Commonwealth of Virginia
Office of the Governor

Executive Order

FOURTH AMENDED NUMBER SEVENTY-TWO (2021)
AND
ORDER OF PUBLIC HEALTH EMERGENCY NINE

FURTHER EASING OF COMMONSENSE SURGE RESTRICTIONS DUE TO NOVEL CORONAVIRUS (COVID-19)

Importance of the Issue

In December 2020, as case counts and positivity rates rose, Executive Order 72 imposed additional temporary restrictions to stem the surge of COVID-19 in the Commonwealth. Currently, Virginia's seven-day moving average of new COVID-19 cases is more than 1,211 per day, which is higher than at any point in the first nine months of the pandemic. Virginia's seven-day PCR percent test positivity rate is 5.4 percent. The statewide rate of COVID-19 ICU hospitalizations (2.3 per 100,000) is below the threshold of concern (3.5 per 100,000). The daily case incidence rate is 17.6 per 100,000, which is above the threshold of concern (14.3 per 100,000) and cases have been increasing for seven days. Therefore, the health data makes it clear that, while Executive Order 72's temporary restrictions can continue to be eased slightly, they must largely remain in place a little longer. In addition, every Virginian must continue to practice measures that are proven to keep people safe: avoid gatherings with anyone outside your household, practice hand sanitation, maintain proper physical distance from others, stay home when possible, and wear masks while indoors and in public. We have to continue to work together to keep each other safe.

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:

I. CONTINUED RESTRICTIONS

A. BUSINESS RESTRICTIONS

1. **All Businesses**

   Any business not listed in section I, subsections A or C below must 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 continue to operate delivery, take-out, and indoor and outdoor service, 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. No alcoholic beverage shall be sold, consumed, or possessed on premises between the hours of 12:00 midnight and 5:00 a.m. in any restaurant, dining establishment, food court, brewery, microbrewery, distillery, winery, or tasting room. Alcoholic beverages may continue to be sold via delivery or take-out between the hours of 12:00 midnight and 5:00 a.m., as permitted by existing regulations promulgated by the Virginia Alcoholic Beverage Control Authority.

   b. Closure of all dining and congregation areas in restaurants, dining establishments, food courts, breweries, microbreweries, distilleries, wineries, and tasting rooms between the hours of 12:00 midnight and 5:00 a.m. Restaurants, dining establishments, food courts, breweries, microbreweries, distilleries, wineries, and tasting rooms may continue to offer delivery and take-out services between the hours of 12:00 midnight and 5:00 a.m.

   c. **All private bookings are limited to 50 people indoors and 100 people outdoors, and must comply with section I, subsection B, paragraph 1.**

   d. All parties must be separated by at least six feet, including in the bar area. 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, including in the bar area.

   e. Customers may be provided with self-service options. Facilities must provide hand sanitizer at food lines and require the use of barriers (e.g., gloves or deli paper) when employees or patrons touch common utensils. Food lines must be monitored by trained staff at all times of operation, and serving utensils must be changed hourly.

f. Employees must wear masks over their nose and mouth while working at their place of employment. **Exceptions noted in section II do not apply.**

g. Patrons must wear masks over their nose and mouth, except while eating or drinking in accordance with section II.

h. Routine cleaning and disinfection of frequently-contacted surfaces must be conducted during operation. Tabletops must be cleaned in between patrons.

i. Bar seats and congregating areas of restaurants must be closed to patrons except for through-traffic. Non-bar seating in the bar area (i.e., tables or counter seats that do not line up to a bar or food service area) may be used for customer seating as long as a minimum of six feet is provided between parties at tables.

j. 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. Employees and patrons must maintain at least six feet of physical distance between individuals who are not Family members, as defined below in section I, subsection D, paragraph 2, at all times. Employees and vendors must, where possible, configure operations to avoid congestion or congregation points.

b. Employees and vendors must wear masks over their nose and mouth while working at their place of employment. **Exceptions noted in section II do not apply.**

c. Employees and vendors must routinely clean and disinfect frequently-contacted surfaces during operation.

d. Patrons must wear masks over their nose and mouth according to section II.

e. Farmers' markets must promote frequent and thorough hand washing, including by providing employees, customers, visitors, the general public, and other persons entering into the place of employment with a place to wash their hands. If soap and running water are not immediately available, provide hand sanitizers.

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

4. **Brick and Mortar Retail Businesses Not Listed in Section I, Subsection C, Paragraph 1 (Non-Essential Retail)**

   Any brick and mortar retail business not listed in section I, subsection C, paragraph 1 below 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. Employees and patrons must maintain at least six feet of physical distance between individuals who are not Family members, as defined below in section I, subsection D, paragraph 2, at all times.

   b. Employees must wear masks over their nose and mouth while working at their place of employment. **Exceptions noted in section II do not apply.**

   c. Patrons must wear masks over their nose and mouth according to section II.

   d. 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 continue to operate 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 who are not Family members as defined in section I, subsection D, paragraph 2, must remain at least ten feet apart during all activities except where necessary for the physical safety of an individual.

   b. Instructors and all participants of group exercise and fitness classes who are not Family members as defined in section I, subsection D, paragraph 2, must maintain at least ten feet of physical distance between each other at all times, with the exception of swimming lessons, where parents or guardians may support a participant during class, and instructors may have contact with swimmers when necessary.

   c. Occupancy must be limited to 75 percent of the lowest occupancy load on the certificate of occupancy.

   d. The total number of attendees (including both participants and instructors) in all indoor group exercise and fitness classes cannot exceed the lesser of 75 percent of the minimum occupancy load on the certificate of occupancy or **50 persons**. For all group exercise and fitness classes held outdoors, the total number of attendees cannot exceed **100 persons.**

e. Hot tubs, spas, splash pads, spray pools, and interactive play features, except water slides, must be closed.

f. Outdoor and indoor swimming pools may be open, provided occupancy is limited to no more than 75 percent of the lowest occupancy load on the certificate of occupancy and all swimmers maintain at least ten feet of physical distance from others who are not Family members as defined below in section I, subsection D, paragraph 2.

g. Employees must wear masks over their nose and mouth while working at their place of employment. Lifeguards responding to distressed swimmers are exempt from this requirement. **Exceptions noted in section II do not apply.**

h. Patrons must wear masks over their nose and mouth according to section II.
i. Employers must ensure cleaning and disinfection of shared exercise equipment after each use.

j. Businesses must promote frequent and thorough hand washing, including by providing employees, customers, visitors, the general public, and other persons entering into the place of employment with a place to wash their hands. If soap and running water are not immediately available, provide hand sanitizers.

k. 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. Service providers must maintain at least six feet of physical distance between work stations.

b. Service providers and employees must wear masks over their nose and mouth while working at their place of employment. **Exceptions noted in section II do not apply.**

c. Service providers must provide masks for clients or ask that clients bring a mask with them, which they must wear over their nose and mouth during the service, except when treating the areas of the nose and mouth.

d. Routine cleaning and disinfection of frequently contacted surfaces must be conducted

during operation. All personal care and personal grooming tools should be cleaned and disinfected after each use. If that is not possible, such items must be discarded.

e. All private bookings are limited to **50 people indoors and 100 people outdoors**, and must comply with section I, subsection B, paragraph 1.

f. 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. Employees must wear masks over their nose and mouth while working at their place of employment. **Exceptions noted in section II do not apply.**

b. Patrons must wear masks over their nose and mouth in accordance with section II.

c. Businesses must promote frequent and thorough hand washing, including by providing employees, customers, visitors, the general public, and other persons entering into the place of employment with a place to wash their hands. If soap and running water are not immediately available, provide hand sanitizers.

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

8. **Indoor Shooting Ranges**

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

a. Employees and patrons must maintain at least six feet of physical distance between individuals who are not Family members as defined below in section I, subsection D, paragraph 2 at all times.

b. Employees must wear masks over their nose and mouth while working in their place of employment. **Exceptions noted in section II do not apply.**

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

d. Patrons must wear masks over their nose and mouth according to section II.

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

9. **Racetracks and Speedways**

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 outdoor speedways and racetracks expressly incorporated by reference herein. 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).

b. All individuals must maintain at least six feet of physical distance between themselves and other participants who are not Family members as defined below.

c. Food services must adhere to the sector-specific guidance for restaurant and beverage services and camping areas must adhere to the sector-specific guidance for campgrounds.

d. The total number of patrons cannot exceed 30 percent of the lowest occupancy load on the certificate of occupancy.

e. Employees must wear masks over their nose and mouth while working in their place of employment. **Exceptions noted in section II do not apply.**

f. Patrons must wear masks over their nose and mouth in accordance with section II.

g. Prohibit gatherings of more than **50 people indoors and 100 people outdoors** in accordance with section I, subsection B, paragraph 1.

10. **Entertainment and Amusement Businesses**

Performing arts venues, concert venues, sports venues, convention centers, expos, movie theaters, museums, aquariums, fairs, carnivals, public and private social clubs, botanical gardens, entertainment centers, historic horse racing facilities, bowling alleys, skating rinks, arcades, trampoline parks, arts and craft facilities, escape rooms, amusement parks and zoos, and other places of public amusement may open provided such businesses comply with the Guidelines for All Business Sectors and the sector-specific guidelines for entertainment and public amusement, which are expressly incorporated by reference herein. Such guidance includes, but is not limited to, the following requirements:

a. The total number of spectators indoors cannot exceed the lesser of 30 percent of the lowest occupancy load on the certificate of occupancy, if applicable, **or 500** persons. **The total number of spectators for outdoor venues cannot exceed 30 percent of the lowest occupancy load on the certificate of occupancy. If no occupancy load has been determined, a ratio of 40 square feet per person shall be used to determine**

occupancy limits – only square footage that is likely to be accessed may be included. For example, a 100,000 square foot outdoor venue would have an occupancy load of 2,500 – of which no more than 30% (750 persons) shall be permitted.

b. All private bookings are limited to **50 people indoors and 100 people outdoors** in accordance with section I, subsection B, paragraph 1.

c. No alcoholic beverage shall be sold, consumed, or possessed on premises between the hours of 12:00 midnight and 5:00 a.m. Alcoholic beverages may continue to be sold via delivery or take-out between the hours of 12:00 midnight and 5:00 a.m., as permitted by existing regulations promulgated by the Virginia Alcoholic Beverage Control Authority.

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

e. 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.

f. Require ten feet of physical distance between parties at all establishments with physical activity, singing, or cheering; six feet of physical distance is required in other venues.

g. If interactive exhibits are in service, post signage to discourage congregating and encourage the use of hand sanitizer. Provide hand sanitizer stations around any interactive exhibits. Discontinue any interactive exhibits that pose a risk for children to place items in their mouths.

h. Practice routine cleaning and disinfection of high contact areas and hard surfaces.

i. Employees are required to wear masks over their nose and mouth while working at their place of employment. **Exceptions noted in section II do not apply. Employees who must remove their mask to play a wind instrument during a performance or rehearsal are exempt from this requirement as long as they maintain at least ten feet of physical distance from others.**

j. Patrons must wear masks over their nose and mouth in accordance with section II.

k. Businesses must promote frequent and thorough hand washing, including by providing employees, customers, visitors, the general public, and other persons entering into place of employment with a place to wash their hands. If soap and running water are not immediately available, provide hand sanitizers.

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

11. **Recreational Sports**

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

a. For sports played indoors, **the total number of spectators cannot exceed the lesser of 30 percent of the occupancy load of the certificate of occupancy for the venue, or 100 persons per field.** For sports played outdoors, the total number of spectators cannot exceed the lesser of 30 percent of the occupancy load of the certificate of occupancy for the venue or **500 spectators** per field. Spectators must wear masks over their nose and mouth at all times, and ten feet of physical distance must be maintained between spectators who are not Family members, as defined in section 1, subsection D, paragraph 2.

b. Races or marathons **must use a ratio of 40 square feet per person to determine occupancy limits – only square footage that is likely to be accessed may be included. For example, a 100,000 square foot race course would have an occupancy load of 2,500 – of which no more than 30% (750 persons) shall be permitted.** Races and marathons organizers must stagger starts and separate runners into groups of **50** or less.

c. Conduct screening of coaches, officials, staff, and players for COVID-19 symptoms, diagnosis of COVID-19, or known exposure to an individual with COVID-19, prior to admission to the venue/facility.

d. Employees must wear masks over their nose and mouth while working in their place of employment. **Exceptions noted in section II do not apply.**

For more information on how to reduce the risk of COVID-19 exposure and spread associated with indoor and outdoor recreational sports activities, consult the Virginia Department of Health's "Considerations for Recreational Sports" webpage, which can be found here.

12. **Overnight Summer Camps**

Overnight services of summer camps, as defined in § 35.1-1 of the *Code of Virginia*, may begin operation on May 1, 2021 provided such businesses comply with the Guidelines for All Business Sectors and the sector-specific guidelines for overnight summer camps, which are expressly incorporated by reference herein. Such guidance includes, but is not limited to, the following requirements:

a. Employ the use of cohorts for the first 14 days of any camp session. Cohort size may not exceed 25 campers, not including camp personnel.

b. Post signage to provide public health reminders regarding physical distancing, hand hygiene, respiratory etiquette, and reporting symptoms if sick. Signs must use age-appropriate language to be understandable by campers.

c. All non-camp personnel who enter the camp must wear a mask in accordance with section II below.

d. Campers above the age of five and camp personnel must wear a mask as required by section II below.

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

13. **Enforcement - Business Restrictions**

a. Guidelines for All Business Sectors and the sector-specific guidelines appear here.

b. The Virginia Department of Health and the Virginia Alcoholic Beverage Control Authority shall have authority to enforce section I, subsection 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*.

c. In addition, any agency with regulatory authority over a business listed in section I, subsection A, including but not limited to the Virginia Department of Labor and Industry, pursuant to § 40.1-51.1 of the *Code of Virginia*, the Department of Professional and Occupational Regulation, pursuant to 18 Va. Admin Code § 41-20-280, and the Virginia Department of Agriculture and Consumer Services, pursuant to § 3.2-5106 of the *Code of Virginia,* or any other law applicable to these agencies, may enforce this Order as to that business.

B. **OTHER CONTINUED RESTRICTIONS**

1. **All Public and Private In-Person Gatherings**

All public and private in-person gatherings of more than **50 individuals indoors and 100 individuals outdoors are prohibited**. A "gathering" includes, but is not limited to, parties, celebrations, or other social events, whether they occur indoors or outdoors. The presence of more than **50 individuals indoors, or 100 individuals outdoors,** performing functions of their employment or assembled in an educational instructional setting is not a "gathering." The presence of more than **50 individuals indoors, or 100 individuals outdoors,** in a particular location, such as a park, or retail business is not a "gathering" as long as individuals do not congregate. This restriction does not apply to the gathering of Family members, as

defined in section I, subsection D, paragraph 2 living in the same residence.

Subject to the following requirements, this restriction shall not bar individuals from attending religious services or assembling **in an educational instructional setting** with more than **50 individuals indoors, or 100 individuals outdoors,** provided:

a. Individuals assembled **in an educational instructional setting** adhere to the applicable physical distancing and sanitization plan and guidelines of the relevant governing body or educational entity adopted pursuant to the State Health Commissioner's Order Public Health Emergency (June 8, 2020).

b. Individuals attending religious services:

   i. Practice proper physical distancing at all times.

   ii. Mark seating and common areas where attendees may congregate in six-foot increments to maintain physical distancing.

   iii. Ensure that any items used to distribute food or beverages either should be disposable or washed or cleaned between uses between individuals who are not Family members.

   iv. Conduct routine cleaning and disinfection of frequently-contacted surfaces prior to and following any religious service.

   v. Post signage at the entrance that states that no one with a fever or symptoms of COVID-19 is permitted to participate in the religious service.

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

   vii. Wear masks over their nose and mouth in accordance with section II below.

   viii. Post signage at the entrance of all indoor areas stating that individuals must wear a mask in accordance with this Order.

c. Parties attending religious services must be seated at least six feet apart from other parties.

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 I, subsection B, paragraph 1. Additional suggested guidance can be found here.

"Educational instructional settings" include, but are not limited, to a program

sponsored, organized, and implemented by an educational institution to award a degree or diploma to its students for the successful completion of a course of study from the educational institution. Graduations and commencement ceremonies must follow the guidelines found here.

2. **Institutions of Higher Education**

Institutions of higher education shall comply with all applicable requirements under the Phased Guidance of Virginia Forward and the "Guidelines for All Business Sectors." 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.

3. **Enforcement – Other Restrictions**

Violations of section I, subsection B, paragraphs 1 and 2 of this Order shall be a Class 1 misdemeanor pursuant to § 44-146.17 of the *Code of Virginia*. Any law enforcement officer as defined in § 9.1-101 of the *Code of Virginia* including the Virginia Department of State Police may enforce these restrictions.

C. **REQUIREMENTS FOR ESSENTIAL RETAIL BUSINESSES**

1. **Essential Retail Businesses**

Essential retail businesses as set out below may continue to remain open during their normal business hours.

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.

Essential Retail Businesses must comply with the Guidelines for All Business Sectors expressly incorporated by reference and linked here. Employers are required to provide masks to employees. If any such business cannot adhere to these requirements, it must close.

2. **Enforcement – Essential Retail**

a. Guidelines for All Business Sectors and the sector-specific guidelines appear here.

b. The Virginia Department of Health and the Virginia Alcoholic Beverage Control Authority shall have authority to enforce section I, subsection C 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*.

c. In addition, any agency with regulatory authority over a business listed in section I, subsection C, including but not limited to the Virginia Department of Labor and Industry, pursuant to § 40.1-51.1 of the *Code of Virginia*, the Department of Professional and Occupational Regulation, pursuant to 18 Va. Admin Code § 41-20-280, and the Virginia Department of Agriculture and Consumer Services, pursuant to § 3.2-5106 of the *Code of Virginia* or any other law applicable to these agencies, shall have authority to enforce section I, subsection C of this Order as to that business.

D. **CONTINUED GUIDANCE AND DIRECTION**

1. **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.

2. **Family Members**

"Family members" include blood relations, adopted, step, and foster relations, as well as all individuals residing in the same household or visiting such household pursuant to a child custody arrangement or order. Family members are not required to maintain physical distancing while in their homes.

3. **Exceptions**

With the exception of section I, subsection B, paragraph 1 and section II below, nothing in this 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. The free exercise of religion;

e. Law enforcement agencies; or

f. The operation of government.

II. CONTINUED REQUIREMENT TO WEAR MASKS

A. **Masks Required – Indoors**

1. All individuals in the Commonwealth aged five and older must cover their mouth and nose with a mask as described and recommended by the CDC if they are in an indoor setting shared by others. This requirement applies to state and local government settings, train stations, bus stations, and intrastate public transportation, including buses, rideshares, trains, taxis, and cars for hire, as well as any waiting or congregating areas associated with boarding public transportation. This requirement shall not apply in any area under federal jurisdiction or control.

2. This restriction does not apply to persons inside their personal residence.

B. **Masks Required – Outdoors**

All individuals in the Commonwealth aged five and older must cover their mouth and nose with a mask, as described and recommended by the CDC, when outdoors and unable to maintain at least six feet of physical distance from other individuals who are not Family members as defined in section I, subsection D, paragraph 2.

C. **Masks Required – Employees**

All employees of all businesses listed in section I, subsections A and C shall wear a mask while working at their place of employment. **Exceptions noted in section E do not apply.**

D. **Masks – Enforcement**

1. The Virginia Department of Health shall have authority to enforce section II of this Order. 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*. 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*.

2. In addition, any agency with regulatory authority over a business listed in section I, including but not limited to the Virginia Department of Labor and Industry, pursuant to § 40.1-51.1 of the *Code of Virginia,* the Department of Professional and Occupational Regulation, pursuant to 18 Va. Admin Code § 41-20-280, the Virginia Department of Agriculture and Consumer Services, pursuant to § 3.2-5106 of the *Code of Virginia* or any other law applicable to these agencies, shall have authority to enforce section II of this Order as to that business.

3. Violations of section II, subsection A of this Order shall be a Class 1 misdemeanor pursuant to § 44-146.17 of the *Code of Virginia* and enforceable by the Virginia Alcoholic Beverage Control Authority.

4. No minor shall be subject to criminal penalty for failure to wear a mask. Adults accompanying minors should use the adult's best judgment with respect to placing masks on a minor between the ages of two through four while inside the public areas noted above. Adults accompanying minors age five through 18 shall use reasonable efforts to prompt the minor to wear masks while inside the public areas noted above.

5. Medical-grade masks and personal protective equipment should be reserved for medical personnel. The use of cloth masks does not replace the need to maintain the required physical distancing, clean and disinfect frequently touched surfaces routinely in all public settings, stay home when sick, and practice frequent handwashing.

E. **Masks – Exceptions**

1. The requirement to wear a mask over one's nose and mouth does not apply to the following:

   a. While eating or drinking;

   b. Individuals exercising or using exercise equipment;

   c. Any person who is playing a musical instrument when wearing a mask would inhibit the playing of the instrument (e.g. wind instrument) so long as at least ten feet of physical distance can be maintained from other persons, whether the rehearsal or performance is indoors or outdoors;

   d. Any person who has trouble breathing, or is unconscious, incapacitated, or otherwise unable to remove the mask without assistance;

   e. Any person seeking to communicate with people who are deaf or hard of hearing and for which the mouth needs to be visible;

   f. When temporary removal of the mask is necessary to secure government or medical services;

   g. When necessary to participate in a religious ritual; and

   h. Persons with health conditions or disabilities that prohibit wearing a mask. Nothing in this Order shall require the use of a mask by any person for whom doing so would be contrary to his or her health or safety because of a medical condition. Adaptations and alternatives for individuals with health conditions or disabilities should be considered whenever possible to increase the feasibility of wearing a mask to reduce the risk of COVID-19 spreading if it is not possible to wear one.

2. Any person who declines to wear a mask because of a medical condition shall not be required to produce or carry medical documentation verifying the stated condition nor shall the person be required to identify the precise underlying medical condition.

F. **Masks – Waiver**

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 and will remain in effect until 11:59 p.m. on June 30, 2021, unless amended or rescinded by

further executive order.

III. CONSTRUCTION WITH REGULATIONS

Where the Final Permanent Standard for Infectious Disease Prevention of the SARS-CoV-2 Virus that Causes COVID-19 adopted by the Safety and Health Codes Board of the Virginia Department of Labor and Industry conflicts with requirements and guidelines applicable to businesses in this Order, this Order governs.

Effective Date of this Executive Order

This Order is in furtherance of Amended Executive Order 51 (2020). Further, this Order shall be effective **at 12:00 midnight on April 1, 2021,** and 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 **23rd day of March, 2021.**

Ralph S. Northam, Governor

M. Norman Oliver, MD, MA
State Health Commissioner

Attest:

Kelly Thomasson, Secretary of the Commonwealth