

RESOLUTION OF THE PIMA COUNTY BOARD OF SUPERVISORS ADOPTING REGULATIONS NECESSARY FOR THE PUBLIC HEALTH AND SAFETY OF PIMA COUNTY'S INHABITANTS, MANDATING A COUNTYWIDE CURFEW, WITH EXCEPTIONS, ESTABLISHING THE CURFEW PERIOD, AND PROVIDING FOR ENFORCEMENT OF THE MANDATORY CURFEW

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 nearly 300,000 confirmed deaths in the United States and infected close to 16 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. Some survivors experience serious long-term adverse health consequences whose duration is currently unknown.
3. Arizona is again experiencing alarming community spread of Covid-19 and decreased availability of necessary healthcare resources, including hospital and intensive-care beds. Indeed, Arizona currently is experiencing the fastest spread of Covid-19 of any state in the nation.
4. Spread of Covid-19 is particularly common during indoor gatherings such as at bars and parties. Adherence to strategies like mask wearing and social distancing is lower at these gatherings, and given the colder nighttime temperatures, people are more likely to gather indoors during those times.
5. On November 23, 2020, in an effort to curb rapid transmission during these nighttime activities, the Pima County Health Department issued a Public Health Advisory asking all individuals in Pima County to observe a voluntary curfew and remain in their homes between 10 p.m. and 5 a.m. except to work or engage in other essential activities.
6. On December 1, 2020, the Pima County Board of Supervisors voted to continue the voluntary curfew, subject to modification to make it mandatory based on metrics reported weekly by the Health Department. The Board also took other actions to mitigate the spread, including imposing civil penalties for violations of its face-covering mandate, accelerating enforcement against establishments who violate applicable guidance, and recommending that all County residents remain at home as much as they can, leaving their houses only for essential travel.

7. On Friday and Saturday, December 11 and 12, Pima County mobilized 46 inspectors and performed approximately 400 observations from multiple County departments to document compliance with the voluntary curfew. The investigation found noncompliance in approximately 15% of locations observed. Where noncompliance occurred, it was significant.
8. The results of the December 11 and 12 investigation make clear that the voluntary curfew has not been sufficiently effective in encouraging inhabitants of the County to remain at their homes during the curfew period. Accordingly, more stringent measures are necessary to protect the public health.
9. 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. Pima County additionally has authority to take emergency actions under A.R.S. Title 26, Chapter 2, Article 1.

NOW, THEREFORE, BE IT RESOLVED,

Section 1. Definitions.

1. "Curfew period" means the period beginning Tuesday, December 15, 2020 and ending on when the Pima County Health Department first reports that the number of confirmed Covid-19 infections in Pima County fall below 100 per 100,000 people, based on a 7-day moving average.
2. "Essential activity" has the same meaning provided in Governor Doug Ducey's Executive Order 2020-18 (March 30, 2020), as thereafter amended.
3. "Essential function" has the same meaning provided in Governor Doug Ducey's Executive Order 2020-12 (March 23, 2020), as thereafter amended.
4. "Public place" means any property, whether publicly or privately owned, that members of the public or a segment of the public may enter, and includes, but is not limited to, those places that charge a fee for entry or allow entry by invitation only. "Public place" does not include individual households.

Section 2. Mandatory curfew imposed. A mandatory, limited curfew is imposed on all inhabitants of Pima County. Between the hours of 10:00 p.m. and 5:00 a.m. each day during the curfew period, all persons are prohibited from standing, sitting, traveling, or being present on any public street or in any public place, including for the purpose of travel, with the following exemptions:

1. All law enforcement, firefighters, paramedics, or other medical or emergency-response personnel when engaged in their official duties.
2. Persons traveling directly to and from work; attending religious services; commercial trucking and delivery services; caring for a family member, friend, or animal; patronizing or operating a business that is an essential function; seeking medical care or fleeing dangerous circumstances; engaging in essential activities; and travel for any of the above services or purpose.
3. Persons experiencing homelessness.

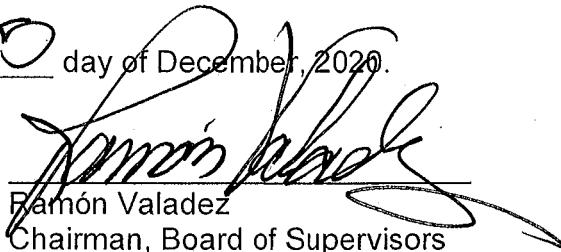
Section 3. *Obligations of establishments.* Any establishment that permits any individual on its premises to violate Section 2 of this Resolution is a public nuisance dangerous to the public health. The Pima County Health Department may take any available legal action to mitigate the risk to the public health, including but not limited to suspension or revocation of any operating permit issued by the Pima County Health Department.

Section 4. *Obligations of individuals.* The Pima County Health Department may take any available legal action against any individual who violates Section 2 of this Resolution and is a hazard to the public health.

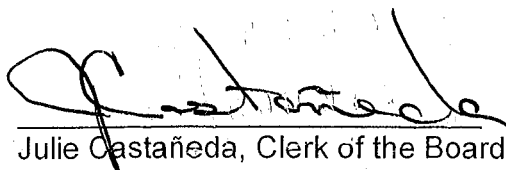
Section 5. *Applicability.* This Resolution applies throughout Pima County, including within incorporated areas.

Section 6. *Effective date and termination.* This Resolution is effective at the beginning of the Curfew Period and terminates automatically at the end of the Curfew Period, except that enforcement action may be commenced or continued after the Curfew Period until completed.

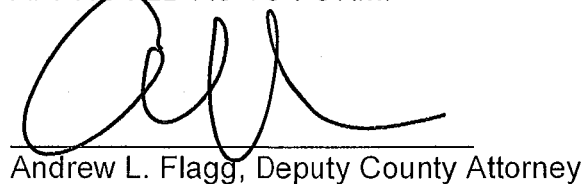
PASSED AND ADOPTED this 10 day of December, 2020.


Ramón Valadez
Chairman, Board of Supervisors

ATTEST:


Julie Castañeda, Clerk of the Board

APPROVED AS TO FORM:


Andrew L. Flagg, Deputy County Attorney