WHEREAS**, the Town Council finds that it is in the best interest of the residents of the Town of Malabar and the general public, and it is in furtherance of the public health, safety, and welfare, to formally adopt this Resolution to require face coverings at and in designated Town Facilities.

**NOW, THEREFORE**, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF MALABAR, FLORIDA, as follows:

**Section 1.** The above recitals are adopted by the Town Council as legislative findings.

**Section 2. Definitions.**

“Face Covering” shall mean a uniform piece of material, made of paper or cloth and including plastic shield coverings, 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.

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

(a) Every Person living, working, or visiting the Town of Malabar shall wear a face covering in the following Town owned and operated facilities:

1. Town Hall 2725 Malabar Road
2. Malabar Fire Dept, 1840 Malabar Road
3. Malabar Public Works Building 1435 Centre Street

(b) Exceptions:

1. Persons under the age of 6 years old; and
2. Persons observing social distancing under the CDC guidelines; and
3. Persons for whom a face covering would cause impairment due to an existing health condition; and
4. When a person who is hearing impaired needs to see the mouth of someone wearing a face covering in order to communicate.

**Section 4. Severability.** In the event a court of competent jurisdiction shall hold or determine that any part of this Resolution is invalid or unconstitutional, the remainder of the Resolution shall not be affected and it will be presumed that the Town 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 Resolution without said invalid and unconstitutional provision thereby causing said remainder to remain in full force and effect.

**Section 5. Conflicts.** All ordinances or parts of ordinances in conflict herewith are hereby repealed.

**Section 6. Effective Date and Sunset.** This Resolution shall become effective nunc pro tunc on October 5, 2020, and shall sunset at 12:01 a.m. on October 5, 2021 unless extended by the Town Council.

The foregoing Resolution was moved for adoption by Council Member White. The motion was seconded by Council Member Rivet and, upon being put to a vote, the vote was as follows:

Council Member Grant Ball	Aye
Council Member Brian Vail	Aye
Council Member Steve Rivet	Aye
Council Member David Scardino	Aye
Council Member Danny White	Aye

**PASSED AND ADOPTED** by the Town Council, Town of Malabar, Brevard County, Florida this 19th day of October 2020.

**BY: TOWN OF MALABAR**

original signed  
Mayor Patrick T. Reilly, Council Chair

ATTEST:

Debby K. Franklin, C.M.C., Town Clerk/Treasurer

(seal)

Approved as to form and  
legal sufficiency by:

Karl W. Bohne, Jr., Town Attorney

**\* At the RTCM of 5/17/2021 the following motion was approved:  
MOTION: CM White/CM Acquaviva to repeal Resolution 17-2020. Vote: All Ayes**