



Office of the
**INDIAN RIVER COUNTY
ADMINISTRATOR**

Jason E. Brown, County Administrator
Michael C. Zito, Assistant County Administrator

MEMORANDUM

TO: Members of the Board of County Commissioners

FROM: Jason E. Brown, County Administrator

DATE: July 8, 2020

SUBJECT: Face Covering Ordinance

On June 26, 2020, I signed IRC Emergency Order 2020-15, which became effective on June 29, 2020. It required mandatory masks for persons working in restaurants, grocery stores, food service, salons, gyms, any retail establishments, or businesses open to the public or any other indoor facility visited by the public where social distancing is not possible within unincorporated Indian River County as well as anyone entering a County facility or utilizing public transit. Violation of this Emergency Order, according to Sections 252.47 and 252.50, Florida Statutes may be prosecuted as a misdemeanor of the second degree.

The goal of the County is to educate and encourage members of the public to wear masks in order to slow the spread of the Coronavirus (COVID-19), not to punish individuals. As stated in the current order, law enforcement is a last resort. It is important to note that Sections 252.47 and 252.50 only provide for the ability to charge anyone in violation with a second degree misdemeanor. The prospect of the potential for jail time, however remote, has been a concern regarding mask related orders in many areas. Staff prefers that the enforcement mechanism for anyone violating a mask order would be a citation with a fine as the maximum penalty. While the intention is still not to issue a large number of fines, this would take away the possibility of someone being charged with a second degree misdemeanor and potentially facing jail time. Unfortunately, emergency orders only allow for a charge of second degree misdemeanors, and the only way to reduce the potential penalty to a fine is to enact a County ordinance. An ordinance would be the tool needed to bolster compliance while imposing a fine for those who do not comply (and are not exempt).

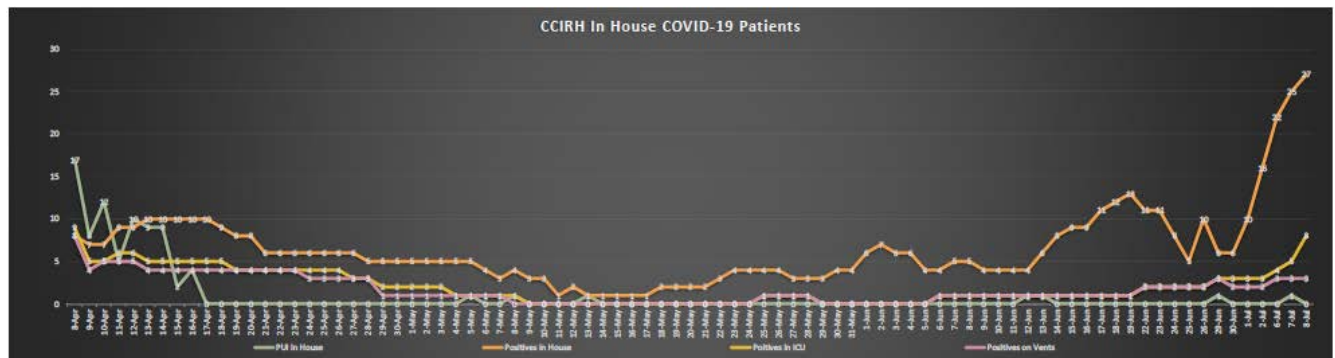
Evidence shows that the virus continues to spread; Although many citizens are following the recommended guidance of mask wearing and social distancing, many are not. As stated previously, County staff has continued to monitor voluntary mask compliance and trends in coronavirus cases. Based upon observation of local citizens and business, it appears that the number of people wearing face masks and practicing social distancing has increased in the last couple weeks. Still, it would be beneficial to increase the number of citizens wearing masks to help slow the spread of COVID-19 in Indian River County. As for coronavirus cases trends, they have continued to increase at a significant

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rate. Please see the table below that shows the number of cases from two weeks ago compared to today (as of this writing).

Category	As of 6/26/2020	As of 7/9/2020	Increase	% Increase
Total cases	541	1,045	504	93.2%
Hospitalizations	54	76	22	40.7%
Fatalities	16	18	2	12.5%

As shown above, the number of cases has nearly doubled in the thirteen days since the announcement of Emergency Order 2020-15. The average new cases during this period has been 38.8, compared to an average of about 1 case per day in late May. The number of hospitalizations has climbed significantly during this same time period (40.7%), but substantially less than the number of new cases. It is important to note that hospitalizations lag behind new cases, which may account for the difference. Furthermore, the number of hospitalizations has begun to increase markedly in the last week. The numbers in the table above are cumulative totals, which is the metric reported by the State. A better indicator of the situation is actually current hospitalizations. Please see the table below which shows the number of current hospitalizations at Cleveland Clinic Indian River Hospital through July 8th.



As illustrated in the table, current hospitalizations peaked at 10 during mid-April. They then fell to lower levels during May and early June. These numbers began to rise in late June to a number at or just exceeding the April peak. Over the last week, the number of current hospitalizations has risen precipitously to a high of 27 on July 8th. While our hospital system is currently able to handle the existing load, County staff is very concerned about the current trend and the ability of the medical system to cope if this trend of current hospitalizations doubling in a week continues.

Based upon the trends presented above, it appears that additional action is warranted to stem the rise in coronavirus in our community. The medical community has stated that requiring masks in public spaces would reduce the spread significantly. Based upon the options available to the County, it appears that this is the best tool available to us to impact the current and anticipated caseload and attempt to reverse our current course. Therefore, Staff recommends that the Board of County Commissioners approve the attached proposed ordinance making face coverings mandatory for the public in certain spaces in unincorporated Indian River County and imposing a fine for non-compliance. Some highlights of the proposed ordinance are shown below:

- Effective, Thursday, July 16, 2020
- Face coverings required for all persons in any indoor public space where social distancing is not

required

- Face coverings required in any outdoor public place attending a gathering or event greater than 50 people where social distancing is not possible
- Applies to the unincorporated areas of Indian River County
- Exceptions:
 - Persons under the age of 2
 - Persons observing social distancing in accordance with CDC guidelines
 - Persons for whom a face covering would cause an impairment due to an existing health condition or disability but strongly recommends a face shield for these individuals
 - Persons working in a business who maintain social distancing, do not have interactions with other persons, or where use of a face covering would prevent them from performing their duties
 - Persons exercising (while social distancing), eating or drinking
- The intention is to educate and encourage use of face masks, with enforcement as a last resort
- Violation of this ordinance would be a noncriminal infraction with penalties as shown below;
 - First offense, a fine of \$25
 - Second offense, a fine of \$50
 - Third offense, a fine of \$100

In the event that the Board of County Commissioners does not approve the proposed ordinance, staff has also provided an alternate option to consider an ordinance (see second attachment) that would mirror the existing Emergency Order (2020-15), while changing the penalty from a second degree misdemeanor per Sections 252.47 and 252.50, Florida Statutes to the same fines as listed above.

RECOMMENDATION

Staff recommends that the Board of County Commissioners adopt the proposed ordinance, requiring face coverings in certain situations in unincorporated Indian River County.