

**CITY OF ST. PETERSBURG, FLORIDA
EXECUTIVE ORDER NO. 2020-43**

AN ORDER OF THE MAYOR TAKING EMERGENCY ACTION TO RESPOND TO COVID-19 WITHIN THE CITY BY AMENDING AND RESTATING REQUIREMENTS FOR A BUSINESS TO IMPLEMENT COVID-19 MITIGATION AND CONTINGENCY PLANNING; ESTABLISHING NEW REQUIREMENTS FOR COVID-19 MITIGATION AND CONTINGENCY PLANNING AT EVENTS HELD PURSUANT TO A CITY-ISSUED PERMIT OR HELD ON CITY-OWNED PROPERTY PURSUANT TO CERTAIN CONTRACTUAL ARRANGEMENTS WITH THE CITY; CONDITIONING PUBLIC ENTRY INTO AND USE OF CITY FACILITIES ON COMPLIANCE WITH CERTAIN REQUIREMENTS; AND CONDITIONALLY AUTHORIZING IN-PERSON PUBLIC ATTENDANCE AT MEETINGS OF CITY GOVERNMENT.

THE FOLLOWING ORDER is hereby made by Rick Kriseman, in his capacity as Mayor of the City of St. Petersburg, Florida (the “City”):

SECTION 1—FINDINGS: I hereby make the following findings in support of the emergency actions taken by this order:

- (a) According to the Centers for Disease Control (“CDC”), Novel Coronavirus Disease 2019 (“COVID-19”) is a severe acute respiratory illness that can spread among humans through respiratory transmission and presents with symptoms similar to those of influenza.
- (b) On March 9, 2020, pursuant to executive order 20-52, the Governor of the state of Florida declared a state of emergency throughout the state for the purpose of responding to COVID-19. That statewide emergency has been extended by subsequent order of the Governor (most recently, executive order 20-213), and it remains in effect at this time.

- (c) For purposes of this order, “**State Order**” means any executive order or similar directive that is or will be issued by the Governor or by any other state official or entity for the purpose of responding to COVID-19 and that is effective within the City.
- (d) On March 13, 2020, the Pinellas County Board of Commissioners (“**BCC**”) adopted resolution 20-16 to declare a seven-day state of emergency in Pinellas County, Florida, (the “**County**”) for the purpose of responding to COVID-19. That countywide state of emergency has been extended in seven-day increments by subsequent resolutions of BCC or orders of the County Administrator, and it remains in effect at this time.
- (e) For purposes of this order, “**County Order**” means any ordinance, resolution, order, or similar document that is or will be adopted or promulgated by BCC, the County Administrator, or by any other County official or entity authorized to take emergency action for the purpose of responding to COVID-19 and that is effective within the City.
- (f) On March 12, 2020, pursuant to Florida Statutes section 252.38 and St. Petersburg City Code chapter 2, article VIII, division 2 (with respect to that division, the “**Emergency Code**”), I issued executive order 2020-01, which contained a proclamation declaring a seven-day state of local emergency in the City for the purpose of responding to COVID-19. That state of local emergency for the City has been extended for consecutive seven-day periods by subsequent proclamations (most recently in executive order 2020-42), and it remains in effect at this time (collectively, the “**Emergency**”).
- (g) For the reasons described in these findings and in the findings made in the most recent executive order extending the Emergency (which are hereby incorporated by reference), COVID-19 continues to pose an immediate danger to the public health, safety, and welfare of the City that requires emergency action.
- (h) Pursuant to the police powers granted by the Florida Constitution and Florida Statutes chapter 166 and the emergency powers granted by the Florida Statutes (including sections 252.32, 252.38, and 252.46) and the Emergency Code, I am authorized as the Mayor to impose curfews, confiscate property, declare areas off limits, close places of public assemblage, and take whatever prudent action is necessary to ensure the health, safety, and welfare of the community during the Emergency.
- (i) For purposes of this order, “**City Order**” means any executive order or similar directive that is or will be issued by me pursuant to the authority described in the preceding finding for the purpose of responding to COVID-19, including this order.

- (j) CDC guidance entitled “Deciding to Go Out” describes a variety of factors to be considered when evaluating the risk of COVID-19 exposure. This guidance includes the following statements:
 - (i) Interacting with more people raises your risk.
 - (ii) Being in a group with people who aren’t social distancing or wearing cloth face coverings increases your risk.
 - (iii) Engaging with new people (e.g., those who don’t live with you) raises your risk.
 - (iv) The closer you are to other people who may be infected, the greater your risk of getting sick.
 - (v) Indoor spaces are more risky than outdoor spaces where it might be harder to keep people apart and there’s less ventilation.
- (k) Because business operations—particularly with respect to employees who have direct contact with patrons of the business—fall squarely within increased risk factors identified by that CDC guidance, on June 17, 2020, I issued executive order 2020-24 to require operators of businesses in the City to follow certain guidance from CDC and other authorities concerning COVID-19. This order required each business in the City to implement COVID-19 mitigation and contingency planning in accordance with guidance from CDC, the Occupational Safety and Health Administration (“OSHA”), or both.
- (l) On June 25, 2020, I issued City executive order EO 2020-27 (the “**Current Mitigation Order**”) to incorporate the provisions of County ordinance 20-14 (as it may be amended, superseded, or interpreted by the County from time-to-time, the “**County Ordinance**”), which established a variety of mitigation measures concerning COVID-19, including (i) face covering requirements for businesses and individuals and (ii) social-distancing requirements for bars and restaurants that supplement those found in current State Orders. The Current Mitigation Order also amended and restated the portion of previous City executive order 2020-24 that established requirements for businesses to engage in mitigation and contingency planning in order to conform those requirements with the County Ordinance.
- (m) The Florida Department of Health issues regular reports on the status of COVID-19 through the “Florida’s COVID-19 Data and Surveillance Dashboard,” including data related to two of the three key metrics in the “Safe. Smart. Step-by-Step. plan to re-open Florida” released by the Re-Open Florida Task Force in April 2020. These metrics are the “Syndromic Surveillance” metric (with respect to both influenza-like illnesses and

COVID-19-like illnesses) and the “Epidemiology & Outbreak Decline” metric (with respect to both documented COVID-19 cases and the trajectory of positive tests as a percent of total tests). The data for these metrics as of the date of this order indicate that emergency actions taken by the City and County in late June are limiting community spread of COVID-19 in Pinellas County. Accordingly, events and gatherings that were previously postponed or cancelled due to COVID-19 are likely to resume.

- (n) CDC has issued guidance entitled “Considerations for Events and Gatherings” (as may be amended or superseded from time to time, the “**CDC Event Guidance**”) to address how events and gatherings can be held in a manner that reduces the risk of spreading COVID-19. This guidance states that the more people an individual interacts with at a gathering and the longer that interaction lasts, the higher the potential risk of a person at the event becoming infected with COVID-19 and potentially spreading it to others. Accordingly, it is critical to develop and implement mitigation and contingency planning when conducting events and gatherings.
- (o) Based on the CDC guidance described in preceding findings and on lessons learned from implementation of the Current Mitigation Order, I have determined that it is necessary to protect the public interest to amend and restate the existing contingency and mitigation planning requirements for businesses in the Current Mitigation Order to make the following changes: (i) emphasize that provisions of the County Ordinance related to face coverings must be reflected in a plan; (ii) require a plan component addressing CDC Event Guidance when appropriate; (iii) clarify when a plan must be updated; (iv) require the plan to be published online if the business is promoted online; (v) require an operator (or designated employee) to take reasonable efforts to achieve compliance with the plan by each patron, including those attending a “private” function at the business.
- (p) In addition to “private” functions held at a business, as described in the preceding finding, other types of events and gatherings are likely to occur in the City with increasing size and frequency. Based on that likelihood and the applicable CDC Guidance, it is necessary to protect the public interest to establish contingency and mitigation planning requirements for such events and gatherings that reflect CDC Event Guidance and that are similar to the requirements imposed on businesses that have been effective in limiting the community spread of COVID-19 in the City.
- (q) In consideration of the finite resources available to enforce such event-related requirements, these event-related requirements should be limited, at this time, to events that can reasonably be expected to attract more than 50 people and that are held pursuant to a City-issued permit or a facility-use agreement (or similar contractual arrangement) with the City.

But an increase in the amount of community spread or other factors may require expansion of those requirements in the future.

- (r) With community spread of COVID-19 limited by the emergency actions described in these findings, the City expects to begin re-opening City facilities to the public and to begin holding in-person meetings of City government. Because public use of these City facilities and public attendance at these meetings falls within the risk factors described in the CDC guidance described in section 1(j) (“Deciding to Go Out”), it is necessary to protect the public interest to (i) condition public entry into and use of City facilities on compliance with certain requirements concerning face covering, social distancing, and other applicable guidance and (ii) conditionally terminate the provision in City executive order 2020-30 (the “City Meeting Order”) that closes places of public assemblage to in-person meetings of City government.
- (s) The emergency actions taken by this order are necessary to prevent a widespread outbreak of COVID-19 that could cause both (i) unprecedented sickness and death in the City that overwhelms critical and limited healthcare capacity and (ii) unprecedented economic damage within the City.
- (t) Because COVID-19 poses an unprecedented threat to the public health, safety, and welfare, there is a compelling governmental interest in reducing the spread of COVID-19 within the City, and the emergency actions taken by this order are necessary to achieve that purpose and have been narrowly tailored to achieve that purpose.
- (u) Because emergency actions taken by this order will be necessary only until the threat of a widespread outbreak of COVID-19 within the City has passed, such emergency actions will be temporary in nature and will not be continuous or continuously recurring.
- (v) This order has been made in consideration of the information described in these findings and in consultation with applicable City officials and staff. Accordingly, the procedure used to make this order is fair under the circumstances.
- (w) Currently applicable State Orders and County Orders do not preempt or prohibit the emergency actions taken by this order.

SECTION 2—RELATION TO OTHER EMERGENCY ACTIONS:

- (a) This order is intended to complement and be carried out in conjunction with all applicable State Orders and County Orders.

- (b) The provisions of section 4 of this order are intended to amend and restate section 5 of the Current Mitigation Order (City EO 2020-27). Accordingly, when section 4 of this order goes into effect, it will supersede section 5 of the Current Mitigation Order in full.
- (c) The provisions of section 7 of this order are intended to conditionally terminate section 4 of the City Meeting Order (City EO 2020-30). Accordingly, when section 7 of this order goes into effect, section 4 of the City Meeting Order will be terminated and of no effect.
- (d) Otherwise, this order is not intended to supersede or terminate any other portion of the Current Mitigation Order, the City Meeting Order, or any other preceding City Order, and it is intended to be carried out in conjunction with all such City Orders currently in effect. But to the extent this order conflicts with any previous City Order, this order controls.

SECTION 3—DEFINITIONS: For purpose of this order, the following definitions apply:

- (a) **“Applicable guidance”** means any guidance concerning COVID-19 that has been promulgated by state and federal regulatory agencies, including CDC, OSHA, the Florida Department of Health, and the Florida Department of Business and Professional Regulation, including but not limited to the following:
 - (i) CDC guidance entitled “Interim Guidance for Businesses and Employers to Plan and Respond to Coronavirus Disease 2019 (COVID-19)” (as may be finalized, amended, or superseded from time to time, the **“CDC Business Guidance”**).
 - (ii) OSHA guidance entitled “Guidance for Preparing Workplaces for COVID-19” (as may be amended or superseded from time to time, the **“OSHA Business Guidance”**).
 - (iii) CDC Event Guidance, as defined in section 1(n).
- (b) **“Attendee”** means any guest, invitee, or other person who is (i) over the age of 18; (ii) physically present within any area of an event, regardless of whether it is fully or partially enclosed; and (iii) not considered an organizer or staffer.
- (c) **“Business”** means any individual or entity (regardless of corporate structure or formation) that is considered a “business” under the County Ordinance.
- (d) **“Employee”** means an employee, agent, contractor, volunteer, or other person engaged in the day-to-day operation of a business.
- (e) **“Event”** means an event intended for or that can reasonably be expected to attract more than 50 people and that is held pursuant to either (i) a permit issued by the City (including

co-sponsored event, food truck special event, parade, non-construction-related street closure, outdoor assembly, park, certain temporary use, and special event) or (ii) a facility-use agreement or similar contractual arrangement with the City. An event falls within the scope of this definition regardless of whether attendance requires an invitation, requires the purchase of a ticket or other payment, or is otherwise limited to certain individuals.

- (f) **“Facility use agreement”** means a facility use agreement or similar contractual arrangement with the City for the use of a facility or property that is owned or operated by the City.
- (g) **“Operator”** has the meaning provided in County Ordinance section 2(5).
- (h) **“Organizer”** means the individual or entity (regardless of corporate structure or formation) who (i) is identified on the permit application submitted to the City as the individual or entity responsible for the event or (ii) enters into the facility use agreement with the City for the event. If the organizer is an entity, each officer, director, or other person with control over the operation of the entity is also considered an organizer for purposes of this order.
- (i) **“Patron”** means any guest, invitee, or other person who is (i) over the age of 18; (ii) physically present within any area of a business, regardless of whether it is fully or partially enclosed; and (iii) not considered an operator or employee of that business. This includes any guest, invitee, or other person over the age of 18 attending a “private” function or similar gathering that requires an invitation, that requires the purchase of a ticket or other payment, or that is otherwise limited to certain individuals who are not considered an operator or employee.
- (j) **“Staffer”** means an employee, agent, contractor, volunteer, or other person engaged in the planning or execution of an event who is not considered an organizer for that event.

SECTION 4—BUSINESS PLANNING: Effective Monday October 5, 2020, at 8:00am, an operator shall ensure that that the operator’s business meets or exceeds the following requirements for COVID-19 mitigation and contingency planning:

- (a) An operator shall ensure that the business has a written plan for COVID-19 mitigation and contingency planning in accordance with the following:
 - (i) The plan may be based on the CDC Business Guidance, the OSHA Business Guidance, or both.
 - (ii) If any applicable guidance for a specific industry *supplements* the CDC Business Guidance or the OSHA Business Guidance (e.g., guidelines for gyms and fitness

centers published by DBPR), that industry-specific applicable guidance must be reflected in the plan.

- (iii) If any applicable guidance for a specific industry *conflicts with* the CDC Business Guidance or the OSHA Business Guidance, that industry-specific applicable guidance supersedes the CDC Business Guidance or OSHA Business Guidance, as applicable, to the extent of the conflict.
 - (iv) The plan must reflect applicable provisions of the County Ordinance, including those that require operators, employees, and patrons to wear a face covering.
 - (v) If it is foreseeable that an activity falling within the scope of CDC Event Guidance will occur at the business (due to the nature of the business; history, expectation, or likelihood of such activities being scheduled or occurring informally; or any other applicable factor), the plan must have an additional component that addresses such activities in a manner consistent with CDC Event Guidance.
- (b) An operator shall update the plan as needed to address any of the following: (i) changes in applicable guidance, (ii) changes in business operations, (iii) scheduling or occurrence of an activity falling within the scope of CDC Event Guidance, or (iv) changes in risk factors (e.g., increased community spread).
 - (c) An operator shall ensure (i) that the plan is made available to each employee; (ii) that each employee receives training regarding compliance with the plan; and (iii) that each employee complies with the plan.
 - (d) An operator shall ensure (i) that the plan is available to patrons of the business and (ii) that aspects of the plan that apply to patrons (e.g., with respect to social distancing or face covering) are clearly communicated to patrons through signage or other appropriate means, as more specifically provided below.
 - (e) An operator shall ensure that the plan is available to the public so that a member of the public can make an informed decision as to patronizing the business. If an operator controls an online presence for the business, that operator shall ensure that the plan is available through that online presence.
 - (f) An operator (either directly or through one or more designated employees) shall take reasonable efforts to achieve compliance with the plan by each patron. The following actions are presumed reasonable and the minimum necessary to comply with this section:

- (i) At each entrance, post a conspicuous notice that a face covering must be worn in accordance with applicable law.
- (ii) At each entrance, post a conspicuous notice that the plan is available upon request. This notice may be combined with the notice required in subsection (i) above.
- (iii) If a patron fails to comply with any aspect of the plan (including requirements related to face covering, social distancing, or CDC Event Guidance), ask the patron to comply. If the patron refuses to comply, ask the patron to leave. This provision does not require any action to compel compliance by a patron, but an operator or employee may contact the City for assistance in addressing a patron's non-compliance.
- (iv) If any portion of the business will be used for a "private" function (with or without compensation), require compliance with the plan as a condition of such use. This may be effectuated by including a provision in the agreement associated with such use or by otherwise informing the individual or entity responsible for the function that compliance with the plan is required as a condition of use.

SECTION 5—EVENT PLANNING: Effective immediately, an organizer shall ensure that planning and execution of any event meets or exceeds the following requirements for COVID-19 mitigation and contingency planning:

- (a) An organizer shall ensure that a written plan for COVID-19 mitigation and contingency planning is developed for the event and updated in accordance with the following:
 - (i) The plan must reflect CDC Event Guidance, as applicable.
 - (ii) If applicable guidance for a specific type of event *supplements* the CDC Event Guidance, that event-specific applicable guidance must be reflected in the plan.
 - (iii) If applicable guidance for a specific type of event *conflicts with* the CDC Event Guidance, that event-specific applicable guidance supersedes the CDC Event Guidance.
 - (iv) The plan must reflect applicable provisions of the County Ordinance, including those that require organizers, staffers, and attendees to wear a face covering.
 - (v) An organizer shall update the plan as needed to reflect changes in applicable guidance, changes in event planning, or changes in risk factors (e.g., increased community spread).

- (b) The City shall not issue a permit for an event or enter into a facility use agreement until the City has determined, in its sole discretion, that the organizer applying for the permit or entering into the facility use agreement has satisfied the following conditions:
 - (i) The event will occur no earlier than October 5, 2020.
 - (ii) The organizer has certified that it has read and understood the CDC Event Guidance.
 - (iii) The organizer has certified that it has read and understood its obligations under this section.
 - (iv) The organizer has certified that an initial plan for the event has been developed and meets the requirements of this section.
 - (v) The organizer has acknowledged that failure to comply with its obligations under this section may result in any or all of the applicable enforcement actions described in section 8.
- (c) An organizer shall provide the plan to the City upon request as follows:
 - (i) The organizer shall provide the current version of the plan to the City within 24 hours of receiving a request from the City for the plan unless that request provides a longer period of time to respond.
 - (ii) The City's receipt, review, or comment related to a plan does not constitute any of the following: (a) a guarantee by the City that the plan is correct or complete; (b) a guarantee by the City as to the effectiveness of the plan; or (c) acceptance by the City of any liability or indemnity obligation arising out of or related to the plan or the event.
- (d) An organizer shall ensure (i) that the plan is made available to each staffer; (ii) that each staffer receives training regarding compliance with the plan; and (iii) that each staffer complies with the plan.
- (e) An organizer shall ensure (i) that the plan is available to all attendees and (ii) that aspects of the plan that apply to attendees (e.g., with respect to social distancing or face covering) are clearly communicated to attendees through signage or other appropriate means, as more specifically provided below.
- (f) An organizer shall ensure that the plan is available to the public so that a member of the public can make an informed decision concerning attendance at the event. If an organizer

controls an online presence for the event, that organizer shall ensure that the plan is available online through that online presence.

- (g) An organizer (either directly or through one or more designated staffers) shall take reasonable efforts to achieve compliance with the plan by each attendee. The following actions are presumed reasonable and the minimum necessary to comply with this section:
 - (i) At each entrance to the event, post a conspicuous notice that a face covering must be worn in accordance with applicable law.
 - (ii) At each entrance, post a conspicuous notice that the plan is available upon request. This notice may be combined with the notice required in subsection (i) above.
 - (iii) If an attendee fails to comply with any aspect of the plan (including any requirement for wearing a face covering or maintaining social distance), ask the attendee to comply. If the attendee refuses to comply, ask the attendee to leave. This provision does not require any action to compel compliance by an attendee, but an organizer or staffer may contact the City for assistance in addressing an attendee's non-compliance.
 - (iv) If any third party provides goods or services during the event (with or without compensation), require compliance with the plan as a condition of providing such goods or services. This may be effectuated by including a provision in the agreement associated with the provision of such goods or services or by otherwise informing the individual or entity that compliance with the plan is required as a condition of providing those goods or services.

SECTION 6—CITY FACILITIES: Effective immediately, entry into and use of a City facility by the public is conditioned upon compliance with requirements established by the City that address face covering, social distancing, and any other element of applicable guidance appropriate for that City facility (each a “**Facility Use Requirement**”). The City may deny entry into and use of a City facility on the basis of a person’s refusal or failure to comply with a Facility Use Requirement. A Facility Use Requirement applies at all times that a member of the public is on the premises of the applicable City facility, and a person who refuses or fails to comply with a Facility Use Requirement may be required to leave the premises of that City facility. A Facility Use Requirement may (i) vary from facility to facility; (ii) be subject to exceptions that are consistent with applicable guidance and applicable law; and (iii) be changed from time to time at the sole discretion of the City.

SECTION 7—ATTENDANCE AT GOVERNMENT MEETINGS: All meetings of City government are currently being conducted through communications media technology pursuant to

the City Meeting Order with respect to both members of the body and public attendance. When the City first posts on its website that a meeting of City government will occur with some or all members of the body present in person, City Meeting Order section 4 will be terminated at that time. Following termination of that section, members of the public may attend a meeting of City government in person, subject to requirements established for the applicable City facility pursuant to section 6 of this order. Members of the public may also continue to attend a meeting of City government through communications media technology in accordance with the remaining provisions of the City Meeting Order for so long as the City continues to offer communications media technology as an option for public attendance.

SECTION 8—ENFORCEMENT: A Facility Use Requirement may be enforced as described in section 6. Otherwise, this order may be enforced as follows:

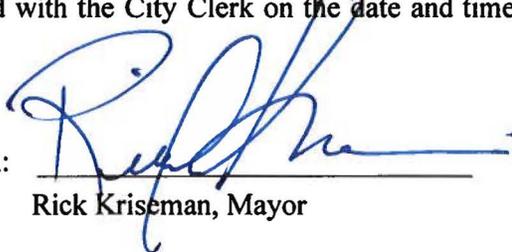
- (a) Violation of any provision of section 5 related to a City-issued permit may result in revocation of that permit. Such revocation may be appealed in manner provided for by City Code or other applicable law.
- (b) Violation of any provision of section 5 related to a facility use agreement may result in termination of that agreement or any other remedy authorized by law to enforce or terminate that agreement.
- (c) Violation of this order, which is made pursuant to the Emergency Code, is a municipal ordinance violation, and the provisions of City Code section 1-7 apply to any violation of this order. If a fine is imposed pursuant to this subsection (c), the fine will be imposed in accordance with the following, which is consistent with the fine schedule established by the County Ordinance:
 - (i) The fine for the first violation is \$100.
 - (ii) The fine for the second violation is \$250.
 - (iii) Following the second violation, the fine for each subsequent violation is \$500.
- (d) A repeat violation of this order, which is made pursuant to Florida Statutes section 252.38, is also punishable as a misdemeanor of the second degree pursuant to Florida Statutes section 252.50.

SECTION 9—SEVERABILITY: The provisions of this order are intended to be severable, and a determination that any portion of this order is invalid should not affect the validity of the remaining portions of this order.

SECTION 10—DURATION: Pursuant to City Code section 2-425(e)(1), this order has full force and effect when filed with the City Clerk and continues in effect until the first to occur of the following: (i) amendment or termination of this order pursuant to a subsequent order or (ii) expiration or earlier termination of the Emergency.

This order is executed by the Mayor and filed with the City Clerk on the date and time stated below.

Sign: _____


Rick Kriseman, Mayor

Filed with the City Clerk:

Sign: _____

Name: Chan Srinivasa

Title: City Clerk

Date: September 29, 2020

Time: 5:11 P.M.

