

EMERGENCY ORDINANCE 2020-74

An Emergency Ordinance of the Osceola County Board of County Commissioners, Osceola County, Florida; amending Emergency Ordinance 2020-60; providing for incorporation of recitals as legislative findings; providing for definitions; providing for mandatory requirements; providing for an exception for persons actively engaged in competition on the field of play during organized sports events; providing for rescission of Executive Policy Group Order #5; providing for rescission of penalties and enforcement; providing for severability; providing for conflict; providing for applicability; and providing an effective date.

RECITALS

WHEREAS, the Board of County Commissioners of Osceola County, Florida (hereinafter “Board”), finds that COVID-19 presents a danger to the health, safety, and welfare of the public; 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, since April of 2020, the Board has proactively directed the implementation of numerous efforts, including an aggressive communications campaign, to encourage persons in the County to practice social distancing, wash and sanitize their hands, clean high touch surfaces, and wear face coverings as community mitigation strategies to increase containment of COVID-19; and

WHEREAS, Governor DeSantis has issued a series of executive orders to re-open Florida, and some of the restrictions to flatten the curve and slow the spread of COVID-19 have correspondingly been relaxed; and

WHEREAS, the re-opening of the State will lead to more contact between individuals and potential for increased community spread of the disease; and

WHEREAS, despite mitigation efforts, the number of positive cases of COVID-19 in the County has spiked, with 4,442 positive cases reported on July 14, 2020, which indicates greater local community spread and transmission of the disease; and

WHEREAS, federal and state health officials have indicated that they expect additional cases of COVID to be identified in the coming days and, based on the highly contagious nature of COVID-19, additional person-to-person transmission is likely; and

WHEREAS, conditions presented by the threat of COVID-19 continue to pose a threat to the public health that requires dynamic emergency response, including the imposition of additional mitigation strategies as conditions require; and

WHEREAS, the use of face coverings has been identified as a measure to assist in preventing individuals who may be shedding COVID-19 from spreading it to other individuals; and

WHEREAS, to reduce the spread of the disease, the Centers for Disease Control (“CDC”) recommends the use of cloth face coverings in public settings where other social distancing measures are difficult to maintain, such as grocery stores and pharmacies, since many individuals with no symptoms can spread the virus, and even individuals who develop symptoms can transmit the virus to others before showing symptoms; and

WHEREAS, Florida Medical Association President Ronald L. Giffler, MD, JD, MBA, has issued a statement urging Floridians to use face coverings to prevent the further spread of COVID-19, and further calling on local officials to adopt regulations requiring the use of masks in public places, specifically stating “[t]he science is clear. Asymptomatic infected individuals can release aerosol particles while breathing and speaking. Not wearing a mask or face covering increases exposure, whereas universal masking greatly reduces the spread of viral particles. The message is simple: For the sake of your health and the health of everyone around you, Florida’s doctors want you to wear a mask”; and

WHEREAS, on June 22, 2020, after Florida reported more than 4,000 new cases of COVID-19 in a single day, State Surgeon General Scott Rivkees issued an additional public health advisory recommending people wear face coverings in any setting where social distancing is not possible, stating that “all individuals [should] refrain from participation in social or recreational gatherings of more than 50 people” and in smaller crowds “practice social distancing by maintaining a distance of at least six feet from each other and wear a face covering.”; and

WHEREAS, cloth face coverings are relatively inexpensive and readily available as the CDC states that they can be made from household items and provides online guidance for making “do-it-yourself” coverings for people who cannot or do not want to buy one from the increasing sources producing and selling coverings; and

WHEREAS, the CDC does not recommend wearing a cloth face covering for children under the age of 2, or anyone who has trouble breathing, or is unconscious, incapacitate, or otherwise unable to remove a mask without assistance; and

WHEREAS, the Board unanimously determined that an emergency exists, and the immediate enactment of this Emergency Ordinance is necessary as authorized in section 125.66(3), Florida Statutes and the Board of County Commissioners hereby waives the notice requirements of section 125.66(2) Florida Statutes; and

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

WHEREAS, the Board finds it necessary to amend this Emergency Ordinance as the State moves into Phase 3 reopening plans.

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF OSCEOLA COUNTY, FLORIDA:

Section 1. Incorporation of Recitals as Legislative Findings.

The recitals of this Emergency Ordinance are incorporated herein and constitute the legislative findings of the Board. The recitals are made fully a part of this Emergency Ordinance as if the recitals were set out in a section hereunder.

Section 2. Definitions.

- a. Face Covering 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.

Section 3. Face Coverings required.

- a. Every person working, living, visiting, or doing business in Osceola County is required to wear a cloth facial covering consistent with the current CDC guidelines while in any public place.
- b. 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. Persons are encouraged to review and comply with the CDC and Florida Department of Health guidelines on personal protective equipment, including with respect to the use of a medical or surgical face mask, such as an "N95" mask or other similar medical or surgical mask

Section 4. Exceptions.

- a. Nothing herein shall require the wearing of face coverings by the following persons:
 - i) Persons under the age of two years; and
 - ii) Persons for whom a face covering would cause impairment due to an existing health condition; and
 - iii) Persons working in a profession who do not have any face-to-face interactions with the public; and
 - iv) Persons working in a profession where use of a face covering will not be compatible with the duties of the profession; and

- v) Persons exercising, while observing social distancing in accordance with the CDC guidelines.
- vi) Persons actively engaged in competition on the field of play during organized sports events.

Section 5. Rescission of penalties and enforcement and Executive Policy Group Emergency Order No. 5

- a. Osceola County Executive Policy Group Emergency Order No. 5 pertaining to COVID-19 is hereby rescinded.
- b. Section 5 Penalties and Enforcement of Emergency Ordinance 2020-60 are hereby rescinded as follows:

~~**Section 5. Penalties and Enforcement.**~~

~~(i) A violation of this Emergency Ordinance is a noncriminal infraction. A first offense shall be a warning. The individual will be asked to comply with the Emergency Ordinance or be able to explain how an exception 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 second offense, a fine of \$25.00~~
- ~~b. For a third offense, a fine of \$25.00~~
- ~~c. For the fourth offense and each subsequent offense, a fine of \$50.00~~
- ~~d. All other remedies available at law or equity, including injunction, remain available to the County, even after issuance of a citation.~~

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.

Section 7. Conflict.

This emergency ordinance hereby amends Emergency Ordinance 2020-60 to the extent of conflict this emergency ordinance shall prevail.

Section 8. Applicability.

This emergency ordinance shall apply to all incorporated and unincorporated areas of Osceola County.

Section 9. Effective Date.

As provided in section 125.66(3), Florida Statutes, this Emergency Ordinance shall be deemed to be filed and shall take effect when a copy of this Ordinance has been accepted and confirmed by the Department of State. The requirements of this ordinance shall take effect immediately.

This Emergency Ordinance was adopted by vote of the Board of County Commissioners of Osceola County, Florida, during a duly declared local state of emergency due to the COVID-19 pandemic, on this 5th day of October, 2020.

OSCEOLA COUNTY, FLORIDA

By: *Luan Janor*
Chair/~~Vice~~ Chair
Board of County Commissioners

ATTEST:
OSCEOLA COUNTY CLERK OF THE BOARD

By: *Debra A Davis*
~~Clerk~~ Deputy Clerk of the Board
As authorized for execution at the Board of
County Commissioners meeting of:
October 05, 2020
Ordinance # 2020-74

