

## ORDINANCE NO. 20-13

**AN EMERGENCY ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS ORDERING THE CLOSING OF ALL ESTABLISHMENTS HAVING SIMILAR CHARACTERISTICS TO DINE-IN RESTAURANTS, INCLUDING BUT NOT LIMITED TO INTERNET CAFES, VIDEO ARCADES, AND SIMILAR RETAIL ESTABLISHMENTS; PROVIDING FINDINGS; PROVIDING PENALTIES; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE.**

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### RECITALS

1. The Board of County Commissioners (“Board”) noticed and conducted an emergency meeting on Thursday, March 26, 2020, to consider a proposed emergency ordinance on the authority of Sections 125.01, 125.69(3), 252.38, and 252.50, Florida Statutes, and the Board’s police power to protect the health and welfare of the citizens of Marion County, Florida; and
2. The outbreak of the disease COVID-19, which is caused by the novel corona virus, has been confirmed in more than 100 countries, including the United States; and
3. The World Health Organization (WHO) has declared the 2019 Novel Coronavirus (COVID-19) to be a pandemic; and
4. COVID-19 is a severe respiratory disease transmitted by person-to-person contact, or by contact with surfaces contaminated by the virus. In some cases, especially among older adults and persons with serious underlying health conditions, COVID-19 can result in serious illness, requiring hospitalization, admission to an intensive care unit, and death; and
5. As of the date of consideration of this emergency ordinance, there have been 1,977 confirmed positive COVID-19 cases in the State of Florida, five of which are here in Marion County, and 46 of which are in neighboring Alachua County. There have been 23 reported deaths in Florida from the virus; and

6. The World Health Organization (WHO), the Centers for Disease Control and Prevention (CDC), and the Secretary of the U.S. Department of Health and Human Services have declared the outbreak of COVID-19 to be a public health emergency; and
7. On March 1, 2020, the Governor of Florida issued executive Order Number 20-51, directing the State Health Officer and Surgeon General to declare a Public Health Emergency due to the discovery of COVID-19 in Florida; and
8. On March 9, 2020, Governor Ron DeSantis, issued Executive Order 20-52 which declared a state of emergency to exist in the State of Florida in response to the spread of COVID-19; and
9. On March 13, 2020, President Donald Trump declared a national emergency in response to the global pandemic of COVID-19; and
10. On March 16, 2020, the White House issued guidance recommending that social gatherings of more than ten people be avoided and that people avoid eating and drinking at bars, restaurants, and food courts; and
11. On March 16, 2020, the Chairman of the Board of County Commissioners declared a State of Local Emergency for all of Marion County and on March 17, 2020, Resolution 20-R-078 was ratified by the Board of County Commissioner ; and
12. The CDC and health experts have recommended social distancing to slow the spread of COVID-19; and
13. Social distancing is a method of slowing down or stopping the spread of a contagious disease by reducing the probability of contact between infected persons and those not infected in order to minimize disease transmission; and
14. The guidance issued by the White House further recommended that in states with evidence of community transmission, bars, restaurants, food courts, and other indoor and outdoor venues where people congregate should be closed; and
15. The failure to successfully implement social distancing will likely result in higher numbers of infected individuals and has the potential to overwhelm the capacity of Marion County's health care providers; and
16. Governor Ron DeSantis, by Executive Order No. 20-71, has previously order the closing of all dine-in restaurants, bars, (with specified exceptions) and specified gyms and fitness centers, in the State of Florida; and
17. The Board specifically finds that all of the establishments covered by and included with the ambit of the requirements of this emergency ordinance



- present the same, or higher level of risk of spread of COVID-19 as dine-in restaurants; and
18. Movie theaters, concert houses, playhouses, bowling alleys, arcade, gymnasiums and fitness studios are potential gathering places for the spread of COVID-19; and
  19. The Board finds that bingo halls, internet cafes, horsetrack gaming venues in particular disproportionately cater to senior citizens, which is the most at-risk population for COVID-19; and
  20. Based on testimony received by local law enforcement officials, these establishments involve patrons handling and touching many surfaces in these establishments, and also being in close proximity to other patrons and facility operators, that present many opportunities for transmission of the virus; and the patrons are typically in closer proximity than the social distancing guidelines of the CDC; and
  21. Marion County has a high population of citizens over age 65, and the rapid spread of the virus among this population could overwhelm the County's healthcare facilities; and
  22. Other Florida Counties, including Orange County, and neighboring Alachua County, have already entered County-wide shelter-in-place orders, for all but essential businesses and occupations; and
  23. The activities prohibited by this Ordinance do not involve essential businesses and occupations; and
  24. The Board expressly finds that the operation of any facility or establishment in violation of the terms of this emergency ordinance is a public nuisance, exposing the citizens of Marion County to significant health hazards; and
  25. The Board is working to respond to the challenge of the virus by taking a reasonably necessary measured approach, to address those activities such as those described herein, that pose a high level of risk to the citizens of Marion County; and
  26. Marion County government, the Marion County Health Department, and affected municipalities are exerting maximum efforts to prevent the spread of COVID-19 cases in Marion County; and
  27. It is important that control measures be taken to reduce or slow down the spread of COVID-19 in order to protect the health and safety of Marion County's citizens, especially for seniors and those with serious underlying health conditions that make them particularly vulnerable to COVID-19; and

28. Based on the testimony received by the Board from members of law enforcement and Health Department officials, the Board has determined that there is competent evidence to support the action taken herein.

29. The Board, pursuant to Florida Statute Section 125.69(3), hereby declares that an emergency exists and that the immediate enactment of this ordinance is necessary. The Board has voted by a minimum of a four-fifths vote to waive the statutory notice requirements for the adoption of this ordinance.

NOW, THEREFORE, BE IT ORDAINED by the Board of County Commissioners of Marion County, Florida, that:

1. The foregoing recitals are true and are hereby incorporated as essential legislative findings in support of this emergency ordinance.
2. This ordinance is intended to impose closure orders supplemental to and consistent with Governor DeSantis' Executive Order 20-71.
3. Effective at 7:00 p.m. on Thursday, March 26, 2020, all theaters, including movie theaters and music or public entertainment venues are ordered to close and cease operations. This paragraph excludes drive-in establishments or events.
4. Effective at 7:00 p.m. on Thursday, March 26, 2020, all internet cafes, arcades, gaming venues connected with horse tracks, bingo halls, bowling alleys, casinos, indoor climbing facilities, skating rinks, trampoline parks, and other similar entertainment or recreational facilities are directed to close and cease operations.
5. Effective at 7:00 p.m. on Thursday, March 26, 2020, all hookah lounges, cigar bars, vaping lounges or other similar businesses that allow for on-site consumption or use of the products they sell are directed to cease allowing on-site consumption, but may continue to offer products for sale to be consumed off-site under the same conditions as bars and restaurants described in Executive Order No. 20-71 described in paragraph 2.
6. Effective at 7:00 p.m. on Thursday, March 26, 2020, no person except a facility owner or no more than two owner's representatives may be within or

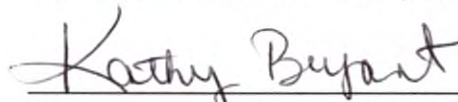


on the premises described in paragraphs 3 and 4 of this ordinance. No patrons, guests, or facility employees or operators, except as provided in this paragraph, may be in, or upon or attempt to enter any of these facilities for the duration of this emergency ordinance.

7. This Ordinance shall be effective throughout Marion County.
8. Any violation of this ordinance is subject to the penalties of Section 125.69, and Section 252.50, Florida Statutes. Each instance of violation shall constitute a separate offense. Facility owners and facility operators shall be jointly and severally liable for violations of this ordinance. Alternatively, this ordinance may be penalized by a civil infraction by \$500 fine per patron admitted. Civil infractions are only an option for a first or second violation. Multiple offenses will be prosecuted as a misdemeanor. The County may adopt any procedures necessary to implement these enforcement actions.
9. If any provision of this ordinance is found to be invalid or unenforceable by a court of competent jurisdiction, the remaining provisions of this ordinance are deemed severable and shall continue in force.
10. This ordinance shall remain in effect for a period of sixty (60) days, at which time it shall be automatically repealed unless earlier repealed or unless specifically re-adopted for an additional period of time by the Board.
11. This ordinance is necessary for the immediate preservation of the public peace, health, safety and welfare of Marion County, and shall become effective immediately upon the filing hereof by the Clerk with the Secretary of State.

Dated this 26th day of March, 2020.

BOARD OF COUNTY COMMISSIONERS  
OF MARION COUNTY, FLORIDA



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KATHY BRYANT, CHAIRMAN

Attest:

  
Debra Windbug DC  
DAVID R. ELLSPERMANN, CLERK

Approved as to Form:

Mark Dewey Hunter  
County Attorney

RECEIVED NOTICE FROM SECRETARY OF STATE  
ON MARCH 27, 2020 ADVISING ORDINANCE  
WAS FILED ON MARCH 26, 2020.