

RESOLUTION NO. R-20-116

AN EMERGENCY RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF MANATEE COUNTY, FLORIDA, REGARDING PUBLIC HEALTH; PROVIDING FINDINGS; PROVIDING DEFINITIONS; PROVIDING FOR MANDATORY REQUIREMENTS TO WEAR FACE COVERINGS; PROVIDING FOR PENALTIES AND ENFORCEMENT; PROVIDING FOR APPLICABILITY AND CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE AND DURATION.

WHEREAS, a new strain of coronavirus has caused an infectious disease (“COVID-19”) that has not been previously identified in humans; and

WHEREAS, the World Health Organization (“WHO”) raised its assessment of the COVID-19 threat from high to very high and declared a public health emergency of international concern related to COVID-19 on January 30, 2020; and

WHEREAS, the WHO declared COVID-19 a pandemic on March 11, 2020; and

WHEREAS, on March 1, 2020, Governor Ron DeSantis issued Executive Order 20-51, declaring that appropriate measures to control the spread of COVID-19 in the State of Florida are necessary, and therefore directed that a Public Health Emergency be declared in the State of Florida; and

WHEREAS, as of July 24, 2020, at least 7,520 people in Manatee County have tested positive for COVID-19, with at least 153 deaths, and additional confirmed cases have been reported in neighboring counties, including Sarasota, Hillsborough and Pinellas; and

WHEREAS, it is the duty of Manatee County to take protective measures including, but not limited to, development of incident action response plans, procurement of personal protective equipment, pandemic preventative training and exercise coordination, and similar activities to protect the public health and safety of the community; and

WHEREAS, on March 2, 2020, Manatee County began to take protective measures in response to the imminent threat to the public health, safety and welfare presented by COVID-19; and

WHEREAS, Section 252.38, Florida Statutes, prescribes the establishment of a local emergency management agency, the appointment of a director thereof, the power and authority thereof, and the power and authority of the Board of County Commissioners in emergency situations; and

WHEREAS, Section 252.46, Florida Statutes, and Article II of Chapter 2-13 of the Manatee County Code, authorize the Board of County Commissioners of Manatee

County, Florida to declare a state of local emergency and to exercise emergency powers and authority to carry out the provisions of Sections 252.31 through 252.90, Florida Statutes, including the authority to waive procedures and formalities otherwise required by law pertaining to:

1. Performance of public work and taking whatever action is necessary to ensure the health, safety, and welfare of the community;
2. Entering into contracts;
3. Incurring obligations;
4. Employment of permanent and temporary workers;
5. Utilization of volunteer workers;
6. Rental of equipment;
7. Acquisition and distribution of supplies, materials, and facilities with or without compensation; and
8. Appropriation and expenditure of public funds; and

WHEREAS, Manatee County initially declared a State of Local Emergency on March 16, 2020, pursuant to Resolution No. 20-041, and on March 24, 2020, pursuant to Resolution No. 20-045; and

WHEREAS, COVID-19 is spread through airborne transmission from individuals sneezing, speaking, and coughing, and infectious droplet nuclei can spread for a great distance; and

WHEREAS, since April of 2020, the Board has proactively directed the implementation of numerous efforts, including an aggressive communications campaign, to encourage persons in the County to practice social distancing, wash and sanitize their hands, clean high touch surfaces, and wear face coverings as community mitigation strategies to increase containment of COVID-19; and

WHEREAS, the continued operation of businesses providing goods and services is necessary to provide essential goods and services to the public and visitors and to support the local economy; and

WHEREAS, federal and state health officials have indicated that they expect additional cases of COVID-19 to be identified in the coming days and months and, based on the highly contagious nature of COVID-19, additional person-to-person transmission is likely; and

WHEREAS, conditions presented by the threat of COVID-19 continue to pose a threat to the public health that requires dynamic emergency response, including the imposition of additional mitigation strategies as conditions require; and

WHEREAS, the use of face coverings has been identified as a measure to assist in preventing individuals who may be shedding COVID-19 from spreading it to other individuals in public settings when other social distancing measures are difficult to maintain; and

WHEREAS, to reduce the spread of the disease, the Centers for Disease Control (“CDC”) recommends the use of cloth face coverings in public settings where other social distancing measures are difficult to maintain, such as grocery stores and pharmacies, since many individuals with no symptoms can spread the virus, and even individuals who develop symptoms can transmit the virus to others before showing symptoms; and

WHEREAS, Florida Medical Association President Ronald L. Giffler, MD, JD, MBA, has issued a statement urging Floridians to use face coverings to prevent the further spread of COVID-19, and further calling on local officials to adopt regulations requiring the use of face coverings in public places, specifically stating “(t]he science is clear. Asymptomatic infected individuals can release aerosol particles while breathing and speaking. Not wearing a mask or face covering increases exposure, whereas universal masking greatly reduces the spread of viral particles. The message is simple: For the sake of your health and the health of everyone around you, Florida’s doctors want you to wear a mask.”; and

WHEREAS, on June 22, 2020, after Florida reported more than 4,000 new cases of COVID-19 in a single day, State Surgeon General Scott Rivkees issued an additional public health advisory recommending people wear face coverings in any setting where social distancing is not possible, stating that “all individuals [should] refrain from participation in social or recreational gatherings of more than 50 people” and in smaller crowds “practice social distancing by maintaining a distance of at least six feet from each other and wear a face covering.”; and

WHEREAS, as of July 24, 2020, Florida reported a total of 402,312 cases of COVID-19, representing a significant increase since the State Surgeon General issued his June 22, 2020, advisory; and

WHEREAS, the CDC recommends only simple cloth face coverings for the general population and not surgical masks or N-95 respirators because these are critical supplies that must continue to be reserved for healthcare workers and other medical first responders; and

WHEREAS, cloth face coverings are relatively inexpensive and readily available, as the CDC states that they can be made from household items and provides online

guidance for making “do-it yourself” coverings for people who cannot or do not want to buy one; and

WHEREAS, the County intends to make face coverings available to the public; and

WHEREAS, the CDC does not recommend wearing a cloth face covering for children under the age of 2, or anyone who has trouble breathing, or is unconscious, incapacitated, or otherwise unable to remove a mask without assistance; and

WHEREAS, a special meeting of the Board was scheduled for July 27, 2020, for the single purpose of discussing the recent increase in COVID-19 cases in the County and to consider additional mitigation requirements to be imposed countywide; and

WHEREAS, the Board was provided with information regarding the need to wear face coverings to prevent the spread of COVID-19, including CDC guidelines and recommendations of health officials; and

WHEREAS, the Board finds implementation of this Emergency Resolution is necessary for the preservation of the health, safety, and welfare of the community.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MANATEE COUNTY, FLORIDA, THAT:

SECTION 1. FINDINGS. The Board hereby makes the following findings:

1. The recitals set forth above are true and correct; and
2. It is in the best interest of the County, and furthers the public health, safety and welfare of the County to require the wearing of face coverings, and the displaying of signs, in business establishments, as such terms are defined herein, to reduce the spread of COVID-19.

SECTION 2. DEFINITIONS.

- (i) Face Covering. A “face covering” is a material that covers the nose and mouth and that fits snugly against the sides of the face so there are no gaps. It can be secured to the head with ties or straps or simply wrapped around the lower face. It can be made of a variety of materials, such as cotton, silk, or linen. Coverings with materials made of multiple layers are highly encouraged. A cloth face covering may be factory-made or sewn by hand, or the cloth face covering can be improvised from household items. The CDC has posted additional information regarding how to make, wear, and wash a cloth face covering at <https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/aboutface-coverings.html>.

- (ii) Business Establishment. A “business establishment” means a location with a roof overhead under which any business is conducted, goods are made or stored or processed or where services are rendered. The term “business establishment” includes transportation network companies, such as Ubers and Lyft, vehicles operated for mass transit, taxis, jitneys, limousines for hire, rental cars, and other passenger vehicles for hire. The term “business establishment” includes locations where non-profit, governmental, and quasi-governmental entities facilitate public interactions and conduct business. The term “business establishment” also includes places of worship
- (iii) Lodging Establishment. A “lodging establishment” shall have the same meaning as the term “transient public lodging establishment” has in section 509.013(4)(a)l, Florida Statutes (2019). Accordingly, for purposes of this Emergency Resolution, a “lodging establishment” means any unit, group of units, dwelling, building, or group of buildings within a single complex of buildings which is rented to guests more than three times in a calendar year for periods of less than 30 days or 1 calendar month, whichever is less, or which is advertised or held out to the public as a place regularly rented to guests.

SECTION 3. MANDATORY REQUIREMENTS.

- (i) An individual in a business establishment must wear a face covering while in that business establishment.
- (ii) The requirement in this section does not apply to:
 - a. Situations in which individuals maintain 6 feet or more of distance between persons. This exception does not apply to employees who are present in the kitchen or other food and beverage preparation area of a business establishment. Nor does it apply to employees serving food or beverages.
 - b. A child under the age of 6.
 - c. Persons who have trouble breathing due to a chronic pre-existing condition or individuals with a documented or demonstrable medical problem. It is the intent of this exception that those individuals who cannot tolerate a facial covering for a medical, sensory or any other condition which makes it difficult for them to utilize a face covering and function in public are not required to wear one.

- d. Public safety, fire, and other life safety and health care personnel, as their personal protective equipment requirements will be governed by their respective agencies.
 - e. Restaurant and bar patrons while eating or drinking. It is the intent of this exception that a face covering will be worn while traversing a business establishment for ingress and egress, to use the facilities, and while otherwise standing when persons are unable to maintain at least 6 feet of distancing.
 - f. An individual in a lodging establishment who is inside of the lodging unit, including, but not limited to, a hotel room, motel room, vacation rental unit, timeshare unit, or similar unit.
- (iii) Every business establishment shall display conspicuous signage notifying all persons of the requirement to wear a face covering as provided in this section.
 - (iv) 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.

SECTION 4. PENALTIES AND ENFORCEMENT.

- (i) A violation of this Emergency Resolution is a noncriminal infraction. A violation of this Emergency Resolution does not authorize the search or arrest of an individual. Prior to the issuance of a citation, the individual will be asked to comply with this Emergency Resolution or be able to explain how an exception in section 3(ii) applies to them. Failure to comply with the requirements of this Emergency Resolution presents a serious threat to the public health, safety, and welfare, and a citation may be issued for such a violation after the inquiry referenced above.
- (ii) The penalty for a violation of this Emergency Resolution is:
 - a. For a first offense, a fine of \$50.00.
 - b. For a second offense, a fine of \$125.00.
 - c. For a third and each subsequent offense, a fine of \$250.00.
- d. All other remedies available at law or equity, including injunction, remain available to the County, even after issuance of a citation.

SECTION 5. APPLICABILITY AND CONFLICT. This Emergency Resolution shall apply countywide within both unincorporated and incorporated areas, provided that any municipal resolution or ordinance addressing the issue of face coverings (either more restrictively or less restrictively) shall supersede this Emergency Resolution within the applicable incorporated area. All County resolutions or parts of resolutions in conflict with this Emergency Resolution are hereby repealed to the extent of said conflict.

SECTION 6. SEVERABILITY. If any section, sentence, clause, or other provision of this Emergency Resolution shall be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not be construed as to render invalid or unconstitutional the remaining sections, sentences, clauses, or provisions of this Emergency Resolution.

SECTION 7. EFFECTIVE DATE AND DURATION. This Emergency Resolution shall take effect immediately upon its adoption. This Emergency Resolution shall remain in full force and effect for so long as the Local State of Emergency for the COVID-19 pandemic remains in effect pursuant to Resolution No. R-20-041, and Resolution No. R-20-045, or any successor resolution.

ADOPTED WITH A QUORUM PRESENT AND VOTING THIS THE 27th DAY OF July, 2020.

**MANATEE COUNTY, FLORIDA
BOARD OF COUNTY COMMISSIONERS**

By: _____
Chairperson

**ATTEST: ANGELINA COLONNESO
CLERK OF THE CIRCUIT COURT AND COMPTROLLER**

By: _____
Deputy Clerk