

**CITY OF ST. PETERSBURG, FLORIDA
EXECUTIVE ORDER NO. 2020- 24**

**AN ORDER OF THE MAYOR TAKING
EMERGENCY ACTION TO RESPOND TO
COVID-19 WITHIN THE CITY BY REQUIR-
ING OPERATORS OF BUSINESSES TO
FOLLOW APPLICABLE GUIDANCE CON-
CERNING COVID-19 BY IMPLEMENTING
MITIGATION AND CONTINGENCY PLAN-
NING AND BY ENSURING THAT
EMPLOYEES WEAR FACE COVERINGS IN
AREAS OPEN TO THE PUBLIC.**

THE FOLLOWING ORDER is hereby made by Rick Kriseman, in his capacity as Mayor of the City of St. Petersburg, Florida (the “**City**”):

SECTION 1—FINDINGS: I hereby make the following findings in support of the emergency actions taken by this order:

- (a) According to the Centers for Disease Control (the “**CDC**”), Novel Coronavirus Disease 2019 (“**COVID-19**”) is a severe acute respiratory illness that can spread among humans through respiratory transmission and presents with symptoms similar to those of influenza.
- (b) On March 9, 2020, pursuant to executive order 20-52, the Governor of the state of Florida declared a state of emergency throughout the state for the purpose of responding to COVID-19. That statewide emergency has been extended by subsequent order of the Governor (specifically, executive order 20-114), and it remains in effect at this time.
- (c) For purposes of this order, “**State Order**” means any executive order or similar directive issued by the Governor or by any other state official or entity for the purpose of responding to COVID-19 and that is effective within the City.
- (d) On March 13, 2020, the Pinellas County Board of Commissioners (“**BCC**”) adopted resolution 20-16 to declare a seven-day state of emergency in Pinellas County, Florida, (the “**County**”) for the purpose of responding to COVID-19. That countywide state of emergency has been extended in seven-day increments by subsequent resolutions, and it remains in effect at this time.

- (e) For purposes of this order, “**County Order**” means any resolution, order, or similar document that has been or will be adopted or promulgated by BCC or by any other County official or entity authorized to take emergency action for the purpose of responding to COVID-19 and that is effective within the City.
- (f) On March 12, 2020, pursuant to Florida Statutes section 252.38 and St. Petersburg City Code chapter 2, article VIII, division 2 (collectively, the “**Emergency Code**”), I issued executive order 2020-01, which contained a proclamation declaring a seven-day state of local emergency in the City for the purpose of responding to COVID-19. That state of local emergency for the City has been extended for consecutive seven-day periods by subsequent proclamations (most recently in Mayor’s executive order 2020-23), and it remains in effect at this time (collectively, the “**Emergency**”).
- (g) For the reasons described in these findings and in the findings made in the executive orders declaring and extending the Emergency, COVID-19 continues to pose an immediate danger to the public health, safety, and welfare of the City that requires emergency action.
- (h) Pursuant to the police powers granted to the City by the Florida Constitution and Florida Statutes chapter 166 and the emergency powers granted by Florida Statutes section 252.38 and the Emergency Code, I am authorized as the Mayor to impose curfews, confiscate property, declare areas off limits, close places of public assemblage, and take whatever prudent action is necessary to ensure the health, safety, and welfare of the community.
- (i) For purposes of this order, “**City Order**” means any executive order or similar directive issued by me pursuant to the authority described in the preceding finding for the purpose of responding to COVID-19, including this order.
- (j) Guidance released by the CDC on June 15, 2020, states (i) that the virus that causes COVID-19 is mostly spread by respiratory droplets released when people cough, sneeze, or talk and (ii) that a person can also get COVID-19 by touching a surface or object that has the virus on it and then touching their own nose, mouth, or possibly their eyes. This guidance goes on to state that “personal prevention practices (such as staying home when sick, social distancing, wearing a cloth face covering, and handwashing) and environmental prevention practices (such as cleaning and disinfection) are important ways to prevent the spread of COVID-19.”
- (k) Since the beginning of the Emergency, various emergency actions have been taken through State Orders, County Orders, and City Orders to implement mitigation measures recommended by the CDC and other public health authorities to prevent the spread of COVID-19.

The original mitigation measures were intended to “flatten the curve” so that an outbreak of COVID-19 would not overwhelm critical and limited healthcare capacity.

- (l) In April 2020, the Governor established the “Re-Open Florida Task Force” to develop a plan for the gradual elimination of these emergency actions. The task force released a plan called the “Safe. Smart. Step-by-Step. plan to re-open Florida” (the “**State Plan**”) that was intended to “support the highest practicable level of business operation while maintaining public health and safety, so that all Floridians can return to work and the economy can recover.”
- (m) The State Plan established three key metrics for determining the continuing effectiveness of mitigation measures that were based on the “White House Guidelines for Opening up America Again.” These three metrics (collectively, the “**State Metrics**”) can be summarized as follows:
 - (i) The “Syndromic Surveillance” metric looks for a downward trajectory of influenza-like illnesses *and* a downward trajectory of COVID-19-like illnesses (fever, cough, shortness of breath).
 - (ii) The “Epidemeology & Outbreak Decline” metric looks for a downward trajectory of documented COVID-19 cases *or* a downward trajectory of positive tests as a percent of total tests (flat or increasing volume of tests).
 - (iii) The “Health Care Capability” metric looks for a capability to treat all patients without triggering surge capacity *and* a robust testing program in place for at-risk healthcare workers, including emerging antibody testing.
- (n) Following release of the State Plan, the Governor issued a variety of State Orders to reduce or eliminate mitigation measures implemented in previous State Orders. These included executive order 20-112 (establishing “Phase 1”); executive order 20-120 (adding barber-shops, cosmetology salons, and cosmetology specialty salons to Phase 1); executive order 20-123 (establishing “Full” Phase 1); executive order 20-131 (adding organized youth activities to Full Phase 1); and executive order 20-139 (establishing “Phase 2”).
- (o) Based on data released by the Florida Department of Health through “Florida's COVID-19 Data and Surveillance Dashboard,” two of the three State Metrics are no longer being met in Pinellas County. This includes the “Syndromic Surveillance” metric (with respect to both influenza-like illnesses and COVID-19-like illnesses) and the “Epidemeology & Outbreak Decline” metric (with respect to both documented COVID-19 cases and the trajectory of positive tests as a percent of total tests).

- (p) Because two of the three State Metrics are no longer being met in Pinellas County, it is necessary to reinstitute mitigation measures in the City similar to those removed by recent State Orders. These mitigation measures have once again become necessary to prevent a widespread outbreak of COVID-19 that could cause unprecedented sickness and death in the City that overwhelms critical and limited healthcare capacity and that could cause unprecedented economic damage within the City.
- (q) According to guidance released by CDC dated June 15, 2020, the risk of contracting COVID-19 is increased by a variety of factors, including (i) interacting with more people; (ii) engaging with new people (e.g., those who don't live with you); and (iii) being close to people who may be infected. According to this guidance “[i]t’s important that you and the people around you wear a cloth face covering when in public and particularly when it’s difficult to stay 6 feet away from others consistently.”
- (r) Because business operations—particularly with respect to employees who have direct contact with patrons of the business—fall squarely within the factors for increased risk identified by that CDC guidance, it is necessary to protect the public interest to impose stricter mitigation measures for business operations in the City than those currently required under currently applicable State Orders and County Orders. These stricter mitigation measures, which are effectuated by this order, include (i) a requirement that the operator of each business follow applicable guidance to implement COVID-19 mitigation and contingency planning and (ii) a requirement that the operator of a business ensure that employees wear a face covering in areas of the business accessible to the public.
- (s) The CDC website has detailed guidance on mitigation and contingency planning for businesses entitled “Interim Guidance for Businesses and Employers to Plan and Respond to Coronavirus Disease 2019 (COVID-19)” (as may be finalized, amended, or superseded from time to time, the “**CDC Planning Guidance**”). Additionally, CDC recently released a “Resuming Business Toolkit” that summarizes practical steps needed to implement that CDC Planning Guidance.
- (t) The United States Occupational Safety and Health Administration (“**OSHA**”) also recently published a mitigation and contingency planning document entitled “Guidance for Preparing Workplaces for COVID-19” (as may be amended or superseded from time to time, the “**OSHA Planning Guidance**”). The introduction to this document states that “[l]ack of continuity planning can result in a cascade of failures as employers attempt to address challenges of COVID-19 with insufficient resources and workers who might not be adequately trained for jobs they may have to perform under pandemic conditions.” To help businesses address that problem, the document provides “planning guidance based on traditional infection prevention and industrial hygiene practices” that “focuses on the need for

employers to implement engineering, administrative, and work practice controls and personal protective equipment (PPE), as well as considerations for doing so.”

- (u) The CDC Planning Guidance and the OSHA Planning Guidance each provide an appropriate framework for a business to implement COVID-19 mitigation and contingency planning, as supplemented or superseded by industry-specific guidance from CDC, OSHA, or another authority.
- (v) The applicable State Orders and County Orders do not prohibit the stricter mitigation measures imposed by this order.
- (w) Because COVID-19 poses an unprecedented threat to the public health, safety, and welfare, there is a compelling governmental interest in reducing the spread of COVID-19 within the City, and the stricter mitigation measures imposed by this order are necessary to achieve that purpose and have been narrowly tailored to achieve that purpose.
- (x) Because the stricter mitigation measures imposed by this order are necessary only until the threat of a widespread outbreak of COVID-19 within the City has passed, such mitigation measures will be temporary in nature and will not be continuous or continuously recurring.
- (y) This proclamation is made in consideration of these findings, and the procedure used to make this proclamation is fair under the circumstances.

SECTION 2—RELATION TO OTHER EMERGENCY ACTIONS: This order is intended to be carried out in relation to applicable State Orders, County Orders, and other City Orders as follows:

- (a) In most cases, State Orders currently recommend—but do not require—that a business follow applicable guidance from CDC and OSHA to implement COVID-19 mitigation and contingency planning. As more particularly described in section 4, this order *requires* that a business in the City implement such planning. Similarly, in most cases, State Orders currently recommend—but do not require—that employees of a business wear a face covering. As more particularly described in section 5, this order *requires* that employees of a business in the City wear a face covering while in areas of the business open to the public. Otherwise, this order is intended to complement and be carried out in conjunction with all other State Orders or County Orders.
- (b) This order is not intended to supersede or terminate any preceding City Order and is intended to be carried out in conjunction with all City Orders currently in effect.

SECTION 3—DEFINITIONS: For purpose of this order, the following definitions apply:

- (a) “**Applicable guidance**” means any guidance concerning COVID-19 that has been promulgated by state and federal regulatory agencies, including CDC, OSHA, the Florida Department of Health, and the Florida Department of Business and Professional Regulation (“**DBPR**”).
- (b) “**Business**” means any business entity (regardless of corporate structure or formation) that is allowed to operate within the City under any applicable State Order or County Order. At present, this includes (i) restaurants; (ii) bars, pubs, and taverns; (iii) gyms; (iv) retail establishments; (v) entertainment businesses; (vi) personal service businesses; and (vii) barber shops and cosmetology salons.
- (c) “**Employee**” means an employee, agent, contractor, volunteer, or other person engaged in the day-to-day operation of a business.
- (d) “**Face covering**” means (i) personal protective equipment that covers the mouth and nose; (ii) a cloth face covering that covers the mouth and nose, as described by applicable guidance from the CDC; or (iii) any equivalent face covering.
- (e) “**Operator**” means any individual or entity that owns a business or that controls the operation of a business, regardless of the formal title or role held by that individual or entity.

SECTION 4—MITIGATION AND CONTINGENCY PLANNING: Effective Friday, June 19, 2020, at 5:00 PM, an operator shall ensure that that the operator’s business meets or exceeds the following requirements for COVID-19 mitigation and contingency planning:

- (a) An operator shall ensure that the business develops and updates a written plan for COVID-19 mitigation and contingency planning that addresses the topics in the CDC Planning Guidance or the OSHA Planning Guidance in accordance with the following:
 - (i) The plan may be based on the CDC Planning Guidance, the OSHA Planning Guidance, or both.
 - (ii) If any applicable guidance for a specific industry *supplements* the CDC Planning Guidance or the OSHA Planning Guidance (e.g., guidelines for gyms and fitness centers published by DBPR), that industry-specific applicable guidance must be reflected in the plan.

- (iii) If any applicable guidance for a specific industry *conflicts with* the CDC Planning Guidance or the OSHA Planning Guidance, that industry-specific applicable guidance supersedes the CDC Planning Guidance or OSHA Planning Guidance, as applicable, to the extent of the conflict.
- (iv) Because applicable guidance changes on a regular basis as more is learned about COVID-19, an operator shall ensure that applicable guidance is monitored for any changes and that the plan is updated to reflect such changes.
- (b) An operator shall ensure (i) that the plan is made available to each employee; (ii) that each employee receives training regarding compliance with the plan; and (iii) that each employee complies with the plan.
- (c) An operator shall ensure (i) that the plan is available to patrons of the business and (ii) that aspects of the plan that apply to patrons (e.g., with respect to social distancing or face covering) are clearly communicated to patrons through signage or other appropriate means.
- (d) An operator shall ensure that the plan is available to the public so that a member of the public can make an informed decision as to patronizing the business.

SECTION 5—FACE COVERINGS: Effective Friday, June 19, 2020, at 5:00 PM, employees of a business in the City will be required to wear a face covering in certain areas of the business as follows:

- (a) Subject to the exceptions in subsection (c), an operator shall (i) wear a face covering while in an area of the business open to the public (if that operator is an individual) and (ii) ensure that each employee wears a face covering while in an area of the business open to the public.
- (b) Subject to the exceptions in subsection (c), such face covering must be worn in a manner that covers the face and nose and that otherwise follows applicable guidance.
- (c) A person is not required to wear a face covering pursuant to this section 5 while any of the following exceptions apply to that person:
 - (i) If wearing a face covering is fundamentally incompatible with a job task performed by a person, these requirements do not apply during the performance of that job task.
 - (ii) These requirements do not apply while eating or drinking.
 - (iii) These requirements do not apply while exercising or using exercise equipment.

- (iv) If a person who is hearing-impaired needs to see the mouth of someone wearing a face covering to communicate with the person wearing the face covering, these requirements do not apply during the course of that communication.
- (v) These requirements do not apply to a person who has trouble breathing or while a person is unconscious, incapacitated, or otherwise unable to remove the face covering without assistance.
- (vi) These requirements do not apply if following these requirements would be detrimental to health, safety, or security. If this exception is being asserted for health reasons, the person asserting this exception is not required to carry or produce documentation verifying the health condition or to specifically identify the health condition to the business, an operator, or law enforcement.
- (vii) These requirements do not apply while removal of the face covering is necessary to obtain governmental or medical services.
- (viii) These requirements shall not be applied in a manner that would conflict with the Americans with Disabilities Act (ADA) or the Health Insurance Portability and Accountability Act of 1996 (HIPAA).

SECTION 6—ENFORCEMENT: Violation of this order is a municipal ordinance violation, and the provisions of City Code section 1-7 apply to any violation of this order.

SECTION 7—SEVERABILITY: The provisions of this order are intended to be severable, and a determination that any portion of this order is invalid should not affect the validity of the remaining portions of this order.

SECTION 8—DURATION: Pursuant to City Code section 2-425(e)(1), this order has full force and effect when filed with the City Clerk and continues in effect until the first to occur of the following: (i) amendment or termination of this order pursuant to a subsequent order or (ii) expiration or earlier termination of the Emergency.

[SIGNATURE PAGE FOLLOWS]

This order will have full force and effect of law when filed with the City Clerk.

Sign: 
Rick Kriseman, Mayor

Filed with the City Clerk:

Sign: 

Name: **Chan Srinivasa**

Title: **City Clerk**

Date: **June 17, 2020**

Time: **5:45 P.M.**

