

CITY OF ST. PETERSBURG, FLORIDA
EXECUTIVE ORDER NO. 2020- 26

**AN ORDER OF THE MAYOR TAKING
EMERGENCY ACTION TO RESPOND TO
COVID-19 WITHIN THE CITY BY REQUIR-
ING THE USE OF FACE COVERINGS IN
AREAS OF PUBLIC ASSEMBLAGE SUB-
JECT TO CERTAIN EXCEPTIONS.**

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 (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 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 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 22, 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 is necessary to institute stricter mitigation measures in the City. These mitigation measures have 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.

- (p) 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.
- (q) 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 “**Business Mitigation Order**”). In addition to requiring each business in the City to implement COVID-19 mitigation and contingency planning, the Business Mitigation Order also required employees of each business in the City to wear face coverings in areas open to the public.
- (r) CDC has issued a multiple guidance documents concerning the benefits and use of cloth face coverings, 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) Other 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 also provides guidance for making cloth face coverings at home from household items or from common materials available at low cost.

- (s) Because the State Metrics described in the preceding findings continue to demonstrate that current mitigation measures are insufficient to slow the spread of COVID-19 in Pinellas County, it is necessary to protect the public interest to expand the scope of the face covering requirement established in the Business Mitigation Order 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.
- (t) Because locations used for educational, child care, health care, and detention purposes are already subject to enhanced mitigation measures for licensing purposes, it is appropriate to exclude those locations from the definition of “place of public assemblage” for purposes of this order.
- (u) Currently applicable State Orders and County Orders do not prohibit the expanded face covering requirement imposed by this order.
- (v) 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 face covering requirement established by this order is necessary to achieve that purpose and has been narrowly tailored to achieve that purpose.
- (w) Because the face covering requirement established by this order is necessary only until the threat of a widespread outbreak of COVID-19 within the City has passed, such requirement will be temporary in nature and will not be continuous or continuously recurring.
- (x) This order is made in consideration of these findings, and 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—that an individual wear a face covering while in a place of public assemblage (as defined in section 3). As more particularly described in section 4, this order *requires* that a face covering be worn while in a place of public assemblage subject to certain exceptions. 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, including

the Business Mitigation Order. To the extent this order conflicts with any previous City Order, this order controls.

SECTION 3—PLACE OF PUBLIC ASSEMBLAGE, DEFINED: For purposes of this order, the term “**place of public assemblage**” means any room, space, common area, or other location within a building or other structure that is located within the City that is open to the public or made available for use by the public, in accordance with the following:

- (a) The term applies regardless of whether the building or other structure is permanent or temporary, and it includes any fully enclosed temporary structure, including a tent.
- (b) The term does not currently include any outdoor or partially enclosed structure.
- (c) The term applies regardless of whether the building or other structure is located on public or private property but does not apply to a building or other structure controlled by a governmental entity.
- (d) A location is considered “open to the public” even if entry requires purchase of a ticket, payment of a membership fee, or an invitation.
- (e) The term does not apply to a location within a building or other structure if access to that location is limited to owners, employees, contractors, or volunteers.
- (f) The term does not include any location classified by the Florida Fire Prevention Code (“**FFPC**”) for (i) residential one- and two-family dwelling unit occupancy; (ii) residential board and care; or (iii) residential board and care occupancy.
- (g) The term does not include any dwelling unit or sleeping accommodation within any location classified under the FFPC for the following types of occupancy: (i) lodging or rooming house; (ii) hotel; (iii) dormitory; or (iv) apartment building.
- (h) The term does not include any location classified by the FFPC for the following types of occupancy: (i) educational; (ii) day care; (iii) health care; (iv) ambulatory health care; or (v) detention and correctional.

SECTION 4—FACE COVERINGS: Effective Tuesday, June 23, 2020, at 5:00 PM, the following requirements regarding the use of face coverings in places of public assemblage will go into effect:

- (a) “**Face covering**” means (i) a cloth face covering that covers the mouth and nose, as described by applicable guidance from the CDC, or (ii) any equivalent face covering. A face covering may be store-bought or homemade.

- (b) Except as provided in section 5, any person who is 18 years of age or older shall wear a face covering while in a place of public assemblage. That face covering must (i) be worn in a manner that covers the face and nose; (ii) remain affixed in place without the use of the person's hands; and (iii) otherwise comply with CDC guidance for wearing such a face covering.
- (c) If a person is under the age of 18, that person's use of a face covering is left to the discretion of that person's parent, guardian, or accompanying adult. Applicable guidance from CDC states that a face covering is not appropriate for babies or children under the age of 2.
- (d) This section does not require or allow a person to wear a face covering in a manner that violates Florida Statutes chapter 876.

SECTION 5—EXCEPTIONS: A person is not required to wear a face covering pursuant to the requirements of section 4 while any of the following exceptions apply to that person:

- (a) If a person is not located in a place of public assemblage, these requirements do not apply.
- (b) 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. For purposes of this order, "**social distancing**" means keeping space between yourself and other people by staying at least 6 feet (about 2 arms' length) from other people, in accordance with CDC guidance.
- (c) If a person is wearing personal protective equipment that provides *more* protection than a face covering (e.g., an N95 mask), these requirements do not apply.
- (d) If wearing a face covering is fundamentally incompatible with an activity being performed by a person or a service being received by a person, these requirements do not apply to the person during the course of that activity or service. This includes:
 - (i) Eating or drinking.
 - (ii) Performance activities that require use of the mouth, including singing and public speaking into a microphone and the playing of certain musical instruments.
 - (iii) Receiving personal services that involve the mouth, the nose, or the skin that would be covered by a face covering (e.g., facial skin care).
 - (iv) Communicating with a person who is hearing-impaired and who needs to see the mouth of the person wearing the face covering to communicate with that person.
- (e) These requirements do not apply while exercising or using exercise equipment.

- (f) These requirements do not apply during a period in which compliance would interfere with participation in a religious ritual.
- (g) 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.
- (h) These requirements do not apply if compliance would be detrimental to a person's health, safety, or welfare. 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.
- (i) These requirements do not apply to police, fire, EMS, or other public- or life-safety personnel, whose protective equipment requirements are established by their respective agencies.
- (j) 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 22, 2020

Time: 5:30 P.M.