

**BEFORE THE BOARD OF COUNTY COMMISSIONERS  
MARTIN COUNTY, FLORIDA**

**ORDINANCE NO. 1145**

**AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF MARTIN COUNTY, FLORIDA REPEALING ORDINANCE 1140 MANDATING PERSONS WEAR FACE COVERINGS IN PUBLIC PLACES; PROVIDING FOR CONFLICTING PROVISIONS; SEVERABILITY; APPLICABILITY; FILING WITH THE DEPARTMENT OF STATE; EFFECTIVE DATE AND DURATION; AND NON-CODIFICATION.**

**WHEREAS**, the Board of County Commissioners of Martin County, Florida (Board) is authorized by Chapter 125, Florida Statutes, to adopt ordinances and resolutions necessary for the exercise of its powers; and

**WHEREAS**, Novel Coronavirus Disease 2019 (COVID-19) is a severe acute respiratory illness that can spread among humans through respiratory transmission and presents a wide range of symptoms, some of which are similar to those of influenza; and

**WHEREAS**, the Centers for Disease Control (CDC) advises that COVID-19 spreads mainly from person to person through respiratory droplets produced when an infected person coughs, sneezes or talks; these droplets can land in the mouths or noses of people who are nearby or possibly be inhaled into the lungs; and studies and evidence on infection control report that these droplets usually travel around 6 feet (about two arms lengths); and

**WHEREAS**, the CDC advises that a significant portion of individuals with coronavirus lack symptoms ("asymptomatic") and that even those who eventually develop symptoms ("presymptomatic") can transmit the virus to others before showing symptoms. This means that the virus can spread between people interacting in close proximity -- for example, speaking, coughing, or sneezing -- even if those people are not exhibiting symptoms; and

**WHEREAS**, the World Health Organization (WHO) has declared a pandemic related to COVID-19; and

**WHEREAS**, the Center for Disease Control and Prevention (CDC) has declared the potential public health threat posed by COVID-19 as "high" both in the United States and throughout the world; and

**WHEREAS**, on March 1, 2020, Governor Ron DeSantis issued Executive Order 20-51, directing that a Public Health Emergency be declared in the State of Florida; and

**WHEREAS**, on March 9, 2020, Governor Ron DeSantis issued Executive Order 20-52, declaring a State of Emergency in the State of Florida regarding the COVID-19 pandemic; and

**WHEREAS**, at this time, there is no vaccine for COVID-19 and it is easily transmitted among people. As a result, a serious threat of impact from COVID-19 exists throughout Martin County; and

**WHEREAS**, the spread of COVID-19 has posed a danger to life and the economic well-being of Martin County residents; and

**WHEREAS**, Martin County began implementing preparations to address the serious public health threat on January 31, 2020; and

**WHEREAS**, on April 1, 2020, the Governor of the State of Florida issued Executive Order 20-91 putting in place a state-wide safer at home order and which permitted various essential businesses and activities during the COVID-19 Emergency; and

**WHEREAS**, on May 4, 2020, Executive Order 20-112, Phase 1: Safe. Smart. Step-by-Step Plan for Florida's Recovery, which provided measures to slowly re-open Florida, became effective; and

**WHEREAS**, on May 18, 2020 Executive Order 20-123, Full Phase I: Safe. Smart. Step-by-Step. Plan for Florida's Recovery, which expanded the measures to re-open Florida, became effective; and

**WHEREAS**, on June 4, 2020, Executive Order 20-139, Phase 2, Safe. Smart. Step-by-Step. Plan for Florida's Recovery further expanding the re-opening of businesses in Florida, became effective; and

**WHEREAS**, after the reopening efforts of Executive Order 20-112, Executive Order 20-123 and Executive Order 20-139, Martin County saw a significant increase in COVID-19 positive cases, and in particular after the June 5, 2020, Phase 2 re-opening efforts; and

**WHEREAS**, the CDC and Florida Department of Health continue to remind residents that by wearing a face covering, the resident protects others from exposure as well as themselves; and

**WHEREAS**, the State of Florida Department of Health, the CDC and the Cleveland Clinic have recommended that all persons wear cloth face coverings while in public to help control the spread of COVID-19; and

**WHEREAS**, in a recent United States Supreme Court Case, the Court denied injunctive relief where California limited attendance at places of worship due to COVID-19. Chief Justice Roberts described COVID-19 as "a novel severe acute respiratory illness

that has killed...more than 100,000 nationwide” and noted that “(a)t this time there is no known cure, no effective treatment, and no vaccine” and “because people may be infected, be asymptomatic, they may unwittingly infect others.” Chief Justice Roberts also stated “(t)he precise question of when restrictions on particular social activities should be lifted during the pandemic is a dynamic and fact-intensive matter subject to reasonable disagreement. Our Constitution principally entrusts the safety and the health of the people’ to the politically accountable officials of the States ‘to guard and protect.’ ... When those officials ‘undertake to act in areas fraught with medical and scientific uncertainties,’ their latitude ‘must be especially broad.’ Where those broad limits are not exceeded, they should not be subject to second-guessing by an ‘unelected federal judiciary,’ which lacks the background, competence, and expertise to assess public health and is not accountable to the people.” *S. Bay United Pentecostal Church v. Newsom*, 140 S. Ct. 1613 (2020); and

**WHEREAS**, Alachua County issued Emergency Order 2020-21 requiring face masks in certain circumstances. The County’s Emergency Order was challenged in Florida’s Circuit Court and in Federal District Court. Both Courts issued Orders denying Plaintiffs’ Emergency Motions for Temporary Injunction. In denying the request for temporary injunction, Florida Circuit Judge Donna M. Kline stated, “The protection of the safety and welfare of the public is inherent in the role of local government ... The requirement to wear a facial covering during the limited circumstance set forth in the ordinance is a minimal inconvenience; and it’s benefits to the public in potentially reducing the spread of COVID-19 outweighs any inconvenience. Here, there is a global pandemic involving COVID-19, a virus which the CDC and others advise is spread through airborne transmission and is spread by asymptomatic individuals. Multiple sources relied upon by the County reflect that mitigation is depending upon the use of social distancing and personal protection equipment, such as face masks/coverings. The County’s need to take measures to control the spread of COVID-19 clearly outweighs the Plaintiff’s private interest in not wearing a mask in the limited circumstances required by the county’s emergency order; and an injunction in this situation would disserve the public interest.” *Green v. Alachua County*, Case No.: 01-2020-CA-001249 (Order dated May 26, 2020). *See also Ham v. Alachua County Board of County Commissioners et. al.*, Case No. 1:20cv111-MW/GRJ (Order dated June 3, 2020 by Chief United States District Judge Mark E. Walker) (“Plaintiffs have not demonstrated that Alachua County exceeded its broad limits and this Court, like the Supreme Court, will not engage in second-guessing”); and

**WHEREAS**, similar Court rulings have been entered throughout the State of Florida Circuit Courts, specifically in Palm Beach County, Alachua County, Leon County, Jacksonville, Gadsden, Deland, Orange County and Seminole County denying challenges to face covering ordinances or emergency orders issued by the counties; and

**WHEREAS**, in the beginning of July, Martin County was experiencing a spike in COVID-19 positive cases with record-breaking positive COVID-19 tests results coming in daily; and

**WHEREAS**, the Cleveland Clinic and doctors in our community expressed grave concern at the time that hospital admittance for COVID-19 had a significant increase in

that admittance numbers had been doubling over the course of two-week intervals; and

**WHEREAS**, as a result of the COVID-19 crisis, on July 8, 2020, Martin County adopted Ordinance 1136 on an emergency basis, which mandated wearing face coverings in public places; and

**WHEREAS**, after Ordinance 1136 was adopted, Martin County began experiencing a decline in the percentage of daily positive test results; and

**WHEREAS**, Ordinance 1136 expired on August 8, 2020 and face coverings were no longer required in public places in Martin County; and

**WHEREAS**, Martin County issued Emergency Order 20-15 on August 9, 2020 strongly encouraging persons to wear face coverings in public; and

**WHEREAS**, on August 25, 2020, the Board was compelled to take additional steps to minimize the spread of COVID-19 in response to the increasing number of positive COVID-19 cases and rising number of deaths associated with COVID-19 to protect the health, safety and welfare of Martin County residents and visitors; and

**WHEREAS**, on August 25, 2020, the Board adopted Ordinance 1140 requiring persons wear face coverings in public; and

**WHEREAS**, on September 25, 2020, Governor DeSantis began Phase 3 Safe. Smart. Step-by-Step. Plan for Florida's Recovery which eliminated all COVID-19 restrictions on businesses; and

**WHEREAS**, on September 25, 2020, Governor DeSantis issued Executive Order 20-244 which suspended the collection of fines and penalties associated with COVID-19 enforced orders and ordinances upon individuals; and

**WHEREAS**, based upon the implementation of Phase 3 and Executive Order 20-244, the Board finds that the repeal of Ordinance 1140 Mandating Persons Wear Face Coverings in Public Places is in the best interest of Martin County.

**NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF MARTIN COUNTY, FLORIDA, THAT:**

**PART I. INCORPORATION OF RECITALS AS LEGISLATIVE FINDINGS.**

The recitals of this ordinance are incorporated herein and constitute the legislative findings of the Board. The recitals are made fully part of this ordinance as if the recitals were set out fully herein.

## **PART II. REPEAL OF ORDINANCE 1140 MANDATING PERSONS WEAR FACE COVERINGS IN PUBLIC PLACES.**

Ordinance 1140 Mandating Persons Wear Face Coverings in Public Places is repealed in its entirety.

## **PART III. CONFLICTING PROVISIONS.**

Special acts of the Florida Legislature applicable only to unincorporated areas of Martin County, Martin County ordinances, County resolutions, or parts thereof, in conflict with this ordinance are hereby superseded by this ordinance to the extent of such conflict except for ordinances concerning either adoption or amendment of the Comprehensive Plan.

## **PART IV. SEVERABILITY.**

If any portion of this ordinance is for any reason held or declared to be unconstitutional, inoperative or void by a court of competent jurisdiction, such holding shall not affect the remaining portions of this ordinance. If the ordinance or any provision thereof shall be held to be inapplicable to any person, property or circumstance by a court of competent jurisdiction, such holding shall not affect its applicability to any other person, property or circumstance.

## **PART V. APPLICABILITY.**

This ordinance shall apply in the incorporated and unincorporated areas of Martin County. This ordinance does not apply to the internal operations of the local governments within Martin County, Martin County Constitutional Offices, the Martin County School District, the State University System, the State College System, the State of Florida, Federal agencies, religious organizations in their houses of worship or public utilities not associated with Martin County who are encouraged to adopt their own rules and procedures consistent with the matters set forth herein.

## **PART VI. FILING WITH DEPARTMENT OF STATE.**

The Clerk shall be and is hereby directed forthwith to scan this ordinance in accordance with Rule 1B-26.003, Florida Administrative Code, and file same with the Florida Department of State via electronic transmission.


## **PART VII. EFFECTIVE DATE AND DURATION.**

This ordinance shall immediately take effect upon filing with the Office of Secretary of State and shall remain in effect until the expiration of Martin County's State of Local Emergency, as may be extended by subsequent order or declaration or upon repeal by the Board, whichever occurs earlier.

**PART VIII. NON-CODIFICATION.**

Due to the temporary nature of this ordinance, the provisions of this ordinance shall be incorporated into the General Ordinances, Martin County Code, but shall not be codified.

**DULY PASSED AND ADOPTED BY THE BOARD OF COUNTY COMMISSIONERS OF MARTIN COUNTY THIS 13<sup>th</sup> DAY OF OCTOBER 2020.**

 ATTEST  
  
CAROLYN TIMMANN, CLERK  
OF THE CIRCUIT COURT AND  
COMPTROLLER

BOARD OF COUNTY COMMISSIONERS  
MARTIN COUNTY, FLORIDA

  
HAROLD E. JENKINS II, CHAIRMAN

APPROVED AS TO FORM AND  
LEGAL SUFFICIENCY:

  
SARAH W. WOODS, COUNTY ATTORNEY

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## FLORIDA DEPARTMENT *of* STATE

**RON DESANTIS**  
Governor

**LAUREL M. LEE**  
Secretary of State

October 15, 2020

Ms. Carolyn Timmann  
Clerk of the Circuit Court  
Martin County  
Post Office Box 9016  
Stuart, Florida 34995

Attention: Mary K. Vettel, Deputy Clerk

Dear Ms. Timmann:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your electronic copy of Martin County Ordinance No. 1145, which was filed in this office on October 14, 2020.

Sincerely,

Ernest L. Reddick  
Program Administrator

ELR/lb