Commonwealth of Virginia
Office of the Governor

Executive Order

AMENDED NUMBER SIXTY-TWO (2020)
AND
AMENDED ORDER OF PUBLIC HEALTH EMERGENCY FOUR

JURISDICTIONS TEMPORARILY DELAYED FROM ENTERING PHASE ONE IN EXECUTIVE ORDER 61 AND PERMITTED TO REMAIN IN PHASE ZERO

PHASE ZERO JURISDICTIONS

Importance of the Issue

Executive Order 61, issued on May 8, 2020, and effective at 12:00 a.m., May 15, 2020, eased certain restrictions imposed under Second Amended Executive Order 53 and Executive Order 55 (both Orders are collectively referred to as Phase Zero). Executive Order 61 sets out the Commonwealth of Virginia's path into Phase One. The easing of the Phase Zero restrictions was premised, in part, on the Commonwealth's achievement of certain metrics in responding to the novel coronavirus (COVID-19). The easing of those restrictions is meant to be a floor, and not a ceiling. As previously acknowledged, some regions may need to move into Phase One more slowly than the rest of the Commonwealth. Prior to issuing Executive Order 61, I advised that any locality unready to move into Phase One, upon my review and approval of their request to remain in Phase Zero, could do so.

On May 9, 2020, local officials from the Counties of Arlington, Fairfax, Loudoun, and Prince William, and the Cities of Alexandria, Fairfax, Falls Church, Manassas, Manassas Park, as well as the Towns of Dumfries, Herndon, Leesburg, and Vienna (Northern Virginia Region) requested to remain in Phase Zero. Data provided in connection with that request reveals that with respect to hospitalizations, percent positivity, and case numbers, the Northern Virginia Region faces unique challenges when compared to the rest of the Commonwealth. The Northern Virginia Region is substantially higher than the rest of the Commonwealth in percentage of positive tests for COVID-19. The Northern Virginia Region has about a 25% positivity rate, while the rest of the Commonwealth is closer to 10%. Further, in the last 24 hours, the Northern Virginia Region reported over 700 cases, while the rest of the Commonwealth reported approximately 270. On any given day, 70% of the Commonwealth's positive cases are attributable to the Northern Virginia Region.

In addition, while personal protective equipment (PPE) for hospitals appears to be adequate at this time, the Northern Virginia Region asserts PPE for outpatient facilities continues to be a challenge. Similarly, although the number of deaths in the Northern Virginia Region appear to be trending downward, COVID-19 patients in the Northern Virginia Region make up a significantly larger portion of the region's hospital bed capacity, when compared to COVID-19 hospitalizations in the rest of the Commonwealth. Consequently, after considering the Northern Virginia Region's request and the relevant data, I find the request to delay entering Phase One and to remain in Phase Zero appropriate.

On May 14, 2020, the City of Richmond and the County of Accomack requested to delay implementation of Phase One. Unlike many jurisdictions in the Commonwealth, the City of Richmond's percent positivity of COVID-19 cases has failed to decrease over the past two weeks. Further, its total case count grew. Although Accomack's population is .39% of the Commonwealth, its positive cases represent 2.14% of the statewide totals. Similarly, the number of COVID-19 cases in the County of Accomack continues to increase. Local health officials opine that the County of Accomack's total positive cases could increase by over fifty percent in a matter of days. After considering the City of Richmond's and the County of Accomack's requests and the relevant data, I find the requests to delay entering Phase One and to remain in Phase Zero appropriate.

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 Executive Order 51, 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*, I grant the Northern Virginia Region's, the City of Richmond's, and the County of Accomack's requests to remain in Phase Zero. Accordingly, as to the Northern Virginia Region, **the City of Richmond, and the County of Accomack, including all towns and political subdivisions contained therein (collectively, Phase Zero Jurisdictions)**, the following measures are extended effective 12:00 a.m. Friday, May 15, 2020:

1. Continued closure of all dining and congregation areas in restaurants, dining establishments, food courts, breweries, microbreweries, distilleries, wineries, tasting rooms, and farmers markets. Restaurants, dining establishments, food courts, breweries, microbreweries, distilleries, wineries, tasting rooms, and farmers markets may continue to offer delivery and take-out services.

2. Continued closure of all public access to recreational and entertainment businesses, as set forth below:

    a. Theaters, performing arts centers, concert venues, museums, and other indoor entertainment centers;

b. Fitness centers, gymnasiums, recreation centers, indoor sports facilities, and indoor exercise facilities;

c. Beauty salons, barbershops, spas, massage parlors, tanning salons, tattoo shops, and any other location where personal care or personal grooming services are performed that would not allow compliance with physical distancing guidelines to remain six feet apart;

d. Racetracks and historic horse racing facilities; and

e. Bowling alleys, skating rinks, arcades, amusement parks, trampoline parks, fairs, arts and craft facilities, aquariums, zoos, escape rooms, indoor shooting ranges, public and private social clubs, and all other places of indoor public amusement.

3. Essential retail businesses may remain open during their normal business hours. Such businesses are:

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.

Employers are required to provide face coverings to employees.

4. Any brick and mortar retail business not listed in paragraph 3 may continue to operate but must limit all in-person shopping to no more than 10 patrons per establishment. If any such business cannot adhere to the 10 patron limit with proper physical distancing requirements, it must close. Brick and mortar retail business not listed in paragraph 3 are encouraged to follow the Guidelines for All Business Sectors as best practices linked here.

5. All businesses are encouraged to follow the Guidelines for All Business Sectors as best practices linked here and other appropriate workplace guidance from state and federal authorities while in operation.

6. Although business operations offering professional rather than retail services may remain open, they should utilize teleworking as much as possible. Where telework is not feasible, such businesses must adhere to physical distancing recommendations, enhanced sanitizing practices on common surfaces, and apply the relevant workplace guidance from state and federal authorities.

7. All individuals in **Phase Zero Jurisdictions** shall remain at their place of residence, except as provided below by this Order. To the extent individuals use shared or outdoor spaces, whether on land or on water, they must at all times maintain physical distancing of at least six feet from any other person, with the exception of family members, as defined below, or caretakers. Individuals may leave their residences for the purpose 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, animals, or visiting the home of a family member;

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

    e. Engaging in outdoor activity, including exercise, provided individuals comply with physical 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; and

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.

8. All public and private in-person gatherings of more than 10 individuals are prohibited. The presence of more than 10 individuals performing functions of their employment is not a "gathering." A "gathering" includes, but is not limed 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.

9. Continued cessation of all in-person instruction at K-12 schools, public and private, for the remainder of the 2019-2020 school year. Facilities providing child care services may remain open.

10. Institutions of higher education shall continue to cease all in-person classes and instruction, and cancel all gatherings of more than ten individuals. For purposes of facilitating remote learning, performing critical research, or performing essential functions, institutions of higher education may continue to operate, provided that physical distancing requirements are maintained.

11. Continued cessation of all reservations for overnight stays of less than 14 nights at all privately-owned campgrounds, as defined in § 35.1-1 of the *Code of Virginia*.

12. Continued closure of all public beaches as defined in § 10.1-705 of the *Code of Virginia* for all activity, except exercising and fishing. Physical distancing requirements must be followed.

13. 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) law enforcement agencies; or (e) the operation of government.

14. The continued waiver of § 18.2-422 of the *Code of Virginia* 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 Executive Order 51 declaring a state of emergency in the Commonwealth. Executive Order 51 is so further amended. This waiver is effective as of March 12, 2020.

Violation of paragraphs 1, 2, 4, 8, 10, 11, 12 of this Order shall be a Class 1 misdemeanor pursuant to § 44-146.17 of the *Code of Virginia*.

The **Phase Zero Jurisdictions'** entrance into Phase One will be delayed and the restrictions above shall remain in place until 11:59 p.m., May 28, 2020.

Effective Date of this Executive Order

This Order shall be effective 12:00 a.m., Friday, May 15, 2020 and further amends Executive Order 55. Unless otherwise expressly provided herein, this Order shall remain in full force and effect until 11:59 p.m., Thursday, May 28, 2020, unless 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 14th day of May, 2020.

Ralph S. Northam, Governor

M. Norman Oliver, MD, MA
State Health Commissioner

Attest:

Kelly Thomasson, Secretary of the Commonwealth