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# MEMORANDUM

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Date: September 18, 2020

To: The Honorable Chairman and Members  
Pima County Board of Supervisors

From: C.H. Huckelberry  
County Administrator 

Re: **Viva Coffee House Public Health Complaints**

At the September 15, 2020 Board of Supervisors Meeting, the Chairman had Mr. Kelly Walker removed from the Board Hearing Room for not following established Board rules. The basis of Mr. Walker's concerns relate primarily to the mask requirement for employees of Viva Coffee House and complaints about the establishment forwarded to our public health agency.

The County has received 12 public health complaints on the Viva Coffee House at 9136 E. Valencia Road. The County is obligated to review complaints to determine if they are valid. If found valid, the Health Department will ask the proprietor to take appropriate corrective action.

Early in the process, Viva Coffee House was cooperative and made efforts to and did comply with the requirements designed to reduce the spread of COVID-19. The first on-site visit occurred on July 21, 2020 where the establishment was not in compliance because employees were not wearing face masks or tables placed six feet apart. A follow up on July 28, 2020 indicated the facility was in compliance. Two additional complaints generated Pima County Mask Resolution investigations on July 31, 2020 and on August 6, 2020 both showing the facility in compliance at the time of inspection.

An additional complaint inspection on September 9, 2020 showed significant noncompliance. At that time, an employee of Viva Coffee House directed the Health Inspector to leave the establishment and threatened legal action against the County. The employee presented a three-page letter entitled "A Declaration of People's Primacy" to the inspector challenging the County's authority to impose face-covering requirements. (Attachment A) The Inspector attempted to schedule a follow up inspection for September 21, 2020 and an employee responded, "Don't bother. You're fired. You will be hearing from lawyers, politicians and a whole lot of pissed off people."

In reviewing the complaints and the actions of Pima County staff, I find staff tried to accommodate Viva Coffee House employees who were not wearing face masks by suggesting face shields and/or plexi glass separations.

It should be noted that the County Proclamation regarding public health requirements for establishments serving food was originally adopted by the Board of Supervisors on May 21,

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2020 and amended on July 15, 2020 to conform with the Governor's Executive Order and previous orders requiring face masks.

On June 17, 2020, Governor Ducey adopted mask requirements through Executive Order 2020-40 Containing the Spread of COVID-19 Requirements directing State health policy to require:

"All Businesses"... "Requiring face coverings when physical distancing is not feasible...shall implement and enforce a policy for the use of face coverings by employees and customers when feasible."

Further, the Governor's Requirements for Restaurants and Bars Providing Dine-In Services states:

"If the local government has not mandated mask or cloth face covering requirements, cloth masks and frequent handwashing is required for all servers, host staff and employees that interact with customers."

Governor Ducey's Executive Order provided no medical exemptions. Hence, the requirement of the Governor actually exceeds the County's Proclamation and Mask Resolution 2020-49 and superseded our requirements.

On September 15, 2020, the Viva Coffee House's Facebook page stated in part, "September 15 no more masks – end this nonsense – September 15 all over the world. We will all stop wearing masks. Just throw the filthy thing away." (Attachment B)

Clearly, Viva Coffee House does not intend to comply with Pima County's Proclamation, the face mask Resolution nor the Governor's Executive Order.

The County has no option other than to refer noncompliance to the County Attorney for appropriate action.

Pursuant to Section 5 of the Proclamation dated June 19, 2020, the Board is advised of potential legal action against Viva Coffee House.

CHH/anc

Attachments

c: Jan Leshner, Chief Deputy County Administrator  
Francisco García, MD, MPH, Deputy County Administrator & Chief Medical Officer,  
Health and Community Services  
Terry Cullen, MD, MS, Public Health Director, Pima County Health Department  
Loni Anderson, Division Manager for Consumer Health and Food Safety, Health  
Department

# ATTACHMENT A

# Declaration of the People's Primacy

We, the undersigned, hereby declare our self-evident, Constitutionally protected rights and assert our Primacy in administering them within our community, without interference or hindrance.

The "Laws of Nature and of Nature's God" entitle us to certain unalienable Rights. "Among these are Life, Liberty and the pursuit of Happiness." We will not tolerate continued usurpation or infringement of these basic human rights by any body, administrator, nor elected official.

Pursuant to the clear explicit wording of the *Declaration of Independence*, we do hereby alter the current form of governance over our community and institute new standards, reflective of original intent that will most affect our safety and happiness.

*Governments are instituted among Men, deriving their just powers from the consent of the governed," and, "whenever any Form of Government becomes destructive of these ends, it is the Right of the People to alter or to abolish it, and to institute new Government, laying its foundation on such principles and organizing its powers in such form, as to them shall seem most likely to effect their Safety and Happiness.*

We do not make these changes for "light and transient causes," but due to a "long train of abuses and usurpations." Because we have been submitted to absolute despotism, reaching into our sacred personal lives and autonomy, it is our right, it is our duty, to throw off such trespass of authority and provide new guards for our future security. Such has been the patient sufferance of the People, and such is now the necessity, which constrains us to alter our former systems of government. Should that system oppose our just alterations, we will *abolish* it.

The history of our present Governor and administrators, elected and appointed, is a history of repeated injuries and usurpations, all having in direct object the establishment of an absolute tyranny over individuals and local businesses. To prove this, let facts be submitted to a candid world:

- They have, without accountability and due regard to the will of the People, taken upon themselves unlimited "emergency powers," abusing this temporary delegation by shifting promised deadlines ("14 days to slow the spread," imposing an additional two weeks, then an indefinite timeline).
- They have made "orders" and "proclamations" without legislative oversight and without the People's consent by way of vote, including tyrannical prohibitions, cruel and demonstrably harmful to the mental health, domestic safety and wellbeing of the People, and applied them unequally, favoring the wealthy and/or famous, and taking exceptions for themselves.
- They have predicated severe and oppressive "shutdowns," and prohibitions on grossly incorrect projections, later proven false, without acknowledging the grave errors, nor adjusting their "orders" to be commensurate with corrected data. In utter incompetence, they have contradicted and reversed recommendations and chosen selective data rather than being guided by the Scientific Method, peer review and falsifiability.

- They have established jurisdiction foreign to our Constitution, and unacknowledged by our Laws; giving their assent to their acts of pretended legislation: closing down businesses essential to supporting families, preventing people from going to work, prohibiting the absolutely crucial human contact by which our species thrives from womb to grave, imposing costs for “protective equipment” without our consent; exposing us to trial, penalties, and defamation for non-legislated offenses.
- They have “quarantined” and detained healthy people against their will without *habeas corpus* instead of isolating the sick, with devastating consequences to society, livelihoods, mental and physical health.
- Under the guise of “protecting lives,” they have ignored rampant illness, domestic abuse, forced poverty, suffering and death resulting as collateral damage of their myopic prejudice and overreaction toward a single virus with a low death rate.
- They have capriciously decreed that certain categories and brands of businesses may remain open while others close—notably favoring large corporations while suppressing local businesses, thereby creating monopolies, often to the benefit of their own investments and political gain.
- They have dissolved repeatedly, civil protests and dissenting actions opposing with due firmness their invasions of civil rights.
- They have supported among us, in times of peace, adversarial entities without the consent of our legislatures, in the form of law enforcement instructed contrary to their Constitutional Oaths as well as independent of and superior to the civil power of the People, armies of bureaucrats to harass otherwise good-faith businesses, and a system encouraging citizens to “inform” on one another, pitting neighbors against one another.
- They have coerced people to wear facial masks upon threat of being denied access to food and substance on the flimsy pretext of “slight improvements to the growth of cases,” (E.O. 2020-52) without citing scientific studies, while ignoring the substantial negative health and social consequences of masking, well documented in peer-reviewed journals.

By abolishing the free System of our Bill of Rights and establishing therein an arbitrary form of government with absolute and unchecked self-appointed authority not given by the Will of the People, they have plundered our treasuries, ravaged our economy, burned our cities and destroyed lives.

They continue these damnable and unjust policies and practices while allowing and abetting large armies of organized rioters to complete the works of death, desolation and tyranny, already begun with circumstances of cruelty & perfidy scarcely paralleled in the most barbarous ages, and totally unworthy the heads of a civilized nation.

We have Petitioned for Redress in the most humble terms: Our repeated Petitions have been answered only by repeated injury. An administration whose character is thus marked by every act which may define a tyrant, is unfit to rule a free people.

We have warned them from time to time of attempts to extend an unwarrantable jurisdiction over us. We have appealed to their native justice and magnanimity, and we have conjured them by the ties of our common kindred to disavow these usurpations, which would inevitably

interrupt our connections and correspondence. They have been deaf to the voice of justice and of freedom.

**We must, therefore, acquiesce in the necessity and hold them to account as our servants, not our masters, and resume the administration of our own Natural Rights.**

**We, therefore, in general congress, assembled, appealing to the Supreme Judge of the world for the rectitude of our intentions, do, in the Name, and by Authority of the good People of this country and this community, solemnly publish and declare, that the People are—and of Right ought to be—Free and Independent to manage their own Natural Rights without interference and re-delegate only those powers essential to our collective good to our elected and appointed servants as we see fit.**

**Specifically, we retain Primacy in administering our own standards and actions regarding:**

- **Running our businesses at full operation without interference, while allowing consumers to exercise their right to stay home, wear protective equipment, or otherwise take ownership of their own health.**
- **Living our lives in the manner most consistent with our conscience and best understanding of the data, without regard to attempts to enforce “lockdowns,” face coverings, treatments, vaccinations or other impositions. Those who are convinced engaging in such practices will benefit their health, are free to do so, just as we are free to pursue alternative treatments. Natural Selection, as elucidated by Charles Darwin will work the native processes of adaptation and immune response for the betterment of the survival of our species as it has for hundreds of thousands of years without human intervention; we circumvent that scientific principle through avoidance, over-sanitation and undue reliance on synthetic prophylactics at our peril, as has been the case with overuse of antibiotics. No one has the right to force us to go against the Laws of Nature contrary to conscience.**
- **Love, physical touch, intimacy and social bonds are not in the purview of governing entities and are among the most basic and essential of human needs. No one has the right to impose artificial “distancing” orders.**
- **We will speak freely, without suppression of our Speech and expect that We the People, not government or technocrats will be the ultimate arbiters of truth, without interference from “fact checkers,” censoring or alteration of any kind. If any party wishes to expose what they consider to be fallacies or untruths, then let them state their case just as everyone else must do, and trust that the most substantiated arguments eventually prevail.**

**As Free and Independent People we have full Power and overwhelming numbers to defend our rights, conclude Peace, contract Alliances, establish Commerce, and to do all other Acts and Things which Independent People may of right do. And for the support of this Declaration, with a firm reliance on the protection of divine Providence, we mutually pledge to each other our Lives, our Fortunes and our sacred Honor.**

**We are Americans; we do not tolerate tyranny.**

# ATTACHMENT B



Viva Coffee House  
@VivaCoffeeHouse

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TUESDAY, SEPTEMBER 15



**NON-MASKERS**  
If you can stay 6 feet away, showing your smile is okay.

*"When we can't stay six feet from others, please wear a face covering."*  
-U.S. Surgeon General



**SEPT 15 NO MORE MASKS**



**END THIS NONSENSE**  
Tuesday, September 15.  
All over the world.  
We will all stop wearing masks.  
Just throw that filthy thing away.



**SEPT 15 NO MORE JUDGING**



**STOP BEING A "KAREN"**  
Unless your name is ACTUALLY Karen. Then, you're all good.  
We will all just stop being jerks to one another. Just throw away filthy snitching and judging.



**MASKERS**  
If you can stay 6 feet away, you're going to be okay

"The WHO's three-foot recommendation: droplets emitted when we breathe, cough, or sneeze—tend to land within three feet of where they're expelled."

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Send Message

Create Post



Write a post...



Photo/Video



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Photos

TUESDAY, SEPTEMBER 15



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Coffee Shop in Tucson, Arizona

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A Family's Vision

Viva Coffee House was started by a family obsessed with good coffee and loving the connection a loca...

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2,923 people follow this

932 check-ins

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