Commonwealth of Virginia
Office of the Governor

Executive Order

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

COMMONSENSE SURGE RESTRICTIONS
EXTENSION OF CERTAIN TEMPORARY 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 the virus in the Commonwealth. Now, approximately five weeks later, however, we are not out of the woods. As of January 25, 2021, Virginia's seven-day moving average of new COVID-19 cases is still more than 4,000 per day. Virginia's PCR percent test positivity rate is at 12.5 percent—an increase from 11.1 percent approximately one month ago. The statewide rate of COVID-19 ICU hospitalizations (6.1 per 100,000) is well above the threshold of concern (3.5 per 100,000). The health data makes clear that Executive Order 72's temporary restrictions must 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, physically distance from others, stay home when possible, and wear face coverings 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 MODIFIED STAY AT HOME ORDER

All individuals in Virginia should continue remain at their place of residence between the hours of 12:00 a.m. and 5:00 a.m. Individuals may leave their residences for the purposes of:

a. Obtaining food, beverages, goods, or services as permitted in this Order;

b. Seeking medical attention, essential social services, governmental services, assistance from law enforcement, or emergency services;

c. Taking care of other individuals or animals;

d. Traveling required by court order or to facilitate child custody, visitation, or child care;

e. Engaging in exercise, provided individuals comply with social distancing requirements;

f. Traveling to and from one's residence, place of worship, or work;

g. Traveling to and from an educational institution;

h. Volunteering with organizations that provide charitable or social services; or

i. Leaving one's residence due to a reasonable fear for health or safety, at the direction of law enforcement, or at the direction of another government agency.

II. CONTINUED RESTRICTIONS

A. BUSINESS RESTRICTIONS

1. All Businesses

Any business not listed in section II, 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 after 10:00 p.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 after 10:00 p.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 a.m. 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 a.m. and 5:00 a.m.

c. 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.

d. 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.

e. Employees must wear face coverings over their nose and mouth while working at their place of employment.

f. Patrons must wear face coverings, except while eating or drinking.

g. Routine cleaning and disinfection of frequently-contacted surfaces must be conducted every 60 minutes during operation. Tabletops must be cleaned in between patrons.

h. 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.

i. 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 distancing between individuals who are not Family members, as defined below in section II, 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 face coverings over their nose and mouth while working at their place of employment.

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

d. Patrons must wear face coverings over their nose and mouth according to section III.

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 II, Subsection C, Paragraph 1 (Non-Essential Retail)

Any brick and mortar retail business not listed in section II, 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 distancing between individuals who are not Family members, as defined below in section II, subsection D, paragraph 2, at all times.

b. Employees must wear face coverings over their nose and mouth while working at their place of employment.

c. Patrons must wear face coverings over their nose and mouth according to section III.

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 below 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 below must maintain at least ten feet of physical distancing 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 group exercise and fitness classes cannot exceed the lesser of 75 percent of the minimum occupancy load on the certificate of occupancy or 10 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 II, subsection D, paragraph 2.

g. Employees must wear face coverings over their nose and mouth while working at their place of employment. Lifeguards responding to distressed swimmers are exempt from this requirement.

h. Patrons must wear face coverings over their nose and mouth according to section III.

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 distancing between work stations.

b. Service providers and employees must wear face coverings over their nose and mouth while working at their place of employment.

c. Provide face coverings for clients or ask that clients bring a face covering with them, which they must wear 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 every 60 minutes of 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. 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 face coverings over their nose and mouth while working at their place of employment.

b. Patrons must wear face coverings over their nose and mouth in accordance with section III.

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 distancing between

individuals who are not Family members as defined below in section II, subsection D, paragraph 2 at all times.

b. Employees must wear face coverings over their nose and mouth while working in their place of employment.

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

d. Patrons must wear face coverings over their nose and mouth according to section III.

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. All such public beaches, 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 Family members as defined in section II, subsection D, paragraph 2.

b. Prohibit gatherings of more than 10 people in accordance with section II, subsection B.

c. Implement and adhere to 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.

d. 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.

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

f. Ensure adequate personal protective equipment for all lifeguards.

g. 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.

h. For chair and umbrella rental companies, require vendors to set up chairs and umbrellas for customers, maintain at least six feet of distance between groups, and clean equipment between rentals following Environmental Protection Agency and

CDC guidelines on cleaning and disinfecting.

i. 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.

j. Each 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.

k. 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.

l. All employees and contract workers must have access to soap and water or hand sanitizer containing at least 60 percent 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.

m. Each 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.

n. Individuals must wear face coverings over their nose and mouth in accordance with section III.

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

10. 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 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 distancing 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 the lesser of 30 percent of the lowest occupancy load on the certificate of occupancy, if applicable, or 250 persons.

e. Employees must wear face coverings while working in their place of employment.

f. Patrons must wear face coverings over their nose and mouth in accordance with section III.

g. Prohibit gatherings of more than 10 people in accordance with section II, subsection B.

11. Large Outdoor Amusement Parks and Zoos

Large Outdoor Amusement Parks and Zoos are outdoor amusement parks and zoos comprised of at least 25 acres of land that contain one or more permanent amusement exhibits or rides and that host at least 500,000 visitors annually.

a. Total occupancy for the venue must not exceed 50 percent the combined occupancy load on the certificates of occupancy for all areas of the venue.

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. Patrons must wear face coverings over their nose and mouth in accordance with section III.

e. Employees must wear face coverings over their nose and mouth while working at their place of employment.

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

g. Venues should screen patrons for COVID-19 symptoms prior to admission to the venue. Patrons should be asked if they are currently experiencing fever (100.4 degrees Fahrenheit or higher) or a sense of having a fever, a new cough that cannot be attributed to another health condition, new shortness of breath that cannot be attributed to another health condition, new chills that cannot be attributed to another health condition, a new sore throat that cannot be attributed to another health

condition, or new muscle aches that cannot be attributed to another health condition or specific activity (such as physical exercise). Anyone experiencing symptoms should not be permitted in the facility. Screenings should be conducted in accordance with applicable privacy and confidentiality laws and regulations.

h. Any ride, attraction, or theatre at an amusement park that is located indoors, or has queue lines indoors, must remain closed. The amusement park may open indoor restaurants, concessions, gifts shops or retail spaces, and restrooms. On site retail, recreation and fitness, cabins, and food establishments must follow the requirements and guidelines specific to those establishments.

i. All private bookings are limited to 10 people and must comply with section II, subsection B, paragraph 1.

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

12. 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 not covered in paragraph 11, and other places of indoor public amusement may open 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 requirements:

a. The total number of spectators cannot exceed the lesser of 30 percent of the lowest occupancy load on the certificate of occupancy, if applicable, or 250 persons.

b. All private bookings are limited to 10 people and must comply with section II, subsection B, paragraph 1.

c. No alcoholic beverage shall be sold, consumed, or possessed on premises after 10:00 p.m. Alcoholic beverages may continue to be sold via delivery or take-out after 10:00 p.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 distancing between parties at all establishments with physical activity, singing, or cheering; six feet of physical distancing 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, including check out stations and payment pads, store entrance push/pull pads, door knobs/handles, dining tables/chairs, light switches, handrails, restrooms, guest lockers, floors, and equipment.

i. Where possible, install plexiglass barriers in front of commonly used point-of-sale or guest service stations.

j. Employees are required to wear face coverings over their nose and mouth while working at their place of employment.

k. Patrons must wear face coverings over their nose and mouth in accordance with section III.

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

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

13. Recreational Sports

Indoor and outdoor recreational sports activities are permitted, provided participants and organizers of recreational sports activities comply with the following requirements:

a. For sports played indoors, spectators must be limited to 25 persons per field. For sports played outdoors, spectators are limited to two guests per player**.** The total number of spectators cannot exceed 30 percent of the occupancy load of the certificate of occupancy for the venue.

b. Races or marathons may have up to 250 participants, provided staggered starts separate runners into groups of 25 or less.

c. Conduct screening of coaches, officials, staff, and players for COVID-19 symptoms prior to admission to the venue/facility.

d. Employees must wear face coverings while working in their place of employment.

e. Spectators must wear face coverings over their nose and mouth at all times.

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.

14. 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 II, 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 II, 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 10 individuals who do not live in the same residence 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 10 individuals performing functions of their employment or assembled in an educational instructional setting is not a "gathering." The presence of more than 10 individuals 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 II, 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 for educational instruction with more than 10 people provided:

a. Individuals assembled for educational instruction adhere to the applicable physical distancing and sanitization plan and guidelines of the relevant governing body or educational institution;

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. Individuals attending religious services must wear face coverings in accordance with section III below.

viii. 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 II, subsection B, paragraph 1. Additional suggested guidance can be 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. **Overnight Summer Camps**

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

4. **Enforcement – Other Restrictions**

   Violations of section II, subsection B, paragraphs 1 and 3 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 face coverings 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 II, 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 II, 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 II, 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 III below, 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.

III. CONTINUED REQUIREMENT TO WEAR FACE COVERING

A. Face Coverings Required - Indoors

1. All individuals in the Commonwealth aged five and older must cover their mouth and nose with a face covering, 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.

3. Individuals may remove face coverings to participate in a religious ritual.

B. Face Coverings Required - Outdoors

All individuals in the Commonwealth aged five and older must cover their mouth and nose with a face covering, 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.

C. Face Coverings Required - Employees

All employees of all businesses listed in section II, subsections A and C shall wear a face covering while working at their place of employment.

Face Coverings - Enforcement

1. The Virginia Department of Health shall have authority to enforce section III 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 III, 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 III of this Order as to that business.

3. Violations of section III, 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 face covering. Adults accompanying minors should use the adult's best judgment with respect to placing face coverings 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 face coverings 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 face coverings does not replace the need to maintain six feet of physical social distancing, clean and disinfect frequently touched surfaces routinely in all public settings, stay home when sick, and practice frequent handwashing.

D. Face Covering - Exceptions

The requirement to wear a face covering does not apply to the following:

1. While eating or drinking;

2. Individuals exercising or using exercise equipment;

3. Any person who is playing a musical instrument when wearing a mask or face covering would inhibit the playing of the instrument (e.g. wind instrument) so long as at least 10 feet of physical distancing can be maintained from other persons, whether the rehearsal or performance is indoors or outdoors;

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

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

6. When temporary removal of the face covering is necessary to secure government or medical services; and

7. Persons with health conditions or disabilities that prohibit wearing a face covering. Nothing in this Order shall require the use of a face covering 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 or to reduce the risk of COVID-19 spreading if it is not possible to wear one.

Any person who declines to wear a face covering 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.

E. Face Coverings - 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 March 12, 2021, unless amended or rescinded by further executive order.

IV. 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 immediately and shall remain in full force and effect until 11:59 p.m., February 28, 2021.**

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 **27th day of January, 2021.**

Ralph S. Northam, Governor

M. Norman Oliver, MD, MA
State Health Commissioner

Attest:

Kelly Thomasson, Secretary of the Commonwealth