

1 LEON COUNTY EMERGENCY ORDINANCE NO. 20-15

2  
3 AN EMERGENCY ORDINANCE OF THE BOARD OF COUNTY  
4 COMMISSIONERS OF LEON COUNTY, FLORIDA,  
5 PROVIDING FOR INCORPORATION OF RECITALS AS  
6 LEGISLATIVE FINDINGS; PROVIDING FOR DEFINITIONS;  
7 PROVIDING FOR MANDATORY REQUIREMENTS;  
8 PROVIDING FOR PENALTIES AND ENFORCEMENT;  
9 PROVIDING FOR APPLICABILITY AND CONFLICT;  
10 PROVIDING FOR SEVERABILITY; AND PROVIDING AN  
11 EFFECTIVE DATE.  
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13  
14 RECITALS

15  
16 WHEREAS, the Board of County Commissioners of Leon County, Florida (hereinafter  
17 “Board”), finds that COVID-19 presents a danger to the health, safety, and welfare of the public; and  
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19 WHEREAS, COVID-19 is spread through airborne transmission from individuals sneezing,  
20 speaking, and coughing, and infectious droplet nuclei can spread for a great distance, although how far  
21 is not fully understood at present; and  
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23 WHEREAS, since April of 2020, the Board has proactively directed the implementation of  
24 numerous efforts, including an aggressive communications campaign, to encourage persons in the  
25 County to practice social distancing, wash and sanitize their hands, clean high touch surfaces, and wear  
26 face coverings as community mitigation strategies to increase containment of COVID-19; and  
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28 WHEREAS, Governor DeSantis has issued a series of executive orders to re-open Florida, and  
29 some of the restrictions to flatten the curve and slow the spread of COVID-19 have correspondingly  
30 been relaxed; and  
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32 WHEREAS, the continued operation of businesses providing goods and services is necessary  
33 to provide essential goods and services to the public and visitors and to support the local economy; and  
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35 WHEREAS, the re-opening of the State will lead to more contact between individuals and the  
36 potential for increased community spread of the disease; and  
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38 WHEREAS, despite mitigation efforts, as reported by Florida Department of Health Officer  
39 (“Department of Health”) Claudia Blackburn, the number of positive cases of COVID-19 in the County  
40 has spiked, with 51 positive cases reported on June 19, 2020, and a seven-day positivity rate of 3.4%  
41 versus 0.77% for the previous seven days, which indicates greater local community spread and  
42 transmission of the disease; and  
43

44 WHEREAS, federal and state health officials have indicated that they expect additional cases  
45 of COVID-19 to be identified in the coming days and, based on the highly contagious nature of  
46 COVID-19, additional person-to-person transmission is likely; and  
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48 WHEREAS, conditions presented by the threat of COVID-19 continue to pose a threat to the  
49 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

11  
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

20  
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

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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

36  
37 WHEREAS, the County has committed to make face coverings available to the public at  
38 County libraries; and

39  
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.  
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- 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.  
16
- 17 (ii) The requirement in this section does not apply to:  
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- 19 a. A child under the age of 6.
  - 20
  - 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.  
29
  - 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