

**ORDER OF THE HILLSBOROUGH COUNTY BOARD OF
COUNTY COMMISSIONERS AMENDING THE WEARING OF
PROTECTIVE FACE COVERINGS ORDER AS PREVIOUSLY
AMENDED ON JULY 6, 2020 AND AUGUST 14, 2020**

Upon motion by Commissioner Kimberly Overman seconded by Commissioner Mariella Smith, the following Order was amended to include provisions proposed during the December 16, 2020 Hillsborough County Board of County Commissioners regular meeting by a vote of 5 to 2; Commissioner Ken Hagan and Commissioner Stacy White voting NO:

WHEREAS, on March 12, 2020, the Hillsborough County Emergency Policy Group issued an Executive Order declaring a local state of emergency for all of Hillsborough County due to the county wide threat from the COVID-19 virus, which order was continuously extended by the Executive Policy Group as required by law; and

WHEREAS, the State of Florida and Hillsborough County are continuing to experience reports of illnesses and persons testing positive for the virus; and

WHEREAS, on March 1, 2020 the Governor of the State of Florida issued Executive Order Number 20-51 (EO 20-51), declaring that a public health emergency exists throughout the State of Florida as a result of the spread of the COVID-19 virus; and

WHEREAS, on March 9, 2020 the Governor of the State of Florida issued Executive Order Number 20-52, as extended, declaring that a state of emergency exists throughout the State of Florida as a result of the spread of the COVID-19 virus and its imminent threat to health and welfare of the citizens of Florida; and

WHEREAS, on March 17, 2020 the Governor of the State of Florida issued Executive Order Number 20-68, as extended, placing restrictions on certain businesses and public gathering locations throughout the State of Florida as a result of the spread of the COVID-19 virus and its imminent threat to health and welfare of the citizens of Florida; and

WHEREAS, on April 29, 2020 the Governor of the State of Florida issued Executive Order 20-112, as amended, modified, and/or extended, providing a path to re-opening Florida and promoting business operations and economic recovery by implementing Phase 1: Safe. Smart. Step-by-Step. Plan for Florida's Recovery; and

WHEREAS, on June 3, 2020 the Governor of the State of Florida issued Executive Order 20-139, as amended, modified, and/or extended, providing a path to re-opening Florida and promoting business operations and economic recovery by implementing Phase 2: Safe. Smart. Step-by-Step. Plan for Florida's Recovery; and

WHEREAS, on September 25, 2020 the Governor of the State of Florida issued Executive Order 20-244, as amended, modified, and/or extended implementing Phase 3 of his recovery/reopening plan; and

WHEREAS, even though the Governor is providing a plan for the re-opening of businesses, as well as recreational and other activities, individuals and businesses have been advised to follow Centers for Disease Control and Prevention (“CDC”) guidelines; and

WHEREAS, all Executive Orders of the Governor not rescinded or otherwise terminated remain in effect, as modified or amended, and are forecast to remain so for the foreseeable future; and

WHEREAS, on June 22, 2020, the Hillsborough County Emergency Policy Group issued an Executive Order requiring the wearing of protective face coverings, which was later extended and amended; and

WHEREAS, the said ongoing threat of COVID-19 poses a serious threat to the health and welfare of the people of Hillsborough County, Florida; and

WHEREAS, Hillsborough County is experiencing an increase in both the number of documented COVID-19 cases and the trajectory of positive tests as a percent of total tests; and

WHEREAS, Hillsborough County must continue to take emergency action to lessen the spread of COVID-19; and

WHEREAS, the CDC has indicated cloth face coverings may slow the spread of the virus and help people who may have the virus and do not know it from transmitting it to others; and

WHEREAS, the CDC recommends wearing cloth face coverings in public settings where other social distancing measures are difficult to maintain (but the CDC cautions the following persons should not wear cloth face coverings: children under age 2 and anyone who has trouble breathing, or is unconscious, incapacitated or otherwise unable to remove the mask without assistance); and

WHEREAS, Chapter 252, Florida Statutes, and Hillsborough County Ordinance 06-13 (Hillsborough County Code of Laws and Ordinances, Part A, Chapter 22, Article II, Sections 22-19 through 22-29), authorizes the Board of County Commissioners, Board Chair, or designee to declare a state of local emergency and to take further reasonable action to provide for the health and safety of persons in Hillsborough County.

WHEREAS, on August 14, 2020 the Board of County Commissioners amended this order to make the wearing of face coverings applicable to individuals age five and over; and

WHEREAS, on August 14, 2020 the Board of County Commissioners amended this order to make it effective for the duration of the March 12, 2020 Executive Order declaring a local state of emergency for all of Hillsborough County due to the county wide threat from COVID-19; and

WHEREAS, the Board has determined that this Order should be further amended to protect the health, safety, and welfare of the citizens of Hillsborough County and to lessen the spread of COVID-19.

NOW THEREFORE, THE BOARD OF COUNTY COMMISSIONERS OF HILLSBOROUGH COUNTY, FLORIDA, IN A MEETING ASSEMBLED THIS 16th DAY OF DECEMBER 2020, ISSUES THIS ORDER RESOLVING THAT:

1. “Business” as used herein shall mean any commercial or for-profit entity (regardless of corporate structure or formation) that provides goods or services directly to the public. “Business” as used herein does not include religious organizations or private clubs nor does it include any location under the control of Hillsborough County Public Schools, which shall establish its own policy for all its locations within the district. “Business” as used herein also includes nonprofit and not-for-profit entities which offer goods or services for sale to the general public in indoor locations.
2. “Business operator” as used herein shall mean any individual that controls the operation of an indoor location of a business, regardless of the formal title or role held by that individual or entity.
3. “Face Covering” as used herein shall mean a uniform piece of material that securely covers a person’s nose and mouth and remains affixed in place without the use of one’s hands, whether store-bought or homemade. Examples of compliant home-made masks may be found at <https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/how-to-make-cloth-face-covering.html>.
4. Medical and surgical face masks, such as “N95” masks or other similar medical or surgical masks, are in short supply and should be reserved for health care personnel and other first responders with the greatest need for such personal protective equipment.
5. Unless an exemption contained in Paragraph 9 of this Order is applicable, all persons within any indoor location of a business in Hillsborough County shall wear a face covering when not maintaining social distancing from other person(s), excluding family members or others residing in their home. Persons not exempt under Paragraph 9 of this Order are subject to the penalties provisions of this Order only if they fail to comply with this paragraph of the Order after being asked to do so by a business operator or employee of a business.

6. Nothing herein shall require or allow a person to wear a face covering so as to conceal the identity of the wearer in violation of Fla. Stat. Chapter 876.
7.
 - (a) All business operators of an indoor location of a business that is open to the public in Hillsborough County shall make reasonable efforts to require all persons within the location to wear a face covering when not maintaining social distancing from other person(s), excluding family members or others residing in their home and subject to the exceptions in Paragraph 9 of this Order. “Reasonable efforts” as used herein shall consist of the 4 steps contained in Paragraph 8 of this Order.
 - (b) All business establishments, including all Bars, Nightclubs, and Restaurants, that serve food or drink for on-site consumption must comply with the following:
 - 1) No food or drinks may be served to patrons for on-site consumption that are not seated at a table or bar. Standing at a bar is prohibited.
 - 2) Bars and Nightclubs shall not maintain spaces that allow the congregation of unseated people. Bar and Nightclub patrons must not be permitted to remain unseated at a table or at the bar, in any area of the Bar or Nightclub, unless waiting to be seated. Any groups of patrons so waiting must remain socially distanced in groups not larger than 10, all of whom must be Companions. This specifically is intended to prohibit dance floor areas within any Bar, Nightclub, or Restaurant or other areas allowing congregation of unseated persons.
8. Business operators must require individuals not exempt from wearing a face covering under Paragraph 9 of this Order to comply with Paragraph 5 of this Order by taking the following steps, at a minimum: (1) post signage on all public entrances indicating face coverings must be worn inside unless an exemption in Paragraph 9 of this Order is applicable (printable compliant signage is available on Hillsborough County’s website); (2) if the business is equipped with a public announcement or “PA” system over which announcements to patrons are made, then make regular announcements reminding all persons that face coverings must be worn; (3) require all employees not exempt from wearing a face covering under Paragraph 9 of this Order to wear a face covering in any indoor location of the business; and (4) make all other reasonable efforts, including asking patrons not wearing face coverings in compliance with Paragraph 5 of this Order to do so. Business operators who take these steps shall be deemed in compliance with the requirement in Paragraph 7 of this Order to make reasonable efforts to require all persons within the location to wear face coverings and shall not be subject to any penalty contained in this Order.
9. Nothing herein shall require the wearing of face coverings by the following persons:

- a. Persons under the age of five years; and
 - b. Persons observing social distancing in accordance with CDC guidelines; and
 - c. Persons for whom a face covering would cause impairment due to an existing health condition; No business operator or employee shall ask a person not wearing a face covering pursuant to this exemption to identify a specific health condition or supply documentation thereof, nor shall any business operator or employee deny such person admittance or service because he/she is not wearing a face covering; and
 - d. Persons working in a business or profession who do not have interactions with other persons; and
 - e. Persons working in a business or profession who maintain social distancing from another person; and
 - f. Persons working in a business or profession where use of a face covering would prevent them from performing the duties of the business or profession; and
 - g. Persons exercising, while maintaining social distancing; and
 - h. Persons eating or drinking while seated at a table or bar; and
 - i. Children under the age of eighteen participating in private, public, or nonprofit organized youth activities, including youth sports teams and leagues, youth clubs and programs, child care, summer camps and youth recreation camps; and
 - j. Public safety, fire and other life safety and health care personnel, as their personal protective equipment requirements will be governed by their respective agencies; and
 - k. The requirement shall not apply when a person who is hearing-impaired needs to see the mouth of someone wearing a face covering in order to communicate; and
 - l. The requirement shall not be applied in a manner that would conflict with the Americans with Disabilities Act (ADA).
10. All persons within any indoor location not subject to the requirements of this Order are strongly encouraged to follow appropriate social distancing and safety protocols issued by the CDC.

11. The provisions of this Order shall serve as minimum standards, and in no way modify any power possessed by municipalities within Hillsborough County to impose more stringent standards within their jurisdictions.
12. It is the intent of this Order to seek voluntary compliance with the provisions contained herein and to educate and warn of the dangers of non-compliance. However, in the event voluntary compliance is not achieved then, as a last resort, violations of this Order by a business operator or an individual as set out in Paragraph 5 may be enforced as provided below:
 - a. The Hillsborough County Sheriff's office and/or the Hillsborough County Code Enforcement Department are empowered to investigate any situation where a business/person is alleged to be violating this order. The Hillsborough County Sheriff's office and/or the Hillsborough County Code Enforcement Department are authorized to enforce this order through the issuance of a noncriminal civil citation as provided in sections 125.69 and 775.083, Florida Statutes, and Hillsborough County Code of Laws and Ordinances, Part A, Chapter 22, Article II, Section 22-28 (e)(3).
 - b. Each municipal law enforcement agency and/or municipal code enforcement department within Hillsborough County is empowered to investigate any situation where a business/person within the municipality's jurisdiction is alleged to be violating this order. Each municipal law enforcement agency and/or municipal code enforcement department within Hillsborough County is authorized to enforce this order through the issuance of a noncriminal civil citation as provided in sections 125.69, 162.21 and 775.083, Florida Statutes, and Hillsborough County Code of Laws and Ordinances, Part A, Chapter 22, Article II, Section 22-28 (e)(3), and the applicable provisions of that municipality's code.
 - c. The law enforcement agencies of the University of South Florida and the Tampa International Airport are empowered to investigate any situation where a business/person within that agency's jurisdiction is alleged to be violating this order. Each agency is authorized to enforce this order through the issuance of a noncriminal civil citation as provided in sections 125.69 and 775.083, Florida Statutes, and Hillsborough County Code of Laws and Ordinances, Part A, Chapter 22, Article II, Section 22-28 (e)(3).
 - d. Unless a municipality has a civil citation fine schedule already in effect, a violation of this order shall result in a civil fine of \$150.00. Civil penalties for citations issued by municipalities which have a civil citation fine schedule in place shall be in accordance with that municipality's schedule.

- e. Pursuant to the enforcement requirements of section 125.69 (4)(a), Florida Statutes, it is the determination of the Board of County Commissioners that a violation of this order presents a serious threat to the public health, safety, or welfare, and that the violation is irreparable or irreversible.
 - f. Nothing in this paragraph shall prevent law enforcement from enforcing this order pursuant to the provisions of Sections 252.47 and 252.50, Florida Statutes, as a second degree misdemeanor punishable as provided in Section 775.082 or 775.083, Florida Statutes.
- 13. This Order is not intended and does not in any way conflict with Chapter 790, Florida Statutes, which regulates concealed weapons and firearms.
 - 14. The provisions of this Order are severable and if any provision of this Order is held to be invalid by a court of competent jurisdiction, the remainder of this Order shall not be affected and shall remain in full force and effect.
 - 15. This Order is effective immediately for the incorporated and unincorporated areas of Hillsborough County and this Order will remain in effect throughout the State of Local Emergency pursuant to COVID-19 unless earlier rescinded or amended.

EXECUTED this 16th day of December 2020.

Patricia Kemp

Pat Kemp
Chair, Board of County Commissioners
Hillsborough County, Florida

STATE OF FLORIDA)
)
COUNTY OF HILLSBOROUGH)

I, PAT FRANK, Clerk of the Circuit Court and Ex Officio Clerk of the Board of County Commissioners, do hereby certify that the above and foregoing Executive Order is a true and correct copy of the Order adopted by the Board of County Commissioners of Hillsborough County, Florida, in its regular meeting of December 16, 2020.

WITNESS my hand and official seal this 16th day of December 2020.

PAT FRANK
Clerk of Circuit Court



By: *Miguel K. Diaz*
Deputy Clerk

APPROVED BY THE COUNTY ATTORNEY

BY: *Paul D. Johnston*
Approved as to form and legal sufficiency