

EMERGENCY ORDER NO. 2021-13
CONTINUING PHASE THREE STEP BY STEP RECOVERY
ALACHUA COUNTY, FLORIDA

WHEREAS, COVID-19, a respiratory illness caused by a virus that spreads rapidly from person to person and may result in serious illness or death, constitutes a clear and present threat to the lives, health, welfare, and safety of the people of Alachua County; and

WHEREAS, on March 1, 2020, Governor DeSantis declared a Public Health Emergency because of COVID-19; and, on March 9, 2020, Governor DeSantis issued Executive Order 2020-52¹, declaring a State of Emergency because of COVID-19 which has been extended multiple times most recently in Executive Order 2021-45 which shall expire on April 27, 2021; and

WHEREAS, on March 11, 2020, the World Health Organization declared the spread of COVID-19 to be a global pandemic; and, on March 13, 2020, in Proclamation 9994 President Trump declared a national emergency concerning COVID-19; and

WHEREAS, Emergency Order 2020-01 declared a local state of emergency in Alachua County based on the COVID-19 virus on March 16, 2020; and

WHEREAS, to reduce the spread of COVID-19, the United States Centers for Disease Control and Prevention ("CDC") and the Florida State Department of Health recommended implementation of community mitigation strategies to increase containment of the virus, including cancellation of large gatherings and social distancing of at least six feet between persons in smaller gatherings; and

WHEREAS, locally the healthcare delivery system has been able to handle increases in hospitalizations due to COVID-19 despite periodic increases following periods of high travel but it is necessary to continue to monitor its capacity on an ongoing basis as it is too early to determine that there may not be further peaks and hospitalizations normally lag two weeks from exposure; and

WHEREAS, the continuing operation of essential businesses is necessary to provide essential goods and services to the public. This is reliant upon the number of infections remaining low and staying on a downward trend; and

WHEREAS, the incidents of total cases continue to rise, the rate of new cases has slowed to a 14-day average of 1.7% according to the Alachua County Department of Health (March 17, 2021)²; and

WHEREAS, the CDC, the Florida Department of Health and the University of Florida has recommended for some time the use of face coverings, preferring the use of face masks which are readily available but also including those which are homemade, to slow the spread of the disease since many individuals with no symptoms can spread the virus; and

WHEREAS, currently, three vaccines have been approved for use to prevent infection, those from Pfizer, Moderna, and Johnson & Johnson; and

¹ https://www.flgov.com/wp-content/uploads/orders/2020/EO_20-52.pdf

² <https://dashboards.alachuacounty.us/COVID19/>

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WHEREAS, Governor DeSantis initially restricted the administration of the vaccines to certain at-risk populations but as of March 22, 2021 due to increased availability of the vaccine and the distribution capacity of the State, the age was lowered to all individuals above 50 years of age. Further, the Governor has discussed the potential, in the near future of making the vaccine available for all those approved for the vaccine, but has not set a specific date for this as yet; and

WHEREAS, the vaccines are currently being tested for children younger than age 17; and

WHEREAS, the Centers for Disease Control has recommended that individuals who have been fully vaccinated continue to take precautions in public places including wearing a mask, staying 6 feet apart from others, and avoiding crowds and poorly ventilated spaces;³ and

WHEREAS, the CDC has also stated that individuals who are fully vaccinated can gather indoors with other fully vaccinated people without wearing a mask or gather with individuals from one other household who have not been fully vaccinated without wearing a mask unless they or anyone they live with has an increased risk for severe illness from COVID-19; and

WHEREAS, the CDC has not changed its recommendations for those who have not been fully vaccinated and state that they should wear a mask, stay at least 6 feet apart from other and avoid poorly ventilated spaces whenever they are in public or visiting with an unvaccinated person who is at an increased risk; and

WHEREAS, as of March 21, 2021, 175,720 Alachua County residents have been tested⁴, 22,957 have been found to be positive and 62,440 individuals have received at least one dose of vaccine⁵. While this is a positive trend it is still well below the number considered necessary at current understanding for “herd immunity”; 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, depending on factors of how enclosed the space is, if there is prolonged exposure to respiratory particles and if there is inadequate ventilation or air handling⁶; and

WHEREAS, at the Board of County Commissioners meeting of March 9, 2021, the Director of the Alachua County Health Department briefed the Board on the status of the hospitals, the downward trend in new infections and the progress of vaccinations. He also recommended that the Board keep their current policy in place regarding the use of face masks; and

³ <https://www.cdc.gov/coronavirus/2019-ncov/vaccines/fully-vaccinated.html>

⁴ The testing represents a result at a specific point in time. A total of 474,004 tests have been administered.

⁵ <https://dashboards.alachuacounty.us/COVID19/>

⁶ [https://www.cdc.gov/coronavirus/2019-ncov/more/scientific-brief-sars-cov-2.html#:~:text=Airborne%20transmission%20is%20infection%20spread,\(typically%20hours\).](https://www.cdc.gov/coronavirus/2019-ncov/more/scientific-brief-sars-cov-2.html#:~:text=Airborne%20transmission%20is%20infection%20spread,(typically%20hours).)

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WHEREAS, Florida Department of Health has issued a Public Health Advisory (June 20, 2020)⁷ reinforcing its recommendation that individuals wear masks in public, encouraging elderly and vulnerable populations to limit interactions outside of the home, and urging all individuals to refrain from participating in gatherings of more than 50 people and these recommendations have been updated and strengthened as of July 21, 2020⁸, and extended as of February 19, 2021⁹ and

WHEREAS, the Board of County Commissioners have met various times during which it considered the Florida Department of Health Public Health Advisory (June 20, 2020), the Centers for Disease Control guidance, the updated data from the Alachua County Department of Health, and other data and analysis, and received public comment, and

WHEREAS, the Board of County Commissioners has taken public comment along with information received from the public health officials, and debated issues raised up to this point in time by COVID-19; and

WHEREAS, Alachua County Code Sec. 27.08 (6) as amended by Ordinance 2020-19 allows the Official Authority to take actions between meetings of the Board as long as the Board is advised of such action so they may take whatever action it deems appropriate at the time and in the absence of action of the Board, such action stands as ratified; and

WHEREAS, the Board of County Commissioners is being kept advised of all matters related to this Emergency and briefed at every regular meeting or special meetings as they wish.

WHEREAS, the Chairman as the Official Authority believes based upon the foregoing that it is important to continue to be cautious in the process of reducing restrictions as stated by the CDC and Department of Health while more of the local population has the opportunity to and becomes vaccinated; and

WHEREAS, the continued increase in positive testing for COVID-19, despite the current slowing of the infection rate, continues to supports the need for increased public awareness of the importance of wearing facial coverings in certain locations; and

WHEREAS, the Official Authority believes that, requiring businesses and employers to take responsibility, and be liable, for their employees' compliance with the facial coverings requirement, while those employees are engaged in employment-related activities, will result in greater compliance with the facial coverings requirement and is consistent with a business or employer's responsibility to provide a healthy, safe environment for employees and the public; and

⁷ <https://floridahealthcovid19.gov/wp-content/uploads/2020/06/20200622-SOF-DOH-Public-Health-Advisory.pdf>

⁸ <https://floridahealthcovid19.gov/wp-content/uploads/2020/08/DOH-Public-Health-Advisory-for-COVID19-7-20-2020.pdf>

⁹ <https://floridahealthcovid19.gov/wp-content/uploads/2021/02/State-of-Florida-Department-of-Health-Renewal-of-Declaration-of-Public-Health-Emergency-2-19-2021.pdf>

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WHEREAS, the Governor, in EO 2020-244 and EO 2021-65 has limited what the various counties can do in collecting fines, limiting business occupancy and in EO 20-2021 has remitted all financial penalties imposed by political subdivisions prior to March 10, 2021 which involve COVID-19, and

WHEREAS, the Chair of the County Commission is the Official Authority as prescribed in the County's Code Sec. 27.07; and

WHEREAS, acting on his own authority as the Official Authority; and

WHEREAS, pursuant to Sec. 252.38(1), Fla. Stat., the County has jurisdictional authority over the entire county.

THEREFORE, IT IS ORDERED THAT:

1. Alachua County shall be governed as set forth below.
2. Operations of services and activities.
 - a. All services and activities permitted to be operated by Governor DeSantis' Executive Orders (in existence as of this Emergency Order and executed subsequent to this Emergency Order) may operate in Alachua County pursuant to the standards contained herein and referenced by this Emergency Order. All services and activities shall operate in accordance with OSHA and CDC guidelines applicable to their business.
 - b. All services and activities, in which persons are required to wear facial covering, shall post the appropriate signage in color in both English and Spanish, available here. <http://alachuacounty.us/covid-19/> or by calling 311 (for preprinted sign). Signs shall be at least 11in x 17in. Signage shall be posted in conspicuous locations, which are clearly visible to the patrons and employees throughout each physical location reminding patrons and employees to observe social distancing requirements and to use facial coverings, as required by this Emergency Order. Signage shall be posted, at a minimum, at all points of access (including employee points of access) and throughout the service and activity. Whenever possible, signage shall be posted between 4ft and 5ft as measured from the floor to the bottom of the sign.
3. Use of facial coverings.
 - a. Persons working in or visiting grocery stores, restaurants, bars, dance halls, nightclubs, in-store retail establishments, pharmacies, public transit vehicles, vehicles for hire, along with locations inside or outside, where social distancing measures are not possible shall appropriately wear facial coverings as defined by the CDC, in a manner which covers the mouth and orifices of the nose.
 - b. Facial covering includes any covering, which snugly covers the nose and mouth, whether store bought or homemade, and which is secured with ties or ear loops. The Centers for Disease

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Control provide examples of homemade facial coverings.¹⁰ Persons who wear facial coverings should review the CDC and Florida Department of Health guidelines regarding safely applying, removing, and cleaning face coverings.

- c. A facial covering shall not be required for children under six, persons who have trouble breathing due to a chronic pre-existing condition or individuals with a documented or demonstrable medical problem. It is the intent of this provision that those individuals who cannot tolerate a facial covering for a medical, sensory or any other condition, which makes it difficult for them to utilize a facial covering and function in public, are not required to wear one. It is recognized that this requirement is broader than what might be considered a covered condition under the Americans with Disabilities Act.
- d. This Emergency Order does not change or alter any social distancing requirements imposed by this or any other emergency order.
- e. This Emergency Order does not change any requirements for wearing facial coverings imposed by regulatory bodies or orders from the Governor.
- f. Facial coverings do not have to be worn while actively eating or drinking.
- g. Businesses and employers are required to ensure that their employees are using appropriate facial coverings and other methods to protect the employees and public, unless the employee meets an exception in Sec. 3(c) of this Emergency Order. The business or employer may be cited, along with the employee, for an employee's violation of this Section, if the employee is actually engaged in employment-related activities at the time of the violation. Each employee failing to wear a facial covering without an exemption as set forth in this Order shall be treated as a separate violation for which the employer may be cited.

Groups with more than 50 people are not permitted to congregate in a space that does not readily allow for appropriate social distancing unless individuals are wearing facial coverings and may be ordered to disperse by law enforcement or other governmental employees authorized by the County Manager or in the case of a municipality the City Manager or other administrative head of the municipality. Groups of any number who are not socially distancing and not wearing facial coverings will be required to socially distance and may be ordered to disperse by law enforcement or other governmental employees authorized by the County Manager or in the case of a municipality the City Manager or other administrative head of the municipality if they do not comply. Social distancing, for the purpose of this provision, requires adherence to the social distancing recommendations of the Centers for Disease Control and the Surgeon General of Florida, and requires 6 foot spacing between persons of different households. To the extent that such gatherings are composed of those who have been fully vaccinated and other individuals approved by the CDC to gather with the fully vaccinated, this section does not apply to such a gathering.

4. Severability.

Any provision(s) within this Emergency Order that conflict(s) with and as a result is preempted by

¹⁰ <https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/diy-cloth-face-coverings.html>

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any State or Federal law or constitutional provision, including the State's preemption of the regulation of firearms and ammunition codified in section 790.33, Fla. Stat., or are preempted by a current or subsequently-issued Executive Order of the Governor or the President of the United States, shall be deemed inapplicable and deemed to be severed from this Emergency Order, with the remainder of this Emergency Order remaining intact and in full force and effect. To the extent application of some or all the provisions of this Emergency Order is prohibited on the sovereign land of a federally or state recognized sovereign Indian tribe, such application is expressly excluded from this Emergency Order.

5. Effective Date; Duration.

This Order shall be effective upon filing with the Clerk of the Court and will stay in effect until May 12, 2021 or until Alachua County no longer has a local state of emergency. This expiration date does not do away with any requirement that the local state of emergency must be extended in 7 day increments as required by Section 252.38, Fla. Stat. Further, the Board intends to review this Order periodically, but no later than its regularly scheduled meeting of April 13, to address the status of vaccinations and consider if this Order should be continued at that time.

6. This Emergency Order is in addition to the Executive Orders issued by Governor DeSantis.

7. This Emergency Order applies to incorporated and unincorporated areas within Alachua County, but has no application outside of Alachua County. Municipalities have the authority to enforce this Emergency Order within their jurisdiction. Municipalities are authorized to impose regulations, which are more stringent than those set forth herein.

8. Other than where preempted by State or Federal law, the county or municipalities within its boundaries will direct any establishment to cease and desist operations that are in violation of this Emergency Order until such time as they come into compliance and may treat violations as a violation of county or municipal ordinance as appropriate. The County has jurisdiction countywide to enforce the terms of this Emergency Order.

9. This Emergency Order does not apply to operations of local governments within the county, to the State University System, State College System, the State of Florida, or Federal agencies who are encouraged to adopt their own rules and procedures regarding the matters set forth herein.

10. Except as provided herein, any violation of these emergency measure(s) shall be a violation of Sec. 252.50, Fla. Stat., and may be punishable as provided therein and shall be enforced by law enforcement as provided by law. Notwithstanding the provisions herein, the County may alternatively enforce these emergency measure(s) by issuing a citation imposing a fine not to exceed \$500 per violation, pursuant to Chapt. 162, Fla. Stat. All other remedies available at law or equity, including injunction, remain available to the County or municipality located in Alachua County.

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11. A violation of section 3 of this Order is a noncriminal infraction. A violation of section 3 of this Order does not authorize the search or arrest of any individual. Prior to issuing any citation, the individual will be asked to comply with this Order or be able to explain how section 3(c) of this Order applies to them. Failure to comply with the requirements of section 3 of this Order presents a serious threat to the public health, safety, and welfare, pursuant to Chapt. 162, Fla. Stat., and a citation may be issued immediately for such violation. The County shall enforce the first violation of section 3 of this Emergency Order through a fine of \$125.00 to the violator. The second violation of section 3 of this Emergency Order shall be subject to a fine of \$250.00 to the violator. All subsequent violations of section 3 of this Order shall constitute a Class V violation under Art. II, Chapt. 24 of the Alachua County Code of Ordinances, requiring a mandatory court appearance and subject to a fine not to exceed \$500.00. All other remedies available at law or equity, including injunction, remain available to the County, even after issuance of a citation. The municipalities may enforce this Order as provided by Florida law and municipal code.
12. To the extent that the Governor has remitted fines, no enforcement and collection actions shall be taken for any issue arising out of enforcement actions issued for behavior prior to March 10, 2021. To the extent that fines may not be collected against individuals, those cases may proceed but collection of fines will not be sought until allowed by Governor DeSantis or expiration of the final order regarding the same.
13. This Order shall be presented to the Board of County Commissioners at their Regular Meeting on March 23rd 2021 for their consideration and discussion.
14. This Order supersedes and replaces any conflicting provisions of prior orders.

Alachua County Emergency Order 20-50 is hereby repealed. Dated this 22nd day of March, 2021 at 9:30 a.m.

BOARD OF COUNTY COMMISSIONERS
OF ALACHUA COUNTY, FLORIDA

By: 
Ken Cornell, Chair

APPROVED AS TO FORM:


County Attorney's Office