

**CITY OF ST. PETERSBURG, FLORIDA
EXECUTIVE ORDER NO. 2020-27**

**AN ORDER OF THE MAYOR TAKING
EMERGENCY ACTION TO RESPOND TO
COVID-19 WITHIN THE CITY BY MAKING
A VIOLATION OF COUNTY ORDINANCE
20-14 A VIOLATION OF THIS ORDER AND
BY AMENDING AND RESTATING THE RE-
QUIREMENT THAT THE OPERATOR OF A
BUSINESS MUST IMPLEMENT COVID-19
MITIGATION AND CONTINGENCY PLAN-
NING.**

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 ordinance, 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 (with respect to that division, 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 2020-25), 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 most recent executive order extending the Emergency (which are hereby incorporated by reference), 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 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 during the Emergency.
- (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 some of the mitigation measures described by that CDC guidance. These 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 reduction and elimination of the mitigation measures established by previous State Orders. That 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.” 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.
- (m) 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”).
- (n) Based on data released by the Florida Department of Health through “Florida's COVID-19 Data and Surveillance Dashboard” as of June 24, 2020, 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).
- (o) Because two of the three State Metrics are no longer being met in Pinellas County, it remains necessary to continue stricter mitigation measures in the City. These stricter

mitigation measures remain 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.

- (p) CDC has issued a multiple guidance documents concerning the benefits and use of cloth face coverings to prevent the spread of COVID-19, including the following:
 - (i) CDC guidance entitled “About Cloth Face Coverings” provides that “cloth face coverings provide an extra layer to help prevent the respiratory droplets from traveling in the air and onto other people” and that “[a] cloth face covering may not protect the wearer, but it may keep the wearer from spreading the virus to others.”
 - (ii) CDC guidance entitled “Recommendations for Cloth Face Covers” provides that “[t]he cloth face coverings recommended are not surgical masks or N-95 respirators. Those are critical supplies that must continue to be reserved for healthcare workers and other medical first responders. . . .”
 - (iii) CDC guidance entitled “Homemade Cloth Face Coverings” provides guidance for making cloth face coverings at home from household items or from common materials available at low cost.
- (q) CDC guidance entitled “Deciding to Go Out” describes a variety of factors to be considered when evaluating the risk of COVID-19 exposure. This guidance document includes the following statements:
 - (i) Interacting with more people raises your risk.
 - (ii) Being in a group with people who aren’t social distancing or wearing cloth face coverings increases your risk.
 - (iii) Engaging with new people (e.g., those who don’t live with you) raises your risk.
 - (iv) The closer you are to other people who may be infected, the greater your risk of getting sick.
 - (v) Indoor spaces are more risky than outdoor spaces where it might be harder to keep people apart and there’s less ventilation.
- (r) Because business operations—particularly with respect to employees who have direct contact with patrons of the business—fall squarely within those increased risk factors identified by that CDC guidance, on June 17, 2020, I issued executive order 2020-24 to

require operators of businesses in the City to follow certain guidance from CDC and other authorities concerning COVID-19 (the “**City Business Order**”). In addition to requiring employees of each business in the City to wear face coverings in areas open to the public, the City Business Order also required each business in the City to implement COVID-19 mitigation and contingency planning in accordance with CDC or OSHA guidance.

- (s) On June 20, 2020, the State Surgeon General issued a public health advisory stating that “[a]ll individuals in Florida should wear face coverings in any setting where social distancing is not possible” subject to certain limited exceptions.
- (t) On June 22, 2020, in accordance with guidance from CDC and the State Surgeon General regarding the use of cloth face coverings, I issued executive order 2020-26 to require all adults to wear the type of cloth face covering recommended by CDC (or the equivalent) while in any indoor place of public assemblage located in the City, subject to appropriate exceptions for purposes of public health (the “**City Personal Order**”).
- (u) On June 23, 2020, BCC adopted Countywide ordinance 20-14, which is attached to and incorporated into this order (as it may be amended or interpreted by the County from time-to-time, the “**County Ordinance**”). The County Ordinance establishes a variety of mitigation measures concerning COVID-19, including (i) face covering requirements for businesses and individuals that are similar to those established by the City Business Order and the City Personal Order and (ii) certain social-distancing requirements for bars and restaurants that supplement those found in current State Orders. Implementing the requirements of the County Ordinance through this order will help prevent the spread of COVID-19 in the City and is, therefore, necessary to protect the public interest. Furthermore, it is appropriate to terminate the City Business Order and the City Personal Order to provide for uniform face covering requirements throughout the County.
- (v) The County Ordinance does not require the COVID-19 mitigation and contingency planning currently required under the City Business Order. Because those mitigation and contingency planning requirements will help prevent the spread of COVID-19 in the City, they remain necessary to protect the public interest. Accordingly, those requirements should be amended and restated in this order to continue in effect in a manner that conforms to the County Ordinance.
- (w) Currently applicable State Orders and County Orders do not preempt or prohibit the requirements set forth in this order.
- (x) 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 requirements set forth in this order are necessary to achieve that purpose and have been narrowly tailored to achieve that purpose.

- (y) Because the requirements set forth in this order will be necessary only until the threat of a widespread outbreak of COVID-19 within the City has passed, such requirements will be temporary in nature and will not be continuous or continuously recurring.
- (z) This order has been made in consideration of the information described in these findings. Accordingly, the procedure used to make this order 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—the mitigation measures required under the County Ordinance. This order, which incorporates the County Ordinance, *requires* that such mitigation measures be taken subject to the exceptions set forth in the County Ordinance. Otherwise, this order is intended to complement and be carried out in conjunction with all applicable State Orders and County Orders.
- (b) The City Business Order and the City Personal Order are terminated effective Thursday, June 25, 2020, at noon. Otherwise, this order is not intended to supersede or terminate any preceding City Order, and it is intended to be carried out in conjunction with all City Orders currently in effect. To the extent this order conflicts with any previous City Order, this order controls.

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 individual or entity (regardless of corporate structure or formation) that is considered a “business” under the County Ordinance.
- (c) “**Employee**” means an employee, agent, contractor, volunteer, or other person engaged in the day-to-day operation of a business.
- (d) “**Operator**” has the meaning provided in County Ordinance section 2(5).

SECTION 4—COUNTY ORDINANCE: Effective Thursday, June 25, 2020, at noon, violation of any provision of the County Ordinance will be deemed a violation of this order, and any violation of any requirement of the County Ordinance concerning control or operation of a business, business location, or business establishment will be deemed a violation by the business and by any operator of that business.

SECTION 5—MITIGATION AND CONTINGENCY PLANNING: Effective Thursday, June 25, 2020, at noon, an operator remains obligated to ensure that that the operator’s business meets or exceeds certain requirements for COVID-19 mitigation and contingency planning, as originally established by the City Business Order and as amended and restated here for conformance with the County Ordinance:

- (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.
 - (v) The plan must be consistent with the requirements of the County Ordinance and promote compliance with the County Ordinance.
- (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 6—ENFORCEMENT:

- (a) Violation of this order, which is made pursuant to the Emergency Code, is a municipal ordinance violation, and the provisions of City Code section 1-7 apply to any violation of this order. If a fine is imposed pursuant to this subsection (a), the fine will be imposed in accordance with the following, which is consistent with the fine schedule established by the County Ordinance:
 - (i) The fine for the first violation is \$100.
 - (ii) The fine for the second violation is \$250.
 - (iii) Following the second violation, the fine for each subsequent violation is \$500.
- (b) A repeat violation of this order, which is made pursuant to Florida Statutes section 252.38, is also punishable as a misdemeanor of the second degree pursuant to Florida Statutes section 252.50.

SECTION 7—SEVERABILITY: The provisions of this order are intended to be severable, and a determination that any portion of this order (including the County Ordinance) 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 25, 2020

Time: 10:07 A.M.



ORDINANCE NO. 20- 14

AN EMERGENCY ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF PINELLAS COUNTY, FLORIDA SETTING INDOOR PUBLIC SAFETY REQUIREMENTS; MANDATING THAT INDIVIDUALS WEAR A FACE COVERING IN PUBLIC INDOOR PLACES; ESTABLISHING EXCEPTIONS; ESTABLISHING PROHIBITIONS; PROVIDING FOR PENALTIES; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE SUSPENSION OF ALL COUNTY ORDINANCES INCONSISTENT HEREWITH; PROVIDING FOR TRANSMITTAL TO THE SECRETARY OF STATE AND PROVIDING FOR AN EFFECTIVE DATE AND SUNSET.

WHEREAS, 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

WHEREAS, on March 9, 2020, pursuant to executive order 20-52, the Governor of the state of Florida (“Governor”) 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; and

WHEREAS, On March 13, 2020, the Pinellas County Board of Commissioners (“Board”) 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; and

WHEREAS, the Governor has begun the process of relaxing restrictions on businesses and personal interactions pursuant orders implementing provisions of the Safe. Smart. Step-by-Step. Plan for Florida’s Recovery (“State Plan”); and

WHEREAS, testing for COVID-19 has recently shown dramatic increases in infection rates within Pinellas County – particularly within the 18-34 age group; and

WHEREAS, the Board finds that COVID-19 continues to present an increasing danger to the health, safety, and welfare of the public; and

WHEREAS, the Centers for Disease Control (CDC) advises that COVID-19 spreads mainly from person to person through respiratory droplets produced when an infected person coughs, sneezes, or talks; these droplets can land in the mouths or noses of people who are nearby or possibly be inhaled into the lungs; and studies and evidence on infection control report that these droplets usually travel around 6 feet (about two arms lengths); and

WHEREAS, the CDC advises that a significant portion of individuals with coronavirus lack symptoms (“asymptomatic”) and that even those who eventually develop symptoms (“pre-symptomatic”) can transmit the virus to others before showing symptoms. This means that the virus can spread between people interacting in close proximity—for example, speaking, coughing, or sneezing—even if those people are not exhibiting symptoms; and

WHEREAS, the CDC recommends wearing cloth face coverings in public settings where other social distancing measures are difficult to maintain in order to slow the spread of the virus and help people who may have the virus and do not know it from transmitting it to others; and

WHEREAS, the CDC does not recommend wearing cloth face covering for children under the age of 2, or anyone who has trouble breathing, or is unconscious, incapacitated or otherwise unable to remove the mask without assistance; and

WHEREAS, the CDC recommends only simple cloth face coverings for the general population and not surgical masks or N-95 respirators because these are critical supplies that must continue to be reserved for healthcare workers and other medical first responders; and

WHEREAS, cloth face coverings are relatively inexpensive and readily available as the CDC states they can be made from household items and provides online guidance for making “do-it-yourself” coverings for people that cannot or do not want to buy one from the increasing sources producing and selling coverings; and

WHEREAS, the Board finds it is in the best interest of public health, safety and welfare of the residents and workers of and visitors to Pinellas County to require suitable face coverings in certain public locations to slow the spread of COVID-19; and

WHEREAS, the Board finds the inconvenience of an ordinance requiring the use of face coverings or other suitable face coverings is minimal compared to the risk to the health, safety, and welfare of the community were no such rule imposed; and

WHEREAS, the Board finds implementation of this ordinance is necessary for the preservation of the health, safety, and welfare of the community; and

WHEREAS, Section 1(f) of Article VIII of the Florida Constitution vests the Board with the authority to enact ordinances having countywide effect that are not inconsistent with state law, provided that such ordinance shall not be effective within a municipality that has adopted an ordinance in conflict with the County ordinance, to the extent of such conflict; and

WHEREAS, pursuant to Pinellas County Charter section 2.04(k), the County has countywide authority for the development and implementation of Emergency Management programs countywide, prevailing over municipal ordinances where those ordinances conflict; and

WHEREAS, the State of Florida has not preempted local governments from regulating in the field of minimum health requirements with respect to COVID-19; and

WHEREAS, the County remains under a State of Local Emergency and this Ordinance is intended to constitute an order enforceable as misdemeanors by law enforcement through F.S. 252.47 and F.S. 252.50; and

WHEREAS, the County has elected to adopt this emergency order by ordinance to allow it to be enforced as a non-criminal local ordinance violation in addition to all other remedies available for enforcement of the Ordinance under the law.

NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF PINELLAS COUNTY, FLORIDA:

SECTION 1. Findings. The above recitals are adopted by the Board as legislative findings.

SECTION 2. Definitions. For purposes of this ordinance, the following terms are defined as follows:

- (1) **Face Covering.** A “face covering” is a material that securely covers the nose and mouth and remains affixed in place without the use of one’s hands and serves as personal protective equipment. It can be secured to the head with ties or straps or simply wrapped around the lower face covering the mouth and nostrils, as described by applicable guidance from the CDC. A cloth face covering may be factory-made or sewn by hand or can be improvised from clothing or other household items. Examples of compliant homemade masks may be found at <https://www.cdc.gov/coronavirus/2019ncov/prevent-gettingsick/diy-cloth-face-coverings.html>. A plexiglass face shield may be worn in place of a mask type covering. Persons who wear face coverings should review the CDC and Florida Department of Health guidelines regarding safely applying, removing, and cleaning face coverings.
- (2) **Social Distancing.** “Social distancing” means keeping space between yourself and other people by staying at least 6 feet (about 2 arm’s length) from other people, other than a Companion.
- (3) **Companion.** “Companion” means a person or persons by whom you are accompanied.
- (4) **Indoor Public Place.** An “Indoor Public Place” is any location to which the public has or may obtain legally permissible access, whether publicly or privately owned, that is under a roof or is enclosed by two or more walls, doors or other means of weatherproof material, including fabric material such as that used for a tent.
- (5) **Operator.** “Operator” means any individual or entity that owns a business or that controls the operation of a business location, even for a period of time, regardless of the formal title or role held by that individual or entity.
- (6) **Bar.** A “Bar” is a place licensed to, and which does, serve alcoholic beverages. It does not include a Restaurant. It includes but is not limited to nightclubs, taverns, bottle clubs, fraternal order organizations, or other place that serves alcoholic beverages for on-site

consumption. A Bar includes places outdoors, such as beach bars at hotels, etc., that otherwise meet this definition.

- (7) Restaurant. A “Restaurant” is an on-site or takeout food service establishment that, at the time of adoption of this Ordinance, has for the preceding 30 days, received at least 51 percent of gross food and beverage revenue from the sale of food and nonalcoholic beverages.

SECTION 3. Mandatory requirements and prohibitions.

(1) All persons must wear a face covering while in any Indoor Public Place within Pinellas County. All persons who own, manage, or are employed by any Restaurant or Bar within Pinellas County must wear a face covering at all times while on-duty and directly or indirectly preparing food or beverage, or serving food or beverage, or having customer contact, regardless of where the food or beverage is being prepared or whether the customers being served food or beverage or the customer contact is inside an Indoor Public Place or outdoors, such as on a patio or sidewalk. Persons are generally discouraged from utilizing N95 rated masks, as those are critical supplies for health care workers, police, fire, emergency management, or other persons engaged in life/safety activities.

(2) The face covering requirements of this Ordinance do not apply to:

- a. A person under the age of 18, except that person's use of a face covering is left to the discretion of that person's parent, guardian, or accompanying adult.
- b. Anyone while they are dining and/or consuming beverages while seated at a table or bar in a Bar or Restaurant as long as they are Social Distancing.
- c. These requirements do not apply if (i) less than 10 people are in the location and (ii) the people in that location maintain Social Distancing.
- d. Governmental entities, such as schools, courthouses, city halls, fire stations, State offices, etc. Governmental entities are encouraged to develop procedures to protect their own employees and members of the public transacting business within their entity.
- e. Hospitals and other health care facilities. These entities are encouraged to develop procedures to protect patients, their own employees and members of the public within their entity.
- f. Persons exercising while maintaining Social Distancing.
- g. These requirements do not apply during a period in which compliance would interfere with participation in a religious ritual where Social Distancing can be maintained.
- h. Public safety, fire, EMS, law enforcement and other life safety and health care personnel, as their personal protective equipment requirements will be governed by their respective agencies or employers.

- i. Business owners, managers, and employees who are in an area of a business establishment that is not open to customers, patrons, or the public, provided that 6 feet of distance exists between employees. ***This exception does not apply to employees who are present in the kitchen or other food and beverage preparation area of a restaurant or food establishment.***
- j. Patrons or customers in any Indoor Public Place that have no contact with an employee of the business except as protected by a solid barrier such as a plexiglass shield that substantially prohibits incidental infection from respiratory droplets, provided that 6 feet of distance exists between all other customers or persons not at all times protected by the solid barrier.
- k. A situation where any 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.
- l. 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.
- m. 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.
- n. These requirements may not be applied in a manner that would conflict with the Americans with Disabilities Act (ADA).
- o. These requirements do not apply within a workplace area not otherwise open to the public while a person is complying with engineering, administrative, and work practice controls and/or personal protective equipment (PPE) requirements, developed in accordance with the United States Occupational Safety and Health Administration (OSHA) mitigation and contingency planning document entitled “Guidance for Preparing Workplaces for COVID-19” (as it may be amended or superseded from time to time).

3) The owner, Operator, manager, and employee of a Bar, Restaurant or Indoor Public Place shall ensure that every individual in that establishment complies with this Ordinance. Each owner or Operator should establish rules for that business establishment that encourage social distancing, hand washing, and other protective measures for customers and employees based upon guidelines provided by the Centers of Disease Control and the State Department of Health, and where applicable, OSHA.

(4) Any business establishment, including all Bars and Restaurants, that serves food or drink for on-site consumption must comply with all of the following:

- a) Social Distancing must be maintained in accordance with this Ordinance and CDC guidance to the greatest extent feasible at all times.
- b) No food or drinks may be served to patrons for on-site consumption that are not seated at a table or bar. **Standing at a bar is prohibited.**
- c) Tables must be spaced such that no person and their Companions seated at a table is less than 6 feet from another seat or person and their Companions at a different table.
- d) Persons seated at a bar must be spaced such that no person with their Companions seated at the bar is less than 6 feet from another person or their Companions.
- e) Bars shall not maintain spaces that allow the congregation of unseated people. Bar patrons must not be permitted to remain unseated at a table or at the bar, in any area of the Bar, unless waiting to be seated. Any groups of patrons so waiting must remain Socially Distanced in groups not larger than 10, all of whom must be Companions. This specifically is intended to prohibit dance floor areas within any Bar or Restaurant or other areas allowing congregation of unseated persons.
- f) No group larger than 10 may be seated at any one table.

(5) It is unlawful and a violation of this Ordinance for any employer to prohibit any employee within Pinellas County from wearing a face covering as personal protective equipment as described in the CDC guidance relating to face coverings. This is not intended to prohibit employers from establishing uniform, non-discriminatory, standards that allow only specific face coverings provided by the employer provided that they are at least as protective as the employee supplied face covering as described by the CDC guidance.

(6) This Ordinance is not intended to decrease or lessen any social distancing or public protection requirements otherwise made applicable by law or order of the County, the State or any other local governmental entity.

SECTION 4. Penalties and Enforcement. This ordinance may be enforced through any of the following legal processes:

- (1) Non-Criminal Citation.
 - a. A code compliance or law enforcement officer may, upon observation of a violation by a person who does not immediately put on a face covering after receiving a warning, issue a Local Ordinance Violation citation to appear in County Court.
 - b. A code enforcement or law enforcement officer may, upon observation of a violation of any other provision of this ordinance, including Paragraph 4 of Section 3 of this Ordinance, by an owner or employee of a Restaurant or Bar, or a customer of such establishment, issue a Local Ordinance Violation citation to appear in County Court.

- c. Any person or business establishment prosecuted under this subsection and found in violation of this ordinance may be punished by a fine of \$100 for a first violation, \$250 for a second violation and \$500 for a third violation.

(2) Injunctive relief. This Ordinance may be enforced through a complaint for injunctive relief in Circuit Court seeking to enjoin violations that occur within the County.

(3) Misdemeanor Arrest or Notice to Appear for Repeat Violations. Repeat violations of this Ordinance, which was enacted for emergency purposes during a State of Local Emergency declared by the County, may be enforced by police officers or Sheriff's Deputies pursuant to the provisions of §§252.47 and 252.50, Florida Statutes.

(4) Defenses. An owner, Operator, manager, and/or employee of a business establishment shall not be liable in any enforcement action taken under this section for the violations of a guest, customer, and/or patron if that owner, Operator, manager, or employee directed that guest, customer, and/or patron who refuses to comply with the provisions of this Ordinance to vacate the premises or face prosecution of trespass.

SECTION 5. Severability. If any section, subsection, sentence, clause, or provision of this ordinance is held by a court of competent jurisdiction to be invalid, the remainder of this ordinance shall not be affected by such invalidity.

SECTION 6. Applicability and Conflict. This ordinance is intended to have countywide application. All County ordinances or parts of ordinances in conflict with this ordinance are hereby suspended to the extent of said conflict for the duration of this Ordinance.

SECTION 7. Effective Date. This Ordinance shall take at 5:00 P.M. on Wednesday June 24, 2020, and shall be filed with the Department of State.

SECTION 8. Sunset Date. Unless rescinded or extended by subsequent act of the Board, this ordinance shall sunset upon the expiration of the County State of Local Emergency as it may be extended pursuant to law.

SECTION 9. Codification. Due to the temporary nature of this ordinance, the Board directs the Clerk to send the ordinance to the Municipal Code for publication on its website but with instructions to not codify the ordinance within the Pinellas County Code.

PASSED AND ADOPTED by the Board of County Commissioners of Pinellas County, Florida, as an emergency ordinance at a regular meeting of said Board held on the 23rd day of June 2020.

Donald S. Crowell, Chief Asst. County Attorney: APPROVED AS TO FORM