

THIRD AMENDMENT TO EMERGENCY ORDER NO. 2020-30
FULL PHASE TWO STEP BY STEP RECOVERY ORDER
ALACHUA COUNTY, FLORIDA

WHEREAS, COVID-19, a respiratory illness caused by a virus that spreads rapidly from person to person and may result in serious illness or death, constitutes a clear and present threat to the lives, health, welfare, and safety of the people of Alachua County; and

WHEREAS, on March 1, 2020, Governor DeSantis declared a Public Health Emergency because of COVID-19; and, on March 9, 2020, Governor DeSantis issued Executive Order 20-52¹, declaring a State of Emergency because of COVID-19; and

WHEREAS, on March 11, 2020, the World Health Organization declared the spread of COVID-19 to be a global pandemic; and, on March 13, 2020, President Trump declared a national emergency concerning COVID-19; and

WHEREAS, Emergency Order 2020-01 declared a local state of emergency in Alachua County based on the COVID-19 virus on March 16, 2020; and

WHEREAS, to reduce the spread of COVID-19, the United States Centers for Disease Control and Prevention ("CDC") and the Florida State Department of Health recommend implementation of community mitigation strategies to increase containment of the virus, including cancellation of large gatherings and social distancing of at least six feet between persons in smaller gatherings; and

WHEREAS, limitations on gatherings and the use of social distancing to prevent transmission of COVID-19 are especially important for people who are over sixty years old and people with chronic health conditions because those populations are at a higher risk of severe illness and death from COVID-19. However, everyone, regardless of age or health condition, is threatened by COVID-19; and

WHEREAS, this Emergency Order is necessary to ensure that our healthcare delivery system can serve those who are ill; and

WHEREAS, the continuing operation of essential businesses is necessary to provide essential goods and services to the public; and

WHEREAS, on April 1, 2020, Governor DeSantis issued Executive Order 20-91² putting in place a state-wide stay at home order and listing what are to be considered essential services and activities; and

WHEREAS, Executive Order 20-91 adopts both the Essential Critical Infrastructure Workers guidelines issued by the Department of Homeland Security and the list of essential services and activities set forth in Miami-Dade County Emergency Order 07-20³; and

WHEREAS, the CDC, the Florida Department of Health and the University of Florida recommends the use of face coverings, including those which are homemade, to slow the spread of

¹ https://www.flgov.com/wp-content/uploads/orders/2020/EO_20-52.pdf

² https://www.flgov.com/wp-content/uploads/orders/2020/EO_20-91-compressed.pdf

³ <https://www.miamidade.gov/information/library/coronavirus-emergency-order-07-20-businesses.pdf>

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the disease since many individuals with no symptoms can spread the virus; and

WHEREAS, the increased reopening of the State and the County will lead to more contact between individuals and lead to more potential for the increased community spread of the disease. Facial coverings are of assistance in preventing individuals who may be shedding the virus, from spreading it to other individuals; and

WHEREAS, researchers at the University of Florida believe it is too early to ease restrictions without enhanced testing in place and that such testing is not currently in place and that COVID-19 will be present in the population for a long time⁴; 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, a meta-analysis funded by the World Health Organization⁵ supports the use of social distancing and facial coverings to avoid transmission of COVID-19; and

WHEREAS, the World Health Organization on June 5th 2020 changed their position on the use of facial coverings to support their use⁶, and

WHEREAS, on April 29, 2020, Governor DeSantis issued Executive Order 20-112⁷ (Phase 1: Safe. Smart. Step-by-Step. Plan for Florida's Recovery) designed to ease some restrictions established by Executive Order 20-91 in the first phase of a plan to fully reopen the State, effective May 4, 2020; and

WHEREAS, on May 15, 2020, Governor DeSantis issued Executive Order 20-123⁸ (Full Phase 1: Safe. Smart. Step-by-Step. Plan for Florida's Recovery), opening gyms and fitness centers, subject to standards, and further loosening occupancy restrictions on restaurants and food establishments, in-store retail sales establishments, and museums and libraries, effective May 18, 2020; and

WHEREAS, with very specific exceptions the Governor's orders, do not preempt the authority of local governments to add additional restrictions to businesses opened by the Governor; and

WHEREAS, on June 5th Governor DeSantis issued Executive Order 20-139 (Phase 2: Safe. Smart. Step by Step. Plan for Florida's Recovery⁹), which opens up a number of additional businesses and increases capacity of other businesses; and

⁴ <https://mediasite.video.ufl.edu/Mediasite/Play/b8849c7ddb114f2db5fcc0be6a4ec0b41d>

⁵ <https://www.thelancet.com/action/showPdf?pii=S0140-6736%2820%2931142-9>

⁶ <https://apps.who.int/iris/rest/bitstreams/1279750/retrieve>

⁷ https://www.flgov.com/wp-content/uploads/orders/2020/EO_20-112.pdf

⁸ https://www.flgov.com/wp-content/uploads/orders/2020/EO_20-123.pdf

⁹ https://www.flgov.com/wp-content/uploads/orders/2020/EO_20-139.pdf

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WHEREAS, Florida Department of Health has issued a Public Health Advisory (June 20, 2020)¹⁰ reinforcing its recommendation that individuals wear masks in public, encouraging elderly and vulnerable populations to limit interactions outside of the home, and urging all individuals to refrain from participating in gatherings of more than 50 people; and

WHEREAS, the CDC therefore recommends that, as businesses and 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;"¹¹ and

WHEREAS, according to data provided by the Alachua County Health Department, Alachua County has experienced a marked increase in the monthly and daily total cases in June; and

WHEREAS, the Board of County Commissioners have met various times during which it considered the Florida Department of Health Public Health Advisory (June 20, 2020), the Centers for Disease Control guidance, the updated data from the Alachua County Department of Health, and other data and analysis, and received public comment, and

WHEREAS, the Board of County Commissioners considered the public comment along with information received from the public health officials, and debated issues raised at this point in time by COVID-19; and

WHEREAS, the Board of County Commissioners believes based upon the foregoing that it is important to continue to be cautious in the process of opening up businesses, reopening as local conditions allow to be done with prudence; and

WHEREAS, the increased incidence of positive testing for COVID-19 support the need for increased public awareness of the importance of wearing facial coverings in certain locations; and

WHEREAS, Alachua County no longer meet certain gating criteria for Phase II; and

WHEREAS, the Board of County Commissioners believes that, requiring businesses and employers to take responsibility, and be liable, for their employees compliance with the facial coverings requirement, while those employees are engaged in employment-related activities, will result in greater compliance with the facial coverings requirement and is consistent with a business or employer's responsibility to provide a healthy, safe environment for employees and the public; and

WHEREAS, the Chair of the County Commission is the Official Authority as prescribed in the County's Code Sec. 27.07; and

¹⁰ <https://floridahealthcovid19.gov/wp-content/uploads/2020/06/20200622-SOF-DOH-Public-Health-Advisory.pdf>

¹¹ <https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/diy-cloth-face-coverings.html>

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WHEREAS, acting on his own authority as the Official Authority and based upon the actions taken at June 23rd Board of County Commissioners meeting in public session after considering Emergency Order 20-139; and

WHEREAS, pursuant to Sec. 252.38(1), Florida Statutes the County has jurisdictional authority over the entire county.

THEREFORE, IT IS ORDERED THAT:

1. Except as herein noted Executive Order 20-139 shall govern the residents and businesses in Alachua County.
2. Operations of services and activities.
 - a. All services and activities permitted to be operated by Governor DeSantis' Executive Orders (in existence as of this Emergency Order and executed subsequent to this Emergency Order) may operate in Alachua County pursuant to the standards contained herein and referenced by this Emergency Order. All services and activities shall operate in accordance with OSHA and CDC guidelines applicable to their business.
 - b. All services and activities, in which persons are required to wear facial covering, shall post the appropriate signage in color in both English and Spanish, available here. <http://alachuacounty.us/covid-19/> or by calling 311 (for preprinted sign). Signs shall be at least 11in x 17in. Signage shall be posted in conspicuous locations which are clearly visible to the patrons and employees throughout each physical location reminding patrons and employees to observe social distancing requirements and to use facial coverings, as required by this Emergency Order. Signage shall be posted, at a minimum, at all points of access (including employee points of access) and throughout the service and activity. Whenever possible, signage shall be posted between 4ft and 5ft as measured from the floor to the bottom of the sign. This subsection (2(b)) will be effective July 1, 2020.
3. Use of facial coverings.
 - a. Persons working in or visiting grocery stores, restaurants, in-store retail establishments, pharmacies, construction sites, public transit vehicles, vehicles for hire, along with locations where social distancing measures are not possible shall appropriately wear facial coverings as defined by the CDC, in a manner which covers the mouth and orifices of the nose.
 - b. Facial covering includes any covering which snugly covers the nose and mouth, whether store bought or homemade, and which is secured with ties or ear loops. The Centers for Disease Control provide examples of homemade facial coverings.¹² Persons should not utilize N95 rated masks, as those are critical supplies for health care workers, police, fire, emergency management, or other persons engaged in life/safety activities. Persons who wear facial

¹² <https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/diy-cloth-face-coverings.html>

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coverings should review the CDC and Florida Department of Health guidelines regarding safely applying, removing, and cleaning face coverings.

- c. A facial covering shall not be required for children under six, 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 provision 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 facial covering and function in public are not required to wear one. It is recognized that this requirement is broader than what might be considered to be a covered condition under the Americans with Disabilities Act.
- d. This Emergency Order does not change or alter any social distancing requirements imposed by this or in any other emergency order.
- e. This Emergency Order does not change any requirements for wearing facial coverings imposed by regulatory bodies or orders from the Governor.
- f. Facial coverings do not have to be worn while actively eating or drinking.
- g. Businesses and employers are required to ensure that their employees are using appropriate facial coverings and other methods to protect the employees and public, unless the employee meets an exception in Sec. 3(c) of this Emergency Order. The business or employer may be cited, along with the employee, for an employee's violation of this Section, if the employee is actually engaged in employment-related activities at the time of the violation.

4. Groups with more than 50 people are not permitted to congregate in a space that does not readily allow for appropriate social distancing and may be ordered to disperse by law enforcement or codes enforcement. Groups of any number who are not socially distancing will be required to socially distance and may be ordered to disperse by law enforcement or codes enforcement if they do not comply. Social distancing, for the purpose of this provision, requires adherence to the social distancing recommendations of the Centers for Disease Control and the Surgeon General of Florida, and requires 6 foot spacing between persons of different households.

5. Severability.

Any provision(s) within this Emergency Order that conflict(s) with any State or Federal law or constitutional provision, including the State's preemption of the regulation of firearms and ammunition codified in section 790.33, Fla. Stat., or conflict(s) with or are superseded by a current or subsequently-issued Executive Order of the Governor or the President of the United States, shall be deemed inapplicable and deemed to be severed from this Emergency Order, with the remainder of this Emergency Order remaining intact and in full force and effect. To the extent application of some or all the provisions of this Emergency Order is prohibited on the sovereign land of a federally or state recognized sovereign Indian tribe, such application is expressly excluded from this Emergency Order.

6. Effective Date; Duration.

This Emergency Order supersedes any inconsistent emergency order. This Order shall be effective

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upon filing with the Clerk of the Court and will stay in effect during the pendency of the state of emergency or until adoption of subsequent order or repeal.

7. This Emergency Order is in addition to the Executive Orders issued by Governor DeSantis.
8. This Emergency Order applies to incorporated and unincorporated areas within Alachua County, but has no application outside of Alachua County. Municipalities have the authority to enforce this Emergency Order within their jurisdiction. Municipalities are authorized to impose regulations which are more stringent than those set forth herein.
9. The County or municipalities within its boundaries will direct any establishment to cease and desist operations that are in violation of this Emergency Order and may treat violations as a violation of County or Municipal ordinance as appropriate. The County has jurisdiction countywide to enforce the terms of this Emergency Order.
10. This Emergency Order does not apply to operations of local governments within the county, to the State University System, State College System, the State of Florida, or Federal agencies who are encouraged to adopt their own rules and procedures regarding the matters set forth herein.
11. Except as provided herein, any violation of these emergency measure(s) shall be a violation of Sec. 252.50, Fla. Stat., and may be punishable as provided therein and shall be enforced by law enforcement as provided by law. Notwithstanding the provisions herein, the County may alternatively enforce these emergency measure(s) by issuing a citation imposing a fine not to exceed \$500 per violation, pursuant to Chapt. 162, Fla. Stat. All other remedies available at law or equity, including injunction, remain available to the County.
12. A violation of section 3 of this Order is a noncriminal infraction. A violation of section 3 of this Order does not authorize the search or arrest of any individual. Prior to issuing any citation, the individual will be asked to comply with this Order or be able to explain how section 3(c) of this Order applies to them. Failure to comply with the requirements of section 3 of this Order presents a serious threat to the public health, safety, and welfare, pursuant to Chapt. 162, Fla. Stat., and a citation may be issued immediately for such violation. The County shall enforce the first violation of section 3 of this Emergency Order through a fine of \$125.00 to the violator. The second violation of section 3 of this Emergency Order shall be subject to a fine of \$250.00 to the violator. All subsequent violations of section 3 of this Order shall constitute a Class V violation under Art. II, Chapt. 24 of the Alachua County Code of Ordinances, requiring a mandatory court appearance and subject to a fine not to exceed \$500.00. All other remedies available at law or equity, including injunction, remain available to the County, even after issuance of a citation. The municipalities may enforce this Order as provided by Florida law and municipal code.
13. This Order supersedes and replaces any conflicting provisions of prior orders.

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Dated this 17th day of July, 2020 at 1:15 pm.

BOARD OF COUNTY COMMISSIONERS
OF ALACHUA COUNTY, FLORIDA

By: 

Robert Hutchinson, Chair

APPROVED AS TO FORM:



County Attorney's Office