Commonwealth of Virginia
Office of the Governor

Executive Order

NUMBER SIXTY-FIVE (2020)
AND
ORDER OF PUBLIC HEALTH EMERGENCY SIX

PHASE TWO EASING OF CERTAIN TEMPORARY RESTRICTIONS DUE TO NOVEL CORONAVIRUS (COVID-19)

Excluding the City of Richmond and the Northern Virginia Region

Importance of the Issue

On May 8, 2020, Executive Order 61 and Order of Public Health Emergency Three began easing business, gathering, and traveling restrictions originally imposed by Executive Order 53 and Executive Order 55 issued in March of 2020. We did this because our health data metrics showed that we were increasing testing availability, we have adequate supply of personal protective equipment and hospital bed supply, the percentage of positive tests, hospitalizations, and positive tests were trending downward. The health data metrics for some jurisdictions, however, still presented sharper challenges. Therefore, pursuant to Executive Order 62 and Order of Public Health Emergency Four (2020), later amended, the Northern Virginia Region (as defined by that Order), the County of Accomack, and the City of Richmond remained in Phase Zero. On May 29, 2020, those jurisdictions moved into Phase One.

During the weeks that the majority of Virginia has been in Phase One, the public health metrics have continued to show the same trends. Our testing is increasing, our supply of personal protective equipment is steady, our hospital bed capacity remains steady, our hospitalizations statewide have a slight downward trend, and the percentage of positive tests continue to trend downward.

Now under this Order, the majority of the Commonwealth will move into Phase Two. The Northern Virginia Region and the City of Richmond will remain in Phase One under Third Amended Executive Order 61 and Third Amended Order of Public Health Emergency Three (2020). We have made remarkable progress over the past several weeks. As we move forward, we will remain vigilant, cautious, and measured. We will continue teleworking, whenever possible, to wash our hands frequently, to not touch our faces, and to wear face coverings. Through these

efforts, we will continue to protect ourselves, our families, and our fellow Virginians as we respond to this emergency.

Directive

Therefore, by virtue of the authority vested in me by Article V of the Constitution of Virginia, by § 44-146.17 of the *Code of Virginia*, by any other applicable law, and in furtherance of Amended Executive Order 51 (2020), and by virtue of the authority vested in the State Health Commissioner pursuant to §§ 32.1-13, 32.1-20, and 35.1-10 of the *Code of Virginia*, the following is ordered:

A. **EASING OF BUSINESS RESTRICTIONS**

1. All Businesses

Any businesses, not listed in this section, should adhere to the Guidelines for All Business Sectors expressly incorporated by reference herein ***as best practices***. This guidance is located here.

2. Restaurants, Dining Establishments, Food Courts, Breweries, Microbreweries, Distilleries, Wineries, and Tasting Rooms

Restaurants, dining establishments, food courts, breweries, microbreweries, distilleries, wineries, and tasting rooms may operate delivery, take-out, and indoor and outdoor dining and beverage services, provided such businesses comply with the Guidelines for All Business Sectors, and sector-specific guidance for restaurant and beverage services incorporated by reference herein. Such guidance includes, but is not limited to, the following requirements:

a. Occupancy may not exceed the 50% of the lowest occupancy load on the certificate of occupancy, if applicable.

b. All parties, whether seated together or across multiple tables, must be limited to 50 patrons or less.

c. Tables at which dining parties are seated must be positioned six feet apart from other tables. If tables are not movable, parties must be seated at least six feet apart.

d. No self-service of food (except beverages), including condiments. Condiments should be removed from tables and dispensed by employees upon the request of a customer. Buffets must be staffed by servers. For self-service beverage areas, use beverage equipment designed to dispense by a contamination-free method.

e. Bar seats and congregating areas of restaurants must be closed to patrons except for through-traffic. Non-bar seating in a bar area may be used for customer seating as long as a minimum of six feet is provided between parties at tables.

f. Employees working in customer-facing areas must wear face coverings over their nose and mouth at all times.

g. A thorough cleaning and disinfection of frequently-contacted surfaces must be conducted every 60 minutes during operation. Tabletops, chairs, and credit card/bill folders must be cleaned in between patrons.

h. If any such business cannot adhere to these requirements, it must close.

3. Farmers Markets

Farmers markets may continue to operate, provided such businesses comply with the Guidelines for All Business Sectors and the sector-specific guidelines for farmers markets incorporated by reference herein. Such guidance includes, but is not limited to, the following requirements:

a. On-site shopping is allowed, as long as physical distancing guidelines are followed. Configure operations to avoid congestion or congregation points.

b. Employees and vendors in customer-facing areas must wear face coverings over their nose and mouth at all times.

c. Vendors must supply hand sanitizer stations or hand washing stations for patrons and employees.

d. A thorough cleaning and disinfection of frequently-contacted surfaces must be conducted.

e. If any such business cannot adhere to these requirements, it must close.

4. Brick And Mortar Retail Businesses Not Listed In Section C, Paragraph 1 (Non-Essential Retail)

Any brick and mortar retail business not listed in section C, paragraph 1 may continue to operate, provided such business complies with the Guidelines for All Business Sectors and the sector-specific guidance for brick and mortar retail expressly incorporated by reference herein. Such guidance includes, but is not limited to, the following requirements:

a. Occupancy must be limited to no more than 50% of the lowest occupancy load on the certificate of occupancy.

b. Employees working in customer-facing areas must wear face coverings over their nose and mouth at all times.

c. If any such business cannot adhere to these requirements, it must close.

5. Fitness and Exercise Facilities

Fitness centers, gymnasiums, recreation centers, sports facilities, and exercise facilities may reopen for indoor and outdoor activities, provided such businesses comply with the Guidelines for All Business Sectors and the sector-specific guidelines for fitness and exercise facilities expressly incorporated by reference herein. Such guidance includes, but is not limited to, the following requirements:

a. Patrons, members, and guests must remain at least ten feet apart during all activities.

b. Instructors and all participants of group exercise and fitness classes must maintain at least ten feet of physical distancing between each other at all times.

c. The total number of attendees (including both participants and instructors) in all group exercise and fitness classes cannot exceed the lesser of 30% of the minimum occupancy load on the certificate of occupancy or 50 patrons, members, and guests.

d. Hot tubs, spas, splash pads, spray pools, and interactive play features must be closed.

e. Outdoor and indoor swimming pools may be open for lap swimming, diving, exercise, and instruction only and must be limited to no more than three persons per lane with ten feet of physical distance per swimmer.

f. Employees working in customer-facing areas are required to wear face coverings over their nose and mouth at all times.

g. Employers must ensure cleaning and disinfection of shared equipment after each use.

h. Facilities shall prohibit the use of any equipment that cannot be thoroughly disinfected between uses (e.g., climbing rope, exercise bands, etc.).

i. Businesses must supply hand sanitizer stations or hand washing stations for patrons, members, and guests.

j. If any such business cannot adhere to these requirements, it must close.

6. Personal Care and Personal Grooming Services

Beauty salons, barbershops, spas, massage centers, tanning salons, tattoo shops, and any other location where personal care or personal grooming services are performed may continue to operate, provided such businesses comply with the Guidelines for All Business Sectors and the sector-specific guidelines for personal care and personal grooming services expressly incorporated by reference herein. Such guidance includes, but is not limited to, the following requirements:

a. Occupancy may not exceed 50% of the lowest occupancy load on the certificate of occupancy with at least six feet of physical distancing between work stations and no more than two appointments per service provider at a time.

b. Service providers and employees working in customer-facing areas must wear face coverings over their nose and mouth at all times.

c. Provide face coverings for clients or ask that clients bring a face covering with them, which they must wear during the service. Limit services to only those that can be completed without clients removing their face covering.

d. A thorough cleaning and disinfection of frequently-contacted surfaces must be conducted every 60 minutes in operations, while cleaning and disinfecting all personal care and personal grooming tools after each use. If that is not possible, such items must be discarded.

e. If any such business cannot adhere to these requirements, it must close.

7. Campgrounds

Privately-owned campgrounds as defined in § 35.1-1 of the *Code of Virginia* may continue to operate, provided they comply with the Guidelines for All Business Sectors and the sector-specific guidelines for campgrounds, which are expressly incorporated by reference herein. Such guidance includes, but is not limited to, the following requirements:

a. A minimum of 20 feet must be maintained between units for all lots rented for short-term stays of less than 14 nights (and not owned by individuals).

b. Employees working in public-facing areas are required to wear face coverings over their nose and mouth at all times.

c. It is recommended that campgrounds must strongly encourage customers to wear face coverings over their nose and mouth.

d. The provision of hand washing in bath houses and sanitizing stations for guests and employees.

e. If any such business cannot adhere to these requirements, it must close.

8. Indoor Shooting Ranges

Indoor shooting ranges may operate, provided they comply with the following requirements:

a. Occupancy must be limited to 50% of the lowest occupancy load on the certificate of occupancy with at least six feet of physical distancing between individuals at all times. Use every other lane to achieve six feet of physical distancing.

b. Employees working in customer-facing areas are required to wear face coverings over their nose and mouth at all times.

c. Perform thorough cleaning and disinfection of frequently-contacted surfaces every 60 minutes in operation, while disinfecting all equipment between each customer use and prohibiting the use of equipment that cannot be thoroughly disinfected.

d. Either thoroughly clean shared or borrowed equipment in between uses, or only allow the use of personal equipment at the range.

e. If any such indoor shooting range cannot adhere to these requirements, it must close.

9. Public Beaches

All public beaches as defined in § 10.1-705 of the *Code of Virginia* may remain open to individual and family recreational activity, in addition to exercise and fishing. All such public beaches, with the exception of the beaches in the City of Virginia Beach, must comply with the requirements below.

a. Require beachgoers to practice physical distancing of at least six feet between each person unless they are with members of the same household.

b. Prohibit gatherings of more than 50 people.

c. Prohibit group sports, alcohol, tents, groupings of umbrellas, and other activities and items that attract gatherings.

d. Prohibit entertainment and programming that generate gatherings.

e. All common areas that encourage gatherings, such as pavilions, gazebos, playsets, and picnic areas must remain closed. This does not apply to fishing piers.

f. Implement a cleaning schedule for all high-touch surfaces made of plastic or metal such as benches and railings that includes cleaning at least every two hours between the hours of 9 a.m. and 6 p.m.

g. Establish, train, and deploy a team to educate and promote compliance with beach rules and refer cases of noncompliance to public safety personnel, if appropriate.

h. Establish procedures for temporary beach closure or access limitations in the event of overcrowding.

i. Ensure adequate personal protective equipment for all lifeguards.

j. Perform a disinfectant-level cleaning of all public restrooms every two hours with an EPA-approved disinfectant by staff or volunteers trained to follow Centers for Disease Control and Prevention (CDC) guidance on cleaning and disinfecting.

k. For chair and umbrella rental companies, require vendors to set up chairs and umbrellas for customers, maintaining at least six feet of distance between groups, and to clean equipment between rentals following Environmental Protection Agency and CDC guidelines on cleaning and disinfecting.

l. Post signage at all public access points to the beaches and other "cluster prone" areas providing health reminders regarding physical distancing, gathering prohibitions, options for high risk individuals, and staying home if sick. Messaging must be specific to location.

m. Locality shall provide daily metrics to its local health department to include beach closures, complaint incidents, police reports of violence related to enforcement, and number of reports of noncompliance to be submitted each Monday.

n. All employees and contract workers must wear a cloth face covering when not able to practice physical distancing following CDC Use of Face Cloth Coverings guidance.

o. Employees and contract workers must have access to soap and water or hand sanitizer containing at least 60% alcohol, and locality should provide best hygiene practices to employees on a regular basis, including washing hands often with soap and water for at least 20 seconds and practicing respiratory etiquette protocols.

p. Locality shall require all employees and contract workers to take their temperature before reporting to work and direct such employees not to report to work if they have a fever of over 100.4 degrees, have experienced chills, or have been feverish in the last 72 hours.

q. Follow enhanced workplace safety best practices outlined in the Guidelines for All Business Sectors.

Public beaches in the City of Virginia Beach may continue to operate provided activities on the public beaches are conducted in compliance with the requirements linked here and here.

10. Racetracks

Outdoor racetracks may remain open for racing events, provided such businesses comply with the Guidelines for All Business Sectors and the sector-specific guidelines for racetracks expressly incorporated by reference herein and linked here and here. Such guidance includes, but is not limited to, the following requirements:

a. The event must be held at locations with the ability to restrict access (i.e. barriers and gating that would preclude the general public from accessing the event).

b. No tailgating and camping is allowed during these events, including staff or race participants.

c. Entrances and exits must be staffed.

d. No spectators or members of the public are permitted to attend the event. This includes owners, family (unless the guardian of a minor child), as well as outside vendors. Only individuals essential to the operation of the event are permitted to attend.

e. All individuals must maintain at least six feet of physical distancing between themselves and other participants.

f. Prior to each race event, participants must self-monitor their symptoms by taking their temperature to check for fever.

g. No public-facing amenities will be provided, including concessions, food sales, merchandise sales, hospitality, or loitering on the property, or fan experiences.

11. Recreational and Entertainment Businesses

Outdoor performing arts venues, outdoor concert venues, outdoor sports venues, outdoor movie theaters, museums, aquariums, zoos, and botanical gardens may reopen, provided such businesses comply with the Guidelines for All Business Sectors and the sector-specific guidelines, which are expressly incorporated by reference herein. Such guidance includes, but is not limited to, the following requirement:

a. The total number of attendees (including both participants and spectators) cannot exceed the lesser of 50% of the occupancy load of the venue, if applicable, or 50 persons.

b. Install visible markers for queue lines that separate people by six feet of physical distance.

c. Create a guest flow plan of modified queue lines into and within the facility. Determine areas likely to become bottlenecks or pinch points and adjust guest flow accordingly.

d. Perform thorough cleaning and disinfection of frequently-contacted surfaces including digital ordering devices, check presenters, self-service areas, tabletops, bathroom surfaces, and other common touch areas every 60 minutes during operation.

e. Where possible, install sneeze guards in front of commonly used point-of-sale or guest service stations.

f. Employees working in customer-facing areas are required to wear face coverings over their nose and mouth.

g. Provide hand washing or sanitizing stations for guests and employees.

h. If any such business cannot adhere to these requirements, it must close.

12. Public and private social clubs

Public and private social clubs may reopen, provided such establishments abide by the gathering ban in section B, paragraph 2 of this Order and comply with the Guidelines for All Business Sectors and the sector-specific guidelines for public and private social clubs expressly incorporated by reference herein.

13. Recreational Sports

Indoor and outdoor recreational sports activities are permitted, provided participants and organizers of recreational sports activities comply with the Guidelines for All Business Sectors and the sector-specific guidelines for recreational sports expressly incorporated by reference herein. Such guidance includes, but is not limited to, the following requirements:

a. Ten feet of physical distance must be maintained by all instructors, participants, and spectators, with the exception of incidental contact or contact between members of the same household. This applies during instruction and practice and during competitive events. Competition that involves close contact with other athletes must be avoided.

b. The total number of attendees (including both participants and spectators) of outdoor recreational sports cannot exceed the lesser of 50% of the occupancy load of the venue, if applicable, or 50 persons. For sports played on a field, attendees are limited to 50 persons per field.

c. The total number of attendees for indoor recreational sports cannot exceed the lesser of 30% of the lowest occupancy load on the certificate of occupancy or 50 persons. For sports played on a field, attendees are limited to 50 persons per field.

d. For indoor recreational sports, spectators may not be present except parents, guardians, or caretakers who are supervising children.

14. Enforcement

Guidelines for All Business Sectors and the sector-specific guidelines appear here. The Virginia Department of Health shall have authority to enforce section A of this Order. Any willful violation or refusal, failure, or neglect to comply with this Order, issued pursuant to § 32.1-13 of the *Code of Virginia*, is punishable as a Class 1 misdemeanor pursuant to § 32.1-27 of the *Code of Virginia*. The State Health Commissioner may also seek injunctive relief in circuit court for violation of this Order, pursuant to § 32.1-27 of the *Code of Virginia*. In addition, any agency with regulatory authority over a business listed in section A may enforce this Order as to that business to the extent permitted by law.

B. CONTINUED RESTRICTIONS

1. Certain Recreational and Entertainment Businesses

All public access to recreational and entertainment businesses set forth below shall remain closed:

a. Indoor theaters, Indoor performing arts centers, indoor concert venues, and other indoor entertainment centers;

b. Historic horse racing facilities; and

c. Bowling alleys, skating rinks, arcades, amusement parks, trampoline parks, fairs, carnivals, arts and craft facilities, escape rooms, and other places of indoor public amusement.

2. All Public And Private In-Person Gatherings

All public and private in-person gatherings of more than 50 individuals are prohibited. The presence of more than 50 individuals performing functions of their employment is

not a "gathering." A "gathering" includes, but is not limited to, parties, celebrations, or other social events, whether they occur indoors or outdoors.

This restriction does not apply to the gathering of family members living in the same residence. "Family members" include blood relations, adopted, step, and foster relations, as well as all individuals residing in the same household. Family members are not required to maintain physical distancing while in their homes.

a. Individuals may attend religious services subject to the following requirements:

   i. Religious services must be limited to no more than 50% of the lowest occupancy load on the certificate of occupancy of the room or facility in which the religious services are conducted.

   ii. Individuals attending religious services must be at least six feet apart when seated and must practice proper physical distancing at all times. Family members, as defined above, may be seated together.

   iii. Mark seating in six-foot increments and in common areas where attendees may congregate.

   iv. Attendees shall not pass items to other attendees, who are not family members, as defined above.

   v. Any items used to distribute food or beverages must be disposable, used only once, and discarded.

   vi. A thorough cleaning and disinfection of frequently-contacted surfaces must be conducted prior to and following any religious service.

   vii. Post signage at the entrance that states that no one with a fever or symptoms of COVID-19 is permitted in the establishment.

   viii. Post signage to provide public health reminders regarding social distancing, gatherings, options for high risk individuals, and staying home if sick.

   ix. If religious services cannot be conducted in compliance with the above requirements, they must not be held in-person.

Further, any social gathering held in connection with a religious service is subject to the public and private in-person gatherings restriction in section B, paragraph 2. Additional suggested guidance can be found here.

3. Institutions of Higher Education

Institutions of higher education are encouraged to continue remote learning where practical. However, such institutions may offer in-person classes and instruction, including labs and related practical training, provided they comply with all applicable requirements under the "Guidelines for All Business Sectors." No institutions of higher education shall hold or host gatherings of more than 50 individuals. Any postsecondary provider offering vocational training in a profession regulated by a Virginia state agency/board must also comply with any sector-specific guidelines relevant to that profession to the extent possible under the regulatory training requirements. Such professions may include, but are not necessarily limited to: aesthetician, barber, cosmetologist, massage therapist, nail technician, and practical nurse

4. Overnight Summer Camps

Overnight services of summer camps, as defined in § 35.1-1 of the *Code of Virginia*, must remain closed.

5. Enforcement

Violations of section B paragraphs 1, 2, 3, and 4 of this Order shall be a Class 1 misdemeanor pursuant to § 44-146.17 of the *Code of Virginia*.

C. CONTINUED GUIDANCE AND DIRECTION

1. Essential Retail Businesses

Essential retail businesses as set out below may remain open during their normal business hours. They should comply with the Guidelines for All Business Sectors expressly incorporated by reference and linked here, as ***best practices***. Employers are required to provide face coverings to employees.

a. Grocery stores, pharmacies, and other retailers that sell food and beverage products or pharmacy products, including dollar stores, and department stores with grocery or pharmacy operations;

b. Medical, laboratory, and vision supply retailers;

c. Electronic retailers that sell or service cell phones, computers, tablets, and other communications technology;

d. Automotive parts, accessories, and tire retailers as well as automotive repair facilities;

e. Home improvement, hardware, building material, and building supply retailers;

f. Lawn and garden equipment retailers;

g. Beer, wine, and liquor stores;

h. Retail functions of gas stations and convenience stores;

i. Retail located within healthcare facilities;

j. Banks and other financial institutions with retail functions;

k. Pet and feed stores;

l. Printing and office supply stores; and

m. Laundromats and dry cleaners.

2. State Agencies

All relevant state agencies shall continue to work with all housing partners to execute strategies to protect the health, safety, and well-being of Virginians experiencing homelessness during this pandemic and to assist Virginians in avoiding evictions or foreclosures.

3. Face Coverings

The waiver of § 18.2-422 of the *Code of Virginia* is continued, so as to allow the wearing of a medical mask, respirator, or any other protective face covering for the purpose of facilitating the protection of one's personal health in response to the COVID-19 public health emergency declared by the State Health Commissioner on February 7, 2020, and reflected in Amended Executive Order 51 (2020) declaring a state of emergency in the Commonwealth. Amended Executive Order 51 (2020) remains so amended. This waiver is effective as of March 12, 2020.

Further, where a mandatory business sector requirement in this Order conflicts with a requirement to wear a face covering in Executive Order 63 and Order of Public Health Emergency Five (2020), the business sector-specific requirement governs.

4. State Travel

Continued cessation of all official travel outside of Virginia by state employees, with increased flexibility for inter-state commuters and essential personnel.

5. Exceptions

Nothing in the Order shall limit: (a) the provision of health care or medical services; (b) access to essential services for low-income residents, such as food banks; (c) the

operations of the media; (d) law enforcement agencies; or (e) the operation of government.

6. Expiration of Order

Executive Order 55 (2020) shall expire at 11:59 p.m., June 4, 2020.

Effective Date of the Executive Order

This Order shall be effective 12:00 a.m., Friday, June 5, 2020. This Executive Order shall remain in full force and effect until amended or rescinded by further executive order.

Given under my hand and under the Seal of the Commonwealth of Virginia and the Seal of the Office of the State Health Commissioner of the Commonwealth of Virginia, this 2nd day of June, 2020.

Ralph S. Northam, Governor

M. Norman Oliver, MD, MA
State Health Commissioner

Attest:

Kelly Thomasson, Secretary of the Commonwealth