MEMORANDUM

Date: April 1, 2021

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

From: C.H. Huckelberry
County Administrator

Re: Adoption of Face Mask Requirements

The Board of Supervisors first adopted a resolution requiring the wearing of face coverings on June 19, 2020. (Attachment 1) The adoption of this resolution was in response to the very rapid rise in COVID-19 infections between May and June. In May 2020, the total number of COVID-19 infections in Pima County were 1,101. By June, this number increased fivefold to 5,622 COVID-19 infections.

The Board superseded and replaced Resolution 2020-49 with Resolution 2020-96, readopting face covering requirements and establishing monetary fines for violating the resolution, both for an individual and businesses. (Attachment 2) The business violation included the possibility of revoking or suspending appropriate business licenses or permits issued by the Board or the Arizona State Liquor Board. Resolution 2020-96 was adopted on December 4, 2020 when the number of COVID-19 cases between November and December nearly tripled. The number of COVID-19 cases reported in November was 11,035 and the number of cases reported in December was 29,663.

The actions of the Board were simply a response to the rapidly growing COVID-19 infection rates within the community. Centers for Disease Control guidelines and other studies have proven the efficacy of wearing a face mask to reduce infections. Common sense explains the reason physicians, surgeons and nurses in an operating theater wear masks. It should come as no surprise or debate that wearing a mask is the most cost effective manner of preventing the spread of COVID-19.

The County has received and continues to investigate mask complaints. We have received 2,675 actionable mask complaints and established an education first action before a fine or business license suspension or revocation. Of those actionable complaints, 20 required more detailed follow up; 10 were in County permitted facilities and 10 in non-County permitted facilities. None of the complaints went to what we would view as a third stage of enforcement, that is the issuance of an actual citation or fine.

Casual observation today of almost all businesses or public places demonstrates nearly universal mask wearing; hence, compliance is almost universal at this time.

Public policy is formulated by actions of elected officials and elected bodies. Prohibiting local governments from adopting or enforcing mask requirements is essentially a signal that the
The Honorable Chair and Members, Pima County Board of Supervisors
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The COVID-19 pandemic is not over. Below is a chart that shows the monthly number of cases from March 2020 to March 2021.

<table>
<thead>
<tr>
<th>Monthly Case Number Increases</th>
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<tbody>
<tr>
<td>COVID-19 Cases Reported</td>
</tr>
<tr>
<td>153</td>
</tr>
<tr>
<td>1,024</td>
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<td>1,101</td>
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<td>5,622</td>
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<td>4,342</td>
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<tr>
<td>2,892</td>
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<td>11,035</td>
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<td>31,642</td>
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<td>8,031</td>
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<td>3,189</td>
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</table>

The number of infections in the month of March 2021 is dramatically lower than the peak month of January 2021 with 3,189 cases versus 31,642 cases. However, it must be noted that the sum of infections in March, April and May of 2020 are less than the infections in March 2021. Therefore, it should be clear the pandemic is not over. Hence, the need to continue to adhere to public health protocols, including the wearing of masks.

A national trend has been observed in the last week suggesting significant increases in cases and hospitalizations. The State is reporting its first weekly increase in the number of cases, 4,183 last week compared to 3,876 cases the week before. A similar trend is now being seen in Pima County with 569 cases reported last week compared to 462 the week prior. (Attachment 3) Additionally, after seven consecutive weeks of decline in COVID deaths, Pima County reported 18 deaths compared to 15 deaths the week before. These still represent relatively minor increases, but the Health Department is concerned that this is consistent with the larger national trend.

This trend nationally may be related to a variety of COVID variants have been identified in circulation across the US and in Arizona now since January. Here in Pima County we began detection of the UK B117 variant among cases in early March. Shortly thereafter we began to see the UK variant identified in wastewater surveillance testing, confirming its presence in the County. Recently, the Manaus or Brazilian variant has been detected in wastewater stream indicating its presence in this community, although no cases to date have been definitively linked to this variant. These variants are concerning because they are more transmissible (UK variant) and also potentially more likely to cause severe disease and even death (UK and Brazilian variant). This type of variant expansion is not uncommon or
unexpected, but it does create greater urgency in order to achieve a level of community immunity before the new variants take hold.

Pima County is in a unique position. Our accelerated vaccination program has been critical in the delivery of 472,794 vaccine doses in this community and achieving first dose coverage of almost 30 percent. A full 190,380 residents of this County are now fully vaccinated. We continue to be well on track to achieve vaccination of 75 percent of the population before the end of the summer. This will allow us to achieve a sufficient level of community immunity to facilitate the resumption of significant levels of educational, economic and social activity.

We are very close to returning to a level of normalcy, however this process will be delayed if infection rates increase significantly. We clearly need to continue all mitigation measures, including the wearing of a mask.

As of Monday, April 5, 2021, vaccinations will be open to anyone over the age of 16, with no restrictions.

CHH/anc

Attachments

c: Jan Lesher, Chief Deputy County Administrator
   Carmine DeBonis, Jr., Deputy County Administrator for Public Works
   Francisco Garcia, MD, MPH, Deputy County Administrator & Chief Medical Officer, Health and Community Services
   Terry Cullen, MD, MS, Public Health Director, Pima County Health Department
RESOLUTION NO. 2020-49

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:


2. The Covid-19 pandemic is the worst public-health crisis the United States has faced in a century. It has caused over 117,000 confirmed deaths in the United States and infected over 2.1 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. On May 15, Governor Doug Ducey allowed his “Stay Home, Stay Healthy, Stay Connected” order, Executive Order 2020-18, to expire, and in its place issued Executive Order 2020-36, “Stay Healthy, Return Smarter, Return Stronger,” allowing businesses to reopen subject to physical-distancing and sanitation guidelines.

4. As businesses began to reopen in Arizona and other states, media outlets began reporting on and posting images of people gathering in large groups and failing to abide by physical-distancing guidelines.

5. Since the expiration of Executive Order 2020-18, and in particular in the last two-to-three weeks, Arizona has become a Covid-19 hotspot. It has seen a rapid rise in cases statewide. Before May 15, Arizona had not had a day with more than 560 reported new cases. In recent days over three times that number have been reported per day. Covid-19 hospitalizations, including hospitalizations in intensive-care units, are at record highs. The Director of the Arizona Department of Health Services has asked all hospitals to activate their emergency plans.

6. Arizona’s sharp uptick in cases has alarmed public-health experts across the country.

7. SARS-CoV-2, the novel coronavirus that causes Covid-19, is believed to be spread most commonly through respiratory droplets, and a person who is not experiencing...
symptoms may still be able to spread the virus to others. Studies have shown that face coverings may inhibit the virus from spreading from the wearer to others by keeping respiratory droplets containing the virus from traveling through the air to others. In other words, though face coverings may not protect the wearer, they likely protect others from the wearer, who may unknowingly be infected.

8. Accordingly, in addition to social-distancing and sanitation measures, the Centers for Disease Control (CDC) "recommends wearing cloth face coverings in public settings where other social distancing measures are difficult to maintain (e.g., grocery stores and pharmacies) especially in areas of significant community-based transmission."

9. As shown by the rapid increase in reported cases, Arizona is seeing significant community-based transmission of Covid-19. Indeed, Governor Ducey recently stated that "Covid-19 is widespread in Arizona" and issued Executive Order 2020-40, "Containing the Spread of COVID-19," which requires businesses to comply with applicable guidance, subjecting them to enforcement if they fail to do so, and provides that cities, towns, and counties are not prohibited by A.R.S. § 26-307 from adopting policies regarding wearing face coverings in public.

10. All Arizonans should be wearing face coverings when in public settings when it is not easy to stay at least six feet from others.

11. 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.

12. The adoption of regulations requiring all Pima County inhabitants, including those in cities and towns in Pima County, to wear face coverings when in public places where adequate physical-distancing cannot be easily maintained is necessary to protect the public health and safety of Pima County's inhabitants.

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 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 and includes, but is not limited to, businesses or other establishments where people assemble or members of the general public may enter; offices; public buildings, highways, and parks; and public transportation, including taxicabs and ride sharing.

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

a. 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.

b. 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.

c. 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.

d. 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.

e. 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.

f. 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.

g. 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.

h. 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.

i. Persons who are incarcerated.

j. Persons who are swimming.
k. 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 their employees and require them to wear them. Additionally, establishments that are open to the public and in which continuous physical distancing of at least six feet between persons cannot be easily maintained may refuse to allow a person who is not exempt under Section 2 and who is not wearing a face covering to enter the establishment and may request that a person inside the establishment leave if the person is not exempt under Section 2 and is not wearing a face covering.

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. The primary focus of enforcement is education and promotion of best practices to accomplish the goal of mitigating the spread of Covid-19. A person must be notified of the provisions of this Resolution and given an opportunity to comply before any further enforcement action is taken against the person. Further enforcement action may thereafter be taken in any manner provided by law, including as provided in A.R.S. §§ 36-183.04 through 36-183.07 or 36-191. No civil or criminal enforcement action will be taken without the express approval of the Board. 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.

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

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

PASSED AND ADOPTED this 19th day of June 2020.

Ramón Valadez
Chairman, Pima County Board of Supervisors
RESOLUTION NO. 2020-96

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:


2. The Covid-19 pandemic is the worst public-health crisis the United States has faced in a century. It has caused over 273,000 confirmed deaths in the United States and infected over 13.9 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. On June 19, 2020, the Pima County Board of Supervisors adopted Resolution 2020-49, 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 2020-49, as updated by those in this Resolution.

4. Section 5 of Resolution 2020-49 requires that the Board give express authorization before any civil or criminal enforcement of its requirements can be taken.

5. Arizona is again experiencing alarming community spread of Covid-19 and decreased availability of necessary healthcare resources, including hospital and intensive-care beds.

6. As part of the effort to mitigate the spread of Covid-19, more stringent enforcement of face-covering requirements is necessary.

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.

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8. For purposes of clarity, the Board desires to readopt and restate the provisions of Resolution 2020-49, with amendments to Sections 3 and 5 and other clarifying amendments in Section 1(b).

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 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; and public transportation, including taxicabs and ride sharing.

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c. 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.

d. 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.

e. 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.

f. 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.

g. 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.

h. 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.

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j. Persons who are swimming.

k. 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 their employees and require them to wear them. Additionally, establishments that are open to the public and in which continuous physical distancing of at least six feet between persons cannot be easily maintained must refuse to allow a person who is not exempt under Section 2 and who is not wearing a face covering to enter the establishment and must request that a person inside the establishment leave if the person is not exempt under Section 2 and is not wearing a face covering.

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 issued 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 2020-49. This Resolution supersedes Resolution 2020-49, which is repealed upon the adoption of this Resolution, except that any investigation or enforcement taken under Resolution 2020-49 may continue until it has concluded, and any prior violations of Resolution 2020-49 may be considered prior noncompliance for purposes of investigations and enforcement under this Resolution.

PASSED AND ADOPTED this 4th day of December, 2020.

Ramón Valadéz
Chairman, Board of Supervisors

ATTEST: 

Julie Gastañeda, Clerk of the Board

APPROVED AS TO FORM: 

Andrew L. Flagg, Deputy County Attorney
Pima County COVID-19 Deaths, Cases, and Hospitalizations Report

Chart 1: Pima County COVID-19 cases by MMWR Week

COVID-19 Cases by MMWR Week

*Date of Specimen Collection


*Note: Illnesses in the last 4-7 days may not be reported yet

Updated: 3/31/2021
Chart 2: Pima County COVID-19 deaths by MMWR Week

**Note**: Recent deaths may not be reported yet.