

LEON COUNTY EMERGENCY ORDINANCE NO. 20-15

**AN EMERGENCY ORDINANCE OF THE BOARD OF COUNTY
COMMISSIONERS OF LEON COUNTY, FLORIDA,
PROVIDING FOR INCORPORATION OF RECITALS AS
LEGISLATIVE FINDINGS; PROVIDING FOR DEFINITIONS;
PROVIDING FOR MANDATORY REQUIREMENTS;
PROVIDING FOR PENALTIES AND ENFORCEMENT;
PROVIDING FOR APPLICABILITY AND CONFLICT;
PROVIDING FOR SEVERABILITY; AND PROVIDING AN
EFFECTIVE DATE.**

RECITALS

WHEREAS, the Board of County Commissioners of Leon County, Florida (hereinafter “Board”), finds that COVID-19 presents a danger to the health, safety, and welfare of the public; 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, although how far is not fully understood at present; 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, Governor DeSantis has issued a series of executive orders to re-open Florida, and some of the restrictions to flatten the curve and slow the spread of COVID-19 have correspondingly been relaxed; 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, the re-opening of the State will lead to more contact between individuals and the potential for increased community spread of the disease; and

WHEREAS, despite mitigation efforts, as reported by Florida Department of Health Officer (“Department of Health”) Claudia Blackburn, the number of positive cases of COVID-19 in the County has spiked, with 51 positive cases reported on June 19, 2020, and a seven-day positivity rate of 3.4% versus 0.77% for the previous seven days, which indicates greater local community spread and transmission of the disease; 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, 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

1 mitigation strategies as conditions require; and

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3 WHEREAS, the use of face coverings has been identified as a measure to assist in preventing
4 individuals who may be shedding COVID-19 from spreading it to other individuals; and

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

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

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21 WHEREAS, on June 22, 2020, after Florida reported more than 4,000 new cases of COVID-
22 19 in a single day, State Surgeon General Scott Rivkees issued an additional public health advisory
23 recommending people wear face coverings in any setting where social distancing is not possible, stating
24 that “all individuals [should] refrain from participation in social or recreational gatherings of more than
25 50 people” and in smaller crowds “practice social distancing by maintaining a distance of at least six
26 feet from each other and wear a face covering.”; and

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

31
32 WHEREAS, cloth face coverings are relatively inexpensive and readily available as the CDC
33 states that they can be made from household items and provides online guidance for making “do-it-
34 yourself” coverings for people who cannot or do not want to buy one from the increasing sources
35 producing and selling coverings; and

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37 WHEREAS, the County has committed to make face coverings available to the public at
38 County libraries; and

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

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44 WHEREAS, a special meeting of the Board was scheduled for June 23, 2020, for the single
45 purpose of discussing the recent increase in COVID-19 cases in the County and to consider additional
46 mitigation requirements to be imposed countywide; and

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48 WHEREAS, the Board was provided with information regarding mandatory face covering
49 requirements adopted in other parts of the State and a list of resources regarding recommendations

1 relating to face coverings issued by various worldwide, federal, and state health organizations; and

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3 WHEREAS, at the special meeting the Board received information from Department of Health
4 Officer Claudia Blackburn confirming a spike in local positive COVID-19 cases, stating that in
5 addition to the 110 confirmed local positive COVID-19 cases in the last week, an additional 114
6 probable cases connected to rapid tests must be investigated; and

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8 WHEREAS, adopting face covering requirements via ordinance, as opposed to local emergency
9 powers, would permit enforcement through civil citations and fines instead of criminal prosecution as
10 a second-degree misdemeanor; and

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12 WHEREAS, the Board unanimously determined that an emergency exists, and the immediate
13 enactment of this Emergency Ordinance is necessary as authorized in section 125.66(3), Florida
14 Statutes; and

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

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19 BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF LEON
20 COUNTY, FLORIDA, that:

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22 **Section 1. Incorporation of Recitals as Legislative Findings.**

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24 The recitals of this Emergency Ordinance are incorporated herein and constitute the legislative
25 findings of the Board. The recitals are made fully a part of this Emergency Ordinance as if the recitals
26 were set out in a section hereunder.

27
28 **Section 2. Definitions.**

- 29
30 (i) Face Covering. A “face covering” is a material that covers the nose and mouth and that
31 fits snugly against the sides of the face so there are no gaps. It can be secured to the head
32 with ties or straps or simply wrapped around the lower face. It can be made of a variety
33 of materials, such as cotton, silk, or linen. Coverings with materials made of multiple
34 layers is highly encouraged. A cloth face covering may be factory-made or sewn by
35 hand, or the cloth face covering can be improvised from household items. The CDC has
36 posted additional information regarding how to make, wear, and wash a cloth face
37 covering at [https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/about-](https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/about-face-coverings.html)
38 [face-coverings.html](https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/about-face-coverings.html).
39
- 40 (ii) Business Establishment. A “business establishment” means a location with a roof
41 overhead under which any business is conducted, goods are made or stored or processed
42 or where services are rendered. The term “business establishment” includes
43 transportation network companies, such as Ubers and Lyft, vehicles operated for mass
44 transit, taxis, jitneys, limousines for hire, rental cars, and other passenger vehicles for
45 hire. The term “business establishment” includes locations where non-profit,

1 governmental, and quasi-governmental entities facilitate public interactions and conduct
2 business. The term “business establishment” also includes places of worship.
3

- 4 (iii) Lodging Establishment. A “lodging establishment” shall have the same meaning as the
5 term “transient public lodging establishment” has in section 509.013(4)(a)1, Florida
6 Statutes (2019). Accordingly, for purposes of this Emergency Ordinance, a “lodging
7 establishment” means any unit, group of units, dwelling, building, or group of buildings
8 within a single complex of buildings which is rented to guests more than three times in
9 a calendar year for periods of less than 30 days or 1 calendar month, whichever is less,
10 or which is advertised or held out to the public as a place regularly rented to guests.
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12 **Section 3. Mandatory Requirements.**

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- 14 (i) An individual in a business establishment must wear a face covering while in that
15 business establishment.
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- 17 (ii) The requirement in this section does not apply to:
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- 19 a. A child under the age of 6.
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 - 21 b. Persons who have trouble breathing due to a chronic pre-existing condition or
22 individuals with a documented or demonstrable medical problem. It is the intent of
23 this provision that those individuals who cannot tolerate a facial covering for a
24 medical, sensory or any other condition which makes it difficult for them to utilize
25 a face covering and function in public are not required to wear one.
26
 - 27 c. Public safety, fire, and other life safety and health care personnel, as their personal
28 protective equipment requirements will be governed by their respective agencies.
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 - 30 d. Persons exercising while observing at least 6 feet of distancing from another person.
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 - 32 e. Restaurant and bar patrons while eating or drinking. It is the intent of this provision
33 that a face covering will be worn while traversing a business establishment for
34 ingress and egress, to use the facilities, and while otherwise standing when persons
35 are unable to maintain at least 6 feet of distancing.
36
 - 37 f. Business owners, managers, and employees who are in an area of a business
38 establishment that is not open to customers, patrons, or the public, provided that 6
39 feet of distance exists between persons. This exception does not apply to employees
40 who are present in the kitchen or other food and beverage preparation area of a
41 business establishment.
42
 - 43 g. An individual in a lodging establishment who is inside of the lodging unit, including,
44 but not limited to, a hotel room, motel room, vacation rental unit, timeshare unit, or
45 similar unit.

- (iii) Every business establishment is required to post 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 Ordinance is a noncriminal infraction. A violation of this Emergency Ordinance 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 the Emergency Ordinance or be able to explain how an exception in section 3(ii) applies to them. Failure to comply with the requirements of this Emergency Ordinance 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 Ordinance 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 Ordinance shall apply countywide and establish minimum standards, though the City of Tallahassee, the State University System, the State College System, the State of Florida, or Federal agencies may adopt more stringent rules and procedures regarding the face covering requirement. All County ordinances or parts of ordinances in conflict with this Emergency Ordinance are hereby repealed to the extent of said conflict.

Section 6. Severability.

If any word, phrase, clause, section, or portion of this Emergency Ordinance is declared by any court of competent jurisdiction to be invalid, void, unconstitutional, or unenforceable, then all remaining provisions and portions of this Emergency Ordinance shall remain in full force and effect.

1 **Section 7. Effective Date.**

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3 As provided in section 125.66(3), Florida Statutes, this Emergency Ordinance shall be deemed
4 to be filed and shall take effect when a copy of this Ordinance has been accepted and confirmed by the
5 Department of State. The requirements of section 3 shall take effect at 12:01 a.m. on Thursday, June
6 25, 2020.

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8 This Emergency Ordinance was adopted by unanimous vote of the Board of County
9 Commissioners of Leon County, Florida, during a duly declared local state of emergency due to the
10 COVID-19 pandemic, on this 23rd day of June, 2020.




LEON COUNTY, FLORIDA

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By: 
Bryan Desloge, Chairman
Board of County Commissioners

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ATTESTED BY:
Gwendolyn Marshall, Clerk of Court
& Comptroller, Leon County, Florida

By: 

APPROVED AS TO FORM:
Chasity H. O'Steen, County Attorney
Leon County Attorney's Office

By: Chasity H. O'Steen

Digitally signed by Chasity H. O'Steen
DN: cn=Chasity H. O'Steen, o=Leon County
Board of County Commissioners, ou=County
Attorney's Office,
email=osteenc@leoncountyfl.gov, c=US
Date: 2020.06.24 13:21:46 -0400