

ORDINANCE NO. 199
SECOND EMERGENCY ORDINANCE
INSTITUTING TEMPORARY MEASURES
FOR CERTAIN GATHERINGS
TO PREVENT THE SPREAD OF COVID-19

WHEREAS, on January 31, 2020, the United States Health and Human Services Secretary declared a public health emergency for the United States to aid the healthcare community in responding to the novel coronavirus, SARS-CoV-2, and the disease it causes, commonly referred to as COVID-19 (collectively, "COVID-19"); and,

WHEREAS, on March 11, 2020, the World Health Organization declared the COVID-19 outbreak a pandemic; and,

WHEREAS, on March 12, 2020, by Executive Order No. 51 ("EO 51"), Governor Ralph S. Northam declared a state of emergency in the Commonwealth of Virginia due to the spread of the COVID-19 virus, and declared the anticipated effects of COVID-19 to be a disaster within the meaning of Virginia Code Section 44-146.16, as a communicable disease of public health threat that is anticipated to spread; and,

WHEREAS, on March 13, 2020, the President of the United States found and proclaimed that the COVID-19 outbreak in the United States constitutes a national emergency, beginning March 1, 2020; and,

WHEREAS, on March 17, 2020, Governor Northam, jointly with the Virginia State Health Commissioner, declared a continuing public health emergency in Virginia resulting from the spread of the COVID-19 virus, and imposed stringent measures to combat the spread of COVID-19; and,

WHEREAS, since Governor Northam issued EO 51 on March 12, 2020, he has issued several more Executive Orders jointly with Orders of Public Health Emergency issued by M. Norman Oliver, MD, MA, State Health Commissioner, pertaining to COVID-19, including, as of the date of this Ordinance, "Executive Order Number Sixty-Seven (2020) and Order of Public Health Emergency Seven, Phase Three Easing of Certain Temporary Restrictions Due to Novel Coronavirus (COVID-19)" (collectively, "EO 67"), which became effective on July 1, 2020; and

WHEREAS, on March 17, 2020, the Mayor for the Town of Farmville, Virginia (the "Town"), who serves as the Town's Director of Emergency Management, issued a Declaration of Local Emergency due to the threats posed by the COVID-19 pandemic, pursuant to Virginia Code Section 44-146.21; and,

WHEREAS, the Town Council for the Town of Farmville, Virginia (the "Council") confirmed, consented to, and ratified the Declaration of Local Emergency at its regular meeting held on April 8, 2020; and,

WHEREAS, COVID-19 spreads person to person and, at this time, it appears that COVID-19 is spread primarily through respiratory droplets, which can land in the mouths or noses of people who are nearby or possibly be inhaled into the lungs, and spread is more likely when people are in close contact with one another (within about six feet); and,

WHEREAS, COVID-19 is extremely easy to transmit, can be transmitted by infected people who show no symptoms, and the population has not developed herd immunity; and,

WHEREAS, at this time, there is no known cure, no effective treatment, no vaccine, and because people may be infected but asymptomatic, they may inadvertently infect others; and

WHEREAS, the World Health Organization, the United States Centers for Disease Control and Prevention (“Centers for Disease Control”) and the Virginia Department of Health have identified several behaviors and practices that are fundamental in controlling the spread of COVID-19 in the community, including, frequently washing hands, sanitizing frequently touched surfaces, wearing a cloth face covering when in public, maintaining a separation of at least six feet between people (“social distancing” or “physical distancing”), limiting the size of gatherings in public places, and limiting the duration of gatherings; and,

WHEREAS, according to the World Health Organization, fabric face coverings, if made and worn properly, can serve as a barrier to droplets expelled from the wearer into the air and environment, however, these face coverings must be used as part of a comprehensive package of preventive measures, which includes frequent hand hygiene, physical distancing when possible, respiratory etiquette, environmental cleaning and disinfection, and recommended precautions also include avoiding indoor crowded gatherings as much as possible, in particular when physical distancing is not feasible, and ensuring good environmental ventilation in any closed setting; and,

WHEREAS, the World Health Organization advises that people take a number of precautions, including: (i) maintaining social distancing because when someone coughs, sneezes, or speaks they spray small liquid droplets from their nose or mouth which may contain virus, and if other persons are too close, they can breathe in the droplets, including the COVID-19 virus, if the person coughing, sneezing, or speaking has the disease; and (ii) avoiding crowded places because when people are in crowds, they are more likely to come into close contact with someone that has COVID-19 and it is more difficult to maintain social distancing; and,

WHEREAS, the Centers for Disease Control caution that: (i) the more people a person interacts with at a gathering and the longer that interaction lasts, the higher the potential risk of becoming infected with COVID-19 and COVID-19 spreading; (ii) the higher level of community transmission in the area that a gathering is being held, the higher the risk of COVID-19 spreading during the gathering; and (iii) large in-person gatherings where it is difficult for persons to remain spaced at least six feet apart and attendees travel from outside the local area pose the highest risk of COVID-19 spreading; and,

WHEREAS, the Centers for Disease Control state that cloth face coverings are strongly encouraged in settings where persons might raise their voice; and,

WHEREAS, the Centers for Disease Control advise, in restaurants: (i) wearing cloth face coverings when less than six feet apart from other people or indoors; (ii) wearing face coverings as much as possible when not eating; (iii) maintaining a proper social distancing if persons are sitting with others who do not live with the person; and (iv) sitting outside when possible; and,

WHEREAS, the Virginia Department of Health has stated that those businesses that operate indoors and at higher capacity, where physical distancing recommendations are not observed, sharing objects is permitted, and persons are not wearing cloth face coverings, create higher risk for the transmission of COVID-19; and,

WHEREAS, in recent weeks, Prince Edward County has observed the number of its confirmed cases of COVID-19 continue to climb; and,

WHEREAS, on August 19, 2020, the Town Council adopted an initial emergency Ordinance for the purposes stated herein; and

WHEREAS, for the reasons cited herein along with other related reasons, the Town Council finds that the temporary measures provided in this Ordinance continue to be necessary to protect the health, safety, and welfare of the public from the threats posed by COVID-19.

NOW, THEREFORE, BE IT ORDAINED by the Council of the Town of Farmville, as follows:

Sec. 1. Purpose.

For the reasons stated in the recitals, the purpose of this Ordinance is to protect the health, safety, and welfare of the public by preventing the spread of COVID-19.

Sec. 2. Authority.

This Ordinance is authorized by Section 56 of the Town Charter and Virginia Code § 15.2-1102, which enables the Town to exercise those powers as are necessary or desirable to secure and promote the general welfare of the inhabitants of the Town and provide for their safety and health. This Ordinance is further authorized for the reasons stated in the recitals.

Sec. 3. Definitions.

The following definitions apply to this Ordinance:

A. "Employee" means an individual identified as being in employed status as shown on an employer's payroll records or a member of a family working for a family-owned business.

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B. “Expressive activity” means a non-commercial activity in which a person intends to convey a lawful message through speech or conduct that is likely to be perceived by an observer of the speech or conduct, and includes any lawful public gathering, demonstration, procession, or parade in which the primary purpose is to exercise the rights of free speech or peaceable assembly.

C. “Gathering” means a planned or spontaneous indoor or outdoor, or both, event with people participating or attending for a common purpose such as a community event, concert, festival, conference, parade, wedding, sporting event, party (including parties at private residences), celebration, and other social events. “Gathering” does not include a place of employment where persons are present to perform their functions of employment; events or activities on the grounds of an institution of higher education or school-owned property that are institution or school related; persons engaging in religious exercise at their religious institution or other place of religious significance; functions at any child day center (i.e., child day care program) as defined by Virginia Code § 63.2-100; and recreational sporting events sponsored by the Town with a defined social distancing plan.

D. "Independent contractor" means an individual or legal business entity providing services to another under an agreement for goods or services.

E. “Face covering” means an item normally made of cloth or various other materials with elastic bands or cloth ties to secure over the wearer’s nose and mouth in an effort to contain or reduce the spread of potentially infectious respiratory secretions at the source (i.e., the person’s nose and mouth).

F. “Public place” means any place other than a person’s residence or personal vehicle that is indoors, or the indoor portion of the place, or outdoors where at least six feet of physical distancing between persons not living in the same household cannot be maintained, and generally open to the public including, but not limited to, retail stores, food establishments, theaters, personal care and personal grooming services, and transportation other than a personal vehicle. “Public place” does not include institutions of higher education and other schools, fitness and other exercise facilities, religious institutions, or indoor shooting ranges.

Sec. 4. Limitation on the Number of Attendees at Gatherings.

A. *Gatherings of more than 50 persons prohibited.* All public and private in-person gatherings of more than 50 persons are prohibited except as provided in Section 4(B).

B. *Gatherings not subject to the 50-person limit.* Section 4(A) does not apply to the following gatherings and, instead, the maximum size for gatherings established in EO 67, or as it may be further amended or superseded, or any Order of Public Health Emergency, applies:

1. Gatherings for religious exercise including, but not limited to, religious ceremonies.
2. Wedding ceremonies and wedding receptions.

3. Funerals.
4. Expressive activity on a public street, public sidewalk, and demonstrations on city property and on other public property as permitted by a special event permit issued by the City Manager or their designee.
5. Schools.
6. Restaurants, breweries or other licensed establishments serving food and/or drink.

C. *Persons working not counted.* Persons working at gatherings, either as employees or independent contractors, do not count towards the limit on the number of persons at a gathering.

D. *State requirements, recommendations, and guidance.* Except as provided in Sections 4(A), (B), and (C), this Section does not affect any requirement, recommendation, or guidance including, but not limited to, those requiring or recommending physical distancing, that apply to gatherings established in EO 67, or as it may be further amended or superseded, any Order of Public Health Emergency, any workplace safety regulations, or any other State or federal laws related to the COVID-19 pandemic.

Sec. 5. Effect of More Restrictive Executive Order or Order of Public Health Emergency.

Section 4 does not apply when a more restrictive requirement in an Executive Order or an Order of Public Health Emergency is in effect.

Sec. 6. Face Covering Requirement.

A. Face coverings required. Face coverings must be worn by all persons in public places except as provided in Sections 6 (B) and (C). Notice of this face covering requirement must be prominently posted on the entrance to all establishments open to the public, including, but not limited to, retail stores, food establishments, theaters, personal care and personal grooming services.

B. Persons not required to wear face coverings. Face coverings are not required to be worn by the following persons:

1. Children. Children 10 years of age and under.
2. Persons for whom wearing a face covering poses a substantial mental or physical health, safety, or security risk such as persons who have trouble breathing or are unconscious, incapacitated, or otherwise unable to remove the face covering without assistance.

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Retail stores and food establishments should attempt to provide goods and services outside of the establishment for such persons.

3. Certain employees. On-duty employees of the public place for which workplace safety regulations promulgated by the State Safety and Health Codes Board, or face covering rules established by an applicable Executive Order of the Governor or an Order of Public Health Emergency by the State Health Commissioner, apply.

C. Circumstances when face coverings are not required to be worn by any persons. Face coverings are not required to be worn by persons in the following circumstances:

1. Outdoor activities. While persons are engaged in outdoor activities in public places such as parks and other open spaces, provided that minimum physical distancing established by any applicable Executive Order of the Governor or Order of Public Health Emergency of the State Health Commissioner is maintained.

2. Eating or drinking. While a person is eating food or drinking a beverage.

3. End of waiver of Virginia Code § 18.2-422. When the waiver of Virginia Code § 18.2422, currently established in EO 67, Section (C)(3), or as it may be further amended or superseded, ends.

D. Responsibility of adults accompanying minors. Adults accompanying minors between the ages of 10 years old and 17 years old must attempt to prompt the minor to wear face coverings while in public places.

Sec. 7. Penalties; Enforcement.

A. *Penalty for violation of Section 4.* A violation of Section 4 by the owner or tenant of the private property on which the gathering is located, after first being warned by a law enforcement officer to disperse the gathering, is punishable as a civil penalty of not more than \$300.00. A violation of Section 4 by any person attending the gathering, after first being warned by a law enforcement officer to disperse from the gathering because it exceeds the limitation for a gathering and having failed to disperse after a reasonable period of time, is punishable as a civil penalty of not more than \$150.00. Section 4(D) is not enforced pursuant to this Ordinance.

B. *Penalty for violation of Section 6.* A violation of Section 6 shall be punishable as a civil penalty of not more than \$300.00.

C. *Injunctive relief.* In addition to any other penalty provided in this Ordinance, the Town may seek to enjoin the continuing violation of any provision of this Ordinance by bringing a proceeding for an injunction in any court of competent jurisdiction.

Sec. 8. Effect of this Ordinance on the Powers of the Director of Emergency Management.

This Ordinance does not affect the powers of the Mayor, acting as the Director of Emergency Management, pursuant to Virginia Code § 44-146.21 during the COVID-19 disaster.

Sec. 9. Severability.

It is the intention of the Town Council that any part of this Ordinance is severable. If any part is declared unconstitutional or invalid by the valid judgment or decree of a court of competent jurisdiction, the unconstitutionality or invalidity does not affect any other part of this Ordinance.

Sec. 10. General Exception.

Nothing in this Ordinance shall limit:

1. The provision of health care or medical services;
2. Access to essential services for low-income residents, such as food banks;
3. The operations of media; or,
4. The operations of government.

Sec. 11. Duration.

That this Ordinance is adopted as an emergency measure. This Ordinance shall remain in effect from the date of prior passage and shall expire on December 9, 2020 at midnight, unless amended or extended by Town Council.

Date: October 7, 2020

Recorded Roll Call Votes:

Mr. Pairet:	___
Mr. Reid:	___
Mr. Vincent:	___
Mr. Cole:	___
Mr. Hunter:	___
Mr. Dwyer:	___
Mrs. Amos:	___

ATTEST:

Jacqueline Vaughan, Clerk