

1 **ORDER NO. 2020 - ____**

2

3 **A REVISED ORDER OF THE BOARD OF COUNTY COMMISSIONERS**
4 **OF COLLIER COUNTY, FLORIDA, MANDATING THAT INDIVIDUALS**
5 **WEAR A FACE COVERING IN PUBLIC IN CERTAIN**
6 **CIRCUMSTANCES.**

7 **WHEREAS**, COVID-19 is a respiratory illness caused by a virus that spreads rapidly from
8 person to person, which may result in serious illness or death, and which constitutes a clear and
9 present danger to the health, welfare and safety of the citizens of Collier County; and

10 **WHEREAS**, on March 1, 2020, Governor DeSantis declared a Public Health Emergency
11 as a result of COVID-19, and on March 9, 2020, Governor DeSantis issued Executive Order 20-
12 52, declaring a State of Emergency as a result of COVID-19, which has been supplemented by
13 subsequent Executive Orders all relating to the threat of COVID-19; and

14 **WHEREAS**, on March 16, 2020, the Board of County Commissioners of Collier County,
15 Florida adopted Proclamation/Resolution No. 2020-50 declaring a state of emergency due to
16 COVID-19 for all territory within the legal boundaries of Collier County; and

17 **WHEREAS**, to reduce the spread of COVID-19, the United States Centers for Disease
18 Control and Prevention (“CDC”) has issued guidelines that the general population should wear
19 face masks to capture the respiratory droplets of infected people to slow the spread of COVID-19,
20 which guidelines include maintaining at least 6 feet distance from other people who are not from
21 your household in both indoor and outdoor spaces; and

22 **WHEREAS**, the CDC does not recommend wearing cloth face covering for children under
23 the age of 9, or anyone who has trouble breathing, or is unconscious, incapacitated or otherwise
24 unable to remove the mask without assistance; and

25 **WHEREAS**, the CDC recommends only simple cloth face coverings for the general
26 population and not surgical masks or N-95 respirators because these are critical supplies that must
27 continue to be reserved for healthcare workers and other medical first responders; and

28 **WHEREAS**, cloth face coverings are relatively inexpensive and readily available as the
29 CDC states they can be made from household items and provides online guidance for making “do-

30 it-yourself’ coverings for people that cannot or do not want to buy one from the increasing sources
31 producing and selling coverings; and

32 **WHEREAS**, on July 21, 2020, the Board of County Commissioners issued
33 Emergency/Executive Order No. 2020-05 mandating that individuals wear a face covering in
34 public under certain circumstances, which Order was extended by the Board on September 3, 2020
35 by Emergency/Executive Order No. 2020-06; and

36 **WHEREAS**, on September 25, 2020, Governor DeSantis issued Executive Order No. 20-
37 244, which among other things suspended the collection of fines and penalties associated with
38 COVID-19 enforced upon individuals; and

39 **WHEREAS**, Emergency/Executive Order No. 2020-06 is set to expire midnight of
40 October 22, 2020, unless further extended by the Board of County Commissioners; and

41 **WHEREAS**, during the Board’s regular meeting of October 13, 2020, and at the Board’s
42 special meeting held this date, local health professionals and the Florida Department of Health
43 urged the Board to continue the Mask Order, stating their belief that the Mask Order has been
44 effective in reducing the spread of COVID-19; and

45 **WHEREAS**, the Board finds it is in the best interest of public health, safety and welfare
46 of the residents and workers of and visitors to Collier County to follow expert medical advice with
47 respect to COVID-19 and, accordingly, to require suitable face coverings in public locations to
48 slow the spread of COVID-19 where social distancing is not possible; and

49 **WHEREAS**, the Board wishes to replace the existing Mask Order with this Order, which
50 would require wearing a mask only where social distancing is not possible; and

51 **WHEREAS**, the Board finds implementation of this Order is necessary for the
52 preservation of the health, safety, and welfare of the community.

53

54 **NOW THEREFORE, IT IS ORDERED BY THE BOARD OF COUNTY**
55 **COMMISSIONERS OF COLLIER COUNTY, FLORIDA**, that:

56 **SECTION ONE: FINDINGS.**

57 The above recitals are adopted by the Board as legislative findings.

58

59 **SECTION TWO: DEFINITIONS**

60 For purposes of this Order, the following terms are defined as follows:

61 (1) Face Covering. A “face covering” is a material that covers the nose and mouth. It can
62 be secured to the head with ties or straps or simply wrapped around the lower face. It can be made
63 of a variety of materials, such as cotton, silk, or linen. A cloth face covering may be factory-made
64 or sewn by hand or can be improvised from household items.

65 (2) Business establishment. A “business establishment” means a location with a roof
66 overhead under which any business is conducted, goods are made or stored or processed or where
67 services are rendered. The term “business establishment” also includes locations where non-profit,
68 governmental, and quasi-governmental entities facilitate public interactions and conduct business.
69 The term does not include schools servicing students under the age of 18, or places of worship.

70 (3) Lodging establishment. A “lodging establishment” shall have the same meaning as the
71 term “transient public lodging establishment” has in F.S. 509.013(4)(a)1 (2019). A lodging
72 establishment is a specific type of business establishment.

73 (4) Social Distancing means keeping a safe space between yourself and other people who
74 are not from your household by staying at least 6 feet (about 2 arms’ length) from other people
75 who are not from your household in indoor spaces.

76

77 **SECTION THREE: MANDATORY REQUIREMENTS**

78 (1) An owner, manager, employee, customer or patron of a business establishment must
79 wear a face covering while in that business establishment where social distancing is not possible.

80 (2) The requirements of this section do not apply to:

81 a. Restaurant customers or patrons while dining and/or consuming beverages while seated
82 at a table;

83 b. A gym patron engaged in a workout or class where at least 6 feet of distancing exists
84 with the next closest patron;

85 c. Barbershop or beauty salon customers or patrons when wearing a face covering would
86 reasonably interfere with receiving services;

87 d. Business owners, managers, and employees who are in an area of a business
88 establishment that is not open to customers, patrons, or the public, provided that 6 feet of
89 distance exists between employees. This exception does not apply to employees who are
90 present in the kitchen or other food and beverage preparation area of a restaurant or food
91 establishment. When an owner, manager, or employee is in their place of employment but
92 not within six feet of another person, that owner, manager, or employee does not need to
93 wear a mask.

94 e. Bar patrons while consuming beverages and/or food;

95 f. A lodging establishment guest when inside of the lodging unit including but not limited
96 to a hotel room, motel room, vacation rental unit, timeshare unit, or similar unit.

97 (3) The owner, operator, manager, and employee of a business or lodging establishment
98 shall ensure that every individual in that establishment complies with this section.

99 (4) When a customer of a business establishment asserts that he or she has a disability that
100 prevents the individual from wearing a mask, the owner, manager, or employee of the business
101 establishment may exclude the individual, even if they have a disability, as they may pose a direct
102 threat to the health and safety of employees and other customers, even if asymptomatic, and shall
103 accommodate the disabled individual in a manner that does not fundamentally alter the operations
104 of the business establishment nor jeopardize the health of that business's employees and other
105 customers, such as providing curbside service or delivery or other reasonable accommodation.

106 **SECTION FOUR: PENALTIES AND EXCLUSIONS.**

107 **Enforcement of this Order will be by Collier County Code Enforcement only, and only**
108 **then upon receipt of a complaint, determination of a violation, and refusal by the alleged violator**
109 **to voluntarily comply with this Order.** Violations of this Order shall be punishable by a fine not

110 to exceed \$500.00. An owner, manager, and/or employee of a business establishment shall not be
111 liable in any enforcement action taken under this section for the violations of a guest, customer,
112 and/or patron if that owner, manager, and/or employee directed that guest, customer, and/or patron
113 who refuses to wear a face covering to vacate the premises or face prosecution of trespass. This
114 Order shall not apply to a child under nine years of age; an individual who has one or more medical
115 conditions or disabilities that prevent wearing a face covering; an individual obtaining a service
116 involving the nose or face for which temporary removal of the face covering is necessary to
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118 perform the service; or an individual who works in a profession where use of a face covering will
119 not be compatible with the duties of the profession. In furtherance of Executive Order No. 20-
120 244, citations issued pursuant to this Order shall be as to businesses only, and not individuals.
121 Violation of this Order shall not constitute a criminal penalty.
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123 **SECTION FIVE: SEVERABILITY.**

124 In the event this Order conflicts with any Ordinance of Collier County or other applicable
125 law, the more restrictive shall apply. If any court of competent jurisdiction holds any phrase or
126 portion of this Order invalid or unconstitutional, such portion shall be deemed a separate, distinct
127 and independent provision and such holding shall not affect the validity of the remaining portion.
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129 **SECTION SIX: APPLICABILITY.**

130 This Order is intended to apply solely within unincorporated Collier County. Any of the
131 Municipalities within Collier County may opt-in to this Order.
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133 **SECTION SEVEN: EFFECTIVE DATE.**

134 This Order supersedes and replaces Emergency/Executive Orders No. 2020-05 and 2020-
135 06, shall take effect immediately and shall expire midnight of _____, unless
136 otherwise extended by the Board.

137 **THIS ORDER ADOPTED** after motion, second, and majority vote favoring same this
138 22nd day of October, 2020.
139

140 ATTEST: BOARD OF COUNTY COMMISSIONERS
141 CRYSTAL K. KINZEL, Clerk COLLIER COUNTY, FLORIDA
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143
144 By: _____ By: _____
145 , Deputy Clerk BURT L. SAUNDERS, Chairman
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147
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149 Approved as to form and legality:
150 _____
151 Jeffrey A. Klatzkow, County Attorney
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