

**EMERGENCY ORDINANCE NO. 2020-\_\_ E**

AN EMERGENCY ORDINANCE OF THE CITY COMMISSION OF THE CITY OF MARIANNA, FLORIDA, FINDING THAT A PUBLIC EMERGENCY EXISTS; REQUIRING EMPLOYEES IN BUSINESSES TO WEAR A FACE COVERING; PROVIDING FOR EXCEPTIOS; PLACING ADDITIONAL STANDARDS ON RETAIL ESTABLISHMENTS, FOOD SERVICE ESTABLISHMENTS AND BARS; PROVIDING PENALTIES FOR VIOLATION OF THIS ORDINANCE; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, The City of Marinna (“City”) is a municipality granted home rule authority pursuant to Article VIII, Section 2 of the Constitution of the State of Florida and may exercise its governmental, corporate and proprietary powers for municipal purposes, including to regulate for the protection of the public health, safety and welfare; and

WHEREAS, the City of Marianna is empowered, pursuant to Section 166.041(3)(b), Florida Statutes, to adopt emergency ordinances by a two-thirds majority vote; and

WHEREAS, the World Health Organization, U.S. Health and Human Services Secretary, President of the United States, Governor of the State of Florida and the City of Marianna have all acknowledged and declared the outbreak of the novel coronavirus, COVID-19, to be an international, national, state and local emergency; and

WHEREAS, on March 9, 2020, the Governor of the State of Florida issued Executive Order 20-52 authorizing, among other things, local governments to execute their authority under the State Emergency Management Act; and

WHEREAS, since March 17, 2020, the City Commission has taken careful and measured action by Resolution and Emergency Ordinances to balance the public health and safety while also monitoring the need to allow for recreational and commercial activity to safely continue; and

WHEREAS, on June 3, 2020, the Governor of the State of Florida issued Executive Order 20-139 enacting the “Phase 2: Safe. Smart. Step-By-Step Plan for Florida’s Recovery” which expanded guidelines on safe congregations and recreational activities; and

WHEREAS, the City is home to the Florida Caverns, Blue Springs, the Chipola River and other natural and eco-friendly areas to many visitors each year, while also serving as the permanent home for approximately 6,500 residents; and

WHEREAS, U. S. Highways 90, 71 and 73 as well as Interstate 10 are main travel routes for visitors coming into the State of Florida from other states and for Floridians traveling east toward Tallahassee, Jacksonville, Gainesville, Orlando and central and south Florida, and traveling west toward Pensacola, Mobile, New Orleans and other states; and

WHEREAS, since the reopening of the City's recreational areas and local businesses under the enactment of Phase 2 Reopening, the City has seen an influx of visitors, and many of these visitors are exhibiting an attitude of carefreeness and indifference for CDC guidelines, regarding social distancing; and

WHEREAS, the City has observed that the reopening of the State has led to a corresponding rise in contact between individuals, the potential for increased community spread of COVID-19, and a rise in COVID-19 diagnoses in the City and in Jackson County; and

WHEREAS, since April 3, 2020, the Center for Disease Control (the "CDC") has identified cloth face coverings by the public as an effective mitigation tool against the spread of COVID-19 transmission and provides guidance on how to wear, make and maintain cloth face coverings;<sup>1</sup> and

WHEREAS, on June 22, 2020, 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 in gatherings of fewer than 50 people, individuals should maintain at least six feet distance from each other or wear a face covering; and

WHEREAS, on July 12, 2020, the United States Surgeon General, Jerome Adams, issued recommendations that mandatory mask orders be put in place at "local and state levels"; and

WHEREAS, on July 14, 2020, the CDC Director stated that "(c)loth face coverings are one of the most powerful weapons we have to slow and stop the spread of the virus – particularly when used universally within a community setting. All Americans have a responsibility to protect themselves, their families and their communities"; and

WHEREAS, the CDC, writing in the Journal of American Medical Association, stated that "(c)ommunity-level protection afforded by use of cloth face coverings can reduce the number of new infections and facilitate cautious easing of more societally disruptive community interventions such as stay-at-home orders and business closings"

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<sup>1</sup> <https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/diy-cloth-face-coverings.html>

and placed special emphasis on wearing face coverings while indoors or in poorly ventilated areas;<sup>2</sup> and

WHEREAS, on July 14, 2020, President Donald Trump, speaking with CBS News, used Americans to follow CDC guidelines and wear a mask;<sup>3</sup> and

WHEREAS, the City Commission finds that, based upon the recommendations of the medical community and the rise in COVID-19 cases throughout the City and Jackson County, the continued risk of COVID-19 infection necessitates emergency measures to mitigate the spread;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF MARIANNA, FLORIDA, AS FOLLOWS:

**SECTION 1. FINDING OF EMERGENCY:** The foregoing recitals are true and correct and incorporated herein as if set out in full. For the reasons set out in the above recitals, the Commission finds and determines that the public health emergency facing the City requires enhanced restrictions adopted by this ordinance which are needed immediately to help address the dangers present in our nation, state and community.

**SECTION 2. DEFINITIONS:** For purposes of this Ordinance, the following terms shall have the meanings proscribed below:

A. “Business” means a location with a roof overhead under which any business is conducted, good are made, stored, processed, sold, or made available for sale, or where services are rendered. The term includes transportation network companies, such as Ubers and Lyft; vehicles operated for mass transit delivery services, taxis, limousines for hire, other enclosed passenger vehicles for hire.

B. “Face Covering” means a material that covers the nose and mouth in a manner that fits snugly against the sides of the face so there are no gaps. It can be secured to the head with ties or straps or simply wrapped around the lower face. It can be made of a variety of materials, such as cotton, silk or linen.

C. “Wear a Face Covering” means the securing of a face covering over the person’s nose and mouth and snugly against the sides of the face.

D. “Lodging Establishment” means any unit, group of units, dwelling, building, or group of buildings within a single complex of buildings which is rented to guests more than three (3) times in a calendar year for periods of less than 30 days or one (1) calendar month, whichever is less, or which is advertised or held out to the public as a place regularly rented to guests.

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<sup>2</sup> <https://jamanetwork.com/journals/jama/fullarticle/2768532>

<sup>3</sup> <https://www.cbsnews.com/video/trump-talks-coronavirus-and-policing-in-inclusive-interview/#x>

E. “Food Service Establishment” means a business licensed to sell food covered by Executive Order 20-139

F. “Bar” means a business licensed to sell alcoholic beverages for on-premises consumption which is not also licensed to sell food.

**SECTION 3. FACE COVERINGS IN THE CITY:**

A. Business Employees. All persons who own or manage a Business shall assure that all persons who are employed or contracted by a Business wear a Face Covering while working indoors within the course of and scope of their employment or contract with that Business unless specifically exempted in Section 4 of this Ordinance.

B. Signage. Each Business shall conspicuously post signage at all points of public entry in substantially the form provided by the City, notifying individuals of the requirements of this Ordinance, and encouraging all patrons to abide by CDC guidelines regarding the use of face coverings and social distancing.

**SECTION 4. EXCEPTIONS.** Section 3B of this Ordinance shall not apply to the following:

A. An individual with a disability as defined by the Americans with Disabilities Act shall be allowed to request a reasonable modification of this requirement from a Business subject to this Ordinance. Such reasonable accommodation shall include requiring a scarf, looser Face Covering or face shield, allowing curbside pick-up, outdoor service, or removal of the face mask.

B. A person who is communicating with an individual who is hearing impaired who needs to see the mouth of the person speaking to facilitate communication.

C. Public safety, police, fire and other life safety and health care personnel whose use of personal protective equipment requirements are governed by their respective agencies and employers, while engaged in such employment.

D. Business owners, managers, employees and contractors who are in an area of a Business that is not open to customers, patrons, or the public while maintaining social distancing, excluding individuals involved in the preparation and service of food and beverages.

**SECTION 5. ADDITIONAL REQUIREMENTS FOR RETAIL ESTABLISHMENTS, FOOD SERVICE ESTABLISHMENTS AND BARS.**

Retail Establishments, Food Service Establishments and Bars shall be subject to the following additional standards contained herein:

A. Patron Waiting Procedures. Each Indoor Amusement, Retail Establishment, Food Service Establishment and Bar shall implement procedures designed to mitigate the spread of COVID-19 transmission through the following means:

1. Placing clearly marked areas for individual groups to congregate spaced at least six feet from other waiting congregations. Businesses may utilize designated parking spaces as a patron waiting area to implement this procedure.

2. Placing clear markers for patrons to maintain at least six feet social distancing in checkout areas.

B. Employee Screening. Retail Establishments, Food Service Establishments and Bars must daily screen each employee to ensure that no employee who is exhibiting symptoms of COVID-19 is permitted to work. Upon discovering that a current employee has been diagnosed with COVID-19, the establishment shall immediately close and disinfect the building interior. Businesses must notify the public of such closure and shall be permitted to reopen upon certification by the City's Code Enforcement Department, by the contractor licensed by the State of Florida in biomedical waste treatment and disposal.

C. 50% Capacity. Indoor Amusements, Restaurants, Retail Establishments and Bars shall operate at 50% of their indoor capacity, excluding employees, as determined by the Fire Inspector. This capacity limitation shall be modified from time to time as the executive orders from the Governor are amended.

**SECTION 6. ENFORCEMENT.** Any violation of this Ordinance may be enforced by a member of the City's Policy Department, Fire Department or Code Enforcement Officer as follows:

A. First Offense. An initial violation shall be memorialized by a written warning and staff shall be directed to educate the violator of the substance of this Ordinance. For any first violation of Section 3 of this Ordinance, a violator without a Face Covering shall be supplied one.

B. Second Offense. Punishable by a civil citation of \$50.00.

C. Third or Subsequent Offenses are as follows:

1. Punishable by a civil violation of \$150.00; or

2. An order to cease operation, as a public nuisance, for twenty-four (24) hours. The Commission specifically finds repeat violations of the provision of this Ordinance to be a threat to the public health, safety and welfare of the City.

**SECTION 7. SEVERABILITY.**

If any word, phrase, clause, section or portion of this Ordinance shall be held invalid or unenforceable by a court of competent jurisdiction, the remainder of this Ordinance shall continue in full force and effect.

**SECTION 8. EFFECTIVE DATE.**

Upon passage by two-thirds of the members of the City Commission, this Ordinance shall take effect at 5:00 P.M. on August \_\_\_\_\_, 2020, without further reading or publication, to address the real and present public health emergency presented by the spread of the COVID-19 virus and shall remain in effect until 12:00 P. M. on \_\_\_\_\_, 2020, unless such date is otherwise extended by resolution of the City Commission.

**THIS ORDINANCE** shall be effective immediately upon passage.

PASSED by the City Commission of the City of Marianna, Florida, in special session on the \_\_\_\_\_ day of August, 2020.

CITY OF MARIANNA, FLORIDA

BY: \_\_\_\_\_  
MAYOR

ATTEST: \_\_\_\_\_  
Kimberly Applewhite, CLERK