

RESOLUTION NO. 2021-_____

**RESOLUTION OF THE PIMA COUNTY BOARD OF SUPERVISORS ADOPTING
REGULATIONS NECESSARY FOR THE PUBLIC HEALTH AND SAFETY
OF PIMA COUNTY'S INHABITANTS, REQUIRING PERSONS
TO WEAR FACE COVERINGS WHEN THEY ARE IN PUBLIC PLACES
AND CANNOT EASILY MAINTAIN A CONTINUOUS PHYSICAL DISTANCE
OF AT LEAST 6 FEET FROM ALL OTHER PERSONS**

The Board of Supervisors of Pima County, Arizona finds:

1. On March 19, 2020, Pima County adopted Resolution 2020-18, declaring a state of emergency related to the Covid-19 outbreak. That state of emergency remains in effect.
2. The Covid-19 pandemic is the worst public-health crisis the United States has faced in a century. It has caused over 580,000 confirmed deaths in the United States and infected over 32.6 million people, though the actual numbers of deaths and infections are very likely higher. Many of those who survive Covid-19 will do so only after experiencing serious illness and lengthy hospitalization.
3. There have been over 115,000 COVID-19 cases diagnosed in Pima County since the beginning of the pandemic. More than one out of every 450 residents of Pima County has died due to COVID-19.
4. COVID-19 is highly contagious and spreads primarily through person-to-person contact. Significant community and individual adherence to mitigation recommendations has been demonstrated to decrease illness and death. Starting in late November 2020, the Pima County Health Department identified an accelerated transmission of COVID-19 throughout Pima County that lasted until February 2021.
5. On December 4, 2020, the Pima County Board of Supervisors adopted Resolution 2020-96, requiring all persons in Pima County who are not exempt under that Resolution to wear compliant face coverings while in public and unable to easily and continuously physically distance from others. The Board hereby readopts and incorporates by reference the findings in Resolution 2020-96, as updated by those in this Resolution.
6. Compliance with mitigation measures and the availability of vaccines have resulted in a considerable decline in our case rate. Over 400,000 residents of Pima County have received COVID-19 vaccines. 49% of the population 18 or older have received a vaccination. Over 76% of people 65 and over have been vaccinated.
7. A growing body of evidence suggests that fully vaccinated people are less likely to have asymptomatic infection and to be able to transmit SARS-CoV-2 to others.

Studies show full vaccination to be >90% effective in the real-world settings in preventing mild and severe disease, hospitalization, and death. If you're vaccinated, you're less likely to spread the virus.

8. In light of this evidence, the United States Centers for Disease Control and Prevention (CDC) updated its COVID-19 advice on May 13, 2021, eliminating the recommendation that fully vaccinated people wear masks in most public places.
7. Pima County, through both the Board of Supervisors and its Health Department, has broad authority to take action to protect the public health and safety of all Pima County's inhabitants, see A.R.S. § 11-251 (17); A.R.S. Title 36, Chapter 1, Article 4; *Marsoner v. Pima County*, 166 Ariz. 486 (1991), including authority to adopt and enforce "regulations necessary for the public health and safety of the inhabitants," A.R.S. § 36-183.02.
8. For purposes of clarity, the Board desires to readopt and restate the provisions of Resolution 2020-96, with amendments to Sections 1, 2, and 3.

NOW, THEREFORE, BE IT RESOLVED,

Section 1. *Face coverings required.* Every person must wear a face covering that completely and snugly covers the person's nose and mouth when the person is in a public place or using public transportation and cannot easily maintain a continuous distance of at least six feet from all other persons. For purposes of this Resolution:

- a. "Face covering" does not include any mask that incorporates a one-way valve (typically a raised plastic cylinder about the size of a quarter on the front or side of the mask) that is designed to facilitate easy exhaling.
- b. "Public place" means any place, indoor or outdoor, that is open to the public or a segment of the public and includes, but is not limited to, businesses or other establishments where people assemble or members of the general public may enter; schools; offices; public buildings, highways, and parks.
- c. "Public transportation" includes planes, buses, trains, taxicabs and ride sharing, and transportation hubs such as airports and bus stations.

Section 2. *Exempt persons.* Section 1 of this Resolution does not apply to:

- a. Except with respect to public transportation, persons who have been fully vaccinated against COVID-19. A person is fully vaccinated 2 weeks after receiving their second dose in a 2-dose series, such as the Pfizer or Moderna vaccines, or 2 weeks after a single-dose vaccine, such as Johnson & Johnson's Janssen vaccine.
- b. Children under the age of 5. Parents or guardians are responsible for ensuring that children between the ages of 5 and 17 wear appropriate face coverings when required under this Resolution.

- c. Persons who cannot medically tolerate wearing a face covering. A person is not required to provide documentation demonstrating that the person cannot medically tolerate wearing a face covering.
- d. Persons who are hearing impaired, or communicating with a person who is hearing impaired, where the ability to see the mouth is essential for communication.
- e. Persons, including on-duty law-enforcement officers, for whom wearing a face covering would create a risk to the person related to their work, as determined by local, state, or federal regulators or workplace safety guidelines.
- f. Persons who are obtaining a service involving the nose, face, or head for which temporary removal of the face covering is necessary to perform the service.
- g. Persons who are eating or drinking at a restaurant or other establishment that offers food or beverage service, so long as the person is able to maintain a distance of 6 feet away from persons who are not members of the same household or party as the person.
- h. Any member of a group of persons who are in a public place together and live in the same household or are part of a party of 10 or less, so long as the group can easily maintain a continuous physical distance of at least 6 feet from all other persons not part of the household or party.
- i. Persons who are engaged in outdoor work, recreation, or exercise, when alone or as part of a group of people who live in the same household or constitute a party of 10 or less, so long as they are able to easily maintain a continuous physical distance of at least 6 feet from all other persons not part of the same household or party.
- j. Persons who are incarcerated.
- k. Persons who are swimming.
- l. For any activity not listed for exemption, an exemption may be granted on a case-by-case basis from the Pima County Chief Medical Officer and the Director of the Pima County Health Department. General descriptions of exemptions granted will be posted on a website accessible via www.pima.gov, without identifying who requested the exemption.

Section 3. *Establishments.* Establishments that are open to the public must provide face coverings to any employees who are not exempt under Section 2 and require them to wear them.

Section 4. *Complaints and investigations.* Pima County will provide a public website available via www.pima.gov through which any person may file a written complaint alleging noncompliance with this Resolution at any establishment that is open to the public. The website will allow the submission of photographs, and, when possible, photographs depicting violations should be provided. The Pima County Health

Department will investigate complaints and take enforcement action where appropriate. Pima County will post copies of the complaints and associated documentation, including photographs, on the website.

Section 5. *Compliance and enforcement.*

- a. A violation of Section 1 of this Resolution is a civil infraction that carries a penalty of \$50 per infraction.
- b. A violation of Section 3 of this Resolution by an establishment is a civil infraction that carries a penalty of \$500 per infraction. In addition, if the Pima County Health Department investigates and finds noncompliance at an establishment, it may recommend to any governing body that issues a permit or license to that establishment, including when applicable the Arizona State Liquor Board, that the permit or license be suspended.
- c. Nothing in this Resolution limits or precludes any other means of enforcement authorized by law.

Section 6. *Applicability.* This Resolution applies throughout Pima County, including within incorporated areas.

Section 7. *Effective date.* This Resolution is effective upon adoption.

Section 8. *Repeal of Resolution 2020-96.* This Resolution supersedes Resolution 2020-96, which is repealed upon the adoption of this Resolution, except that any investigation or enforcement taken under Resolution 2020-96 may continue until it has concluded, and any prior violations of Resolution 2020-96 may be considered prior noncompliance for purposes of investigations and enforcement under this Resolution.

PASSED AND ADOPTED this _____ day of May, 2021.

Sharon Bronson
Chair, Board of Supervisors

ATTEST:

APPROVED AS TO FORM:

Julie Castañeda, Clerk of the Board



Jonathan Pinkney, Deputy County Attorney