

ORDER NO. 2020 - 07

A REVISED ORDER OF THE BOARD OF COUNTY COMMISSIONERS OF COLLIER COUNTY, FLORIDA, MANDATING THAT INDIVIDUALS WEAR A FACE COVERING IN PUBLIC IN CERTAIN CIRCUMSTANCES.

WHEREAS, COVID-19 is a respiratory illness caused by a virus that spreads rapidly from person to person, which may result in serious illness or death, and which constitutes a clear and present danger to the health, welfare and safety of the citizens of Collier County; and

WHEREAS, on March 1, 2020, Governor DeSantis declared a Public Health Emergency as a result of COVID-19, and on March 9, 2020, Governor DeSantis issued Executive Order 20-52, declaring a State of Emergency as a result of COVID-19, which has been supplemented by subsequent Executive Orders all relating to the threat of COVID-19; and

WHEREAS, on March 16, 2020, the Board of County Commissioners of Collier County, Florida adopted Proclamation/Resolution No. 2020-50 declaring a state of emergency due to COVID-19 for all territory within the legal boundaries of Collier County; and

WHEREAS, to reduce the spread of COVID-19, the United States Centers for Disease Control and Prevention (“CDC”) has issued guidelines that the general population should wear face masks to capture the respiratory droplets of infected people to slow the spread of COVID-19, which guidelines include maintaining at least 6 feet distance from other people who are not from your household in both indoor and outdoor spaces; and

WHEREAS, the CDC does not recommend wearing cloth face covering for children under the age of 9, or anyone who has trouble breathing, or is unconscious, incapacitated or otherwise unable to remove the mask without assistance; 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 they can be made from household items and provides online guidance for making “do-

it-yourself' coverings for people that cannot or do not want to buy one from the increasing sources producing and selling coverings; and

WHEREAS, on July 21, 2020, the Board of County Commissioners issued Emergency/Executive Order No. 2020-05 mandating that individuals wear a face covering in public under certain circumstances, which Order was extended by the Board on September 3, 2020 by Emergency/Executive Order No. 2020-06; and

WHEREAS, on September 25, 2020, Governor DeSantis issued Executive Order No. 20-244, which among other things suspended the collection of fines and penalties associated with COVID-19 enforced upon individuals; and

WHEREAS, Emergency/Executive Order No. 2020-06 is set to expire midnight of October 22, 2020, unless further extended by the Board of County Commissioners; and

WHEREAS, during the Board's regular meeting of October 13, 2020, and at the Board's special meeting held this date, local health professionals and the Florida Department of Health urged the Board to continue the Mask Order, stating their belief that the Mask Order has been effective in reducing the spread of COVID-19; and

WHEREAS, the Board finds it is in the best interest of public health, safety and welfare of the residents and workers of and visitors to Collier County to follow expert medical advice with respect to COVID-19 and, accordingly, to require suitable face coverings in public locations to slow the spread of COVID-19 where social distancing is not possible; and

WHEREAS, the Board wishes to replace the existing Mask Order with this Order, which would require wearing a mask only where social distancing is not possible; and

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

NOW THEREFORE, IT IS ORDERED BY THE BOARD OF COUNTY COMMISSIONERS OF COLLIER COUNTY, FLORIDA, that:

SECTION ONE: FINDINGS.

The above recitals are adopted by the Board as legislative findings.

SECTION TWO: DEFINITIONS

For purposes of this Order, the following terms are defined as follows:

(1) Face Covering. A “face covering” is a material that covers the nose and mouth. 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. A cloth face covering may be factory-made or sewn by hand or can be improvised from household items.

(2) 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” also includes locations where non-profit, governmental, and quasi-governmental entities facilitate public interactions and conduct business. The term does not include schools servicing students under the age of 18, or places of worship.

(3) Lodging establishment. A “lodging establishment” shall have the same meaning as the term “transient public lodging establishment” has in F.S. 509.013(4)(a)1 (2019). A lodging establishment is a specific type of business establishment.

(4) Social Distancing means keeping a safe space between yourself and other people who are not from your household by staying at least 6 feet (about 2 arms’ length) from other people who are not from your household in indoor spaces.

SECTION THREE: MANDATORY REQUIREMENTS

(1) An owner, manager, employee, customer or patron of a business establishment must wear a face covering while in that business establishment where social distancing is not possible.

(2) The requirements of this section do not apply to:

- a. Restaurant customers or patrons while dining and/or consuming beverages while seated at a table;
- b. A gym patron engaged in a workout or class where at least 6 feet of distancing exists with the next closest patron;
- c. Barbershop or beauty salon customers or patrons when wearing a face covering would reasonably interfere with receiving services;

d. Business owners, managers, and employees who are in an area of a business establishment that is not open to customers, patrons, or the public, provided that 6 feet of distance exists between employees. This exception does not apply to employees who are present in the kitchen or other food and beverage preparation area of a restaurant or food establishment. When an owner, manager, or employee is in their place of employment but not within six feet of another person, that owner, manager, or employee does not need to wear a mask.

e. Bar patrons while consuming beverages and/or food;

f. A lodging establishment guest when inside of the lodging unit including but not limited to a hotel room, motel room, vacation rental unit, timeshare unit, or similar unit.

(3) The owner, operator, manager, and employee of a business or lodging establishment shall ensure that every individual in that establishment complies with this section.

(4) When a customer of a business establishment asserts that he or she has a disability that prevents the individual from wearing a mask, the owner, manager, or employee of the business establishment may exclude the individual, even if they have a disability, as they may pose a direct threat to the health and safety of employees and other customers, even if asymptomatic, and shall accommodate the disabled individual in a manner that does not fundamentally alter the operations of the business establishment nor jeopardize the health of that business's employees and other customers, such as providing curb service or delivery or other reasonable accommodation.

SECTION FOUR: PENALTIES AND EXCLUSIONS.

Enforcement of this Order will be by Collier County Code Enforcement only, and only then upon receipt of a complaint, determination of a violation, and refusal by the alleged violator to voluntarily comply with this Order. Violations of this Order shall be punishable by a fine not to exceed \$500.00. An owner, manager, and/or employee of a business establishment shall not be liable in any enforcement action taken under this section for the violations of a guest, customer, and/or patron if that owner, manager, and/or employee directed that guest, customer, and/or patron who refuses to wear a face covering to vacate the premises or face prosecution of trespass. This Order shall not apply to a child under nine years of age; an individual who has one or more medical conditions or disabilities that prevent wearing a face covering; an individual obtaining a service involving the nose or face for which temporary removal of the face covering is necessary to

perform the service; or an individual who works in a profession where use of a face covering will not be compatible with the duties of the profession. In furtherance of Executive Order No. 20-244, citations issued pursuant to this Order shall be as to businesses only, and not individuals. Violation of this Order shall not constitute a criminal penalty.

SECTION FIVE: SEVERABILITY.

In the event this Order conflicts with any Ordinance of Collier County or other applicable law, the more restrictive shall apply. If any court of competent jurisdiction holds any phrase or portion of this Order invalid or unconstitutional, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portion.

SECTION SIX: APPLICABILITY.

This Order is intended to apply solely within unincorporated Collier County. Any of the Municipalities within Collier County may opt-in to this Order.

SECTION SEVEN: EFFECTIVE DATE.

This Order supersedes and replaces Emergency/Executive Orders No. 2020-05 and 2020-06, shall take effect immediately and shall expire midnight of April 13, 2021, unless otherwise extended by the Board.

THIS ORDER ADOPTED after motion, second, and majority vote favoring same this 22nd day of October, 2020.

ATTEST:
CRYSTAL K. KINZEL, Clerk

BOARD OF COUNTY COMMISSIONERS
COLLIER COUNTY, FLORIDA

By: *Crystal Kinzel*
Deputy Clerk

By: *Burt L. Saunders*
BURT L. SAUNDERS, Chairman

Attest as to Chairman's
signature only.

Approved as to form and legality:

[Signature]
Jeffrey A. Klatzkow, County Attorney

I, Crystal K. Kinzel, Clerk of Courts in and for Collier County do hereby certify that the above instrument is a true and correct copy of the original filed in Collier County, Florida
By: *Crystal Kinzel* Deputy Clerk
Date: 10-23-2020