

EMERGENCY ORDINANCE NO. 20-24

AN EMERGENCY ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WINTER GARDEN, FLORIDA, CONFIRMING THE GOVERNOR'S DECLARED STATE OF EMERGENCY; ADOPTING THE GOVERNOR'S PLAN FOR PHASED REOPENING OF THE CITY AS SET FORTH IN EXECUTIVE ORDER NO. 20-112; ESTABLISHING RULES SUPPLEMENTARY TO EXECUTIVE ORDER NO. 20-112; AUTHORIZING THE CITY MANAGER TO ISSUE EMERGENCY ORDERS AND RULES PURSUANT TO §§ 252.38 AND 252.46, FLORIDA STATUTES; AND PROVIDING FOR NON-CODIFICATION, SEVERABILITY, AND AN EFFECTIVE DATE.

WHEREAS a respiratory illness due to a novel coronavirus (a disease now known as COVID-19), was first identified in Wuhan City, Hubei Province, China, and has spread outside of China, impacting many countries, including the United States; and

WHEREAS on January 23, 2020, the CDC activated its Emergency Response System to provide ongoing support for the response to COVID- 19 across the country; and

WHEREAS on March 1, 2020, Governor Ron DeSantis of the State of Florida issued Executive Order No. 20-51 directing the Florida Department of Health to issue a Public Health Emergency, and the State Surgeon General and State Health Officer declared a Public Health Emergency exists in the State of Florida as a result of COVID-19; and

WHEREAS on March 9, 2020, Governor Ron DeSantis of the State of Florida issued Executive Order No. 20-52 declaring a state of emergency within the State of Florida in response to the COVID-19 Public Health Emergency; and

WHEREAS on March 12, 2020, the City of Winter Garden enacted Emergency Ordinance No. 20-22 declaring a local State of Emergency and authorizing the City Manager to undertake certain emergency measures in response to the threat posed by COVID-19; and

WHEREAS, at the beginning of April, 2020, the Governor issued Executive Orders 20-91 and 20-92 directing all persons in Florida to limit their movements and personal interactions outside of their home only to those necessary to obtain or provide essential services or conduct essential activities as defined therein; and

WHEREAS, the Governor's administration has implemented a data-driven strategy devoted to high-volume testing and aggressive contact tracing, as well as strict screening protocols in long-term care facilities to protect vulnerable residents; and

WHEREAS, data collected by the Florida Department of Health indicates that the State of Florida has achieved several critical benchmarks in flattening the curve, including a downward trajectory of hospital visits for influenza-like illness and COVID-19-like syndromic cases, a decrease in positive tests results, and a significant increase in hospital capacity since March 1, 2020; and

WHEREAS, during the week of April 20, 2020, the Governor convened a Task Force to Re-Open Florida to evaluate how to safely and strategically reopen the state, including local jurisdictions therein; and

WHEREAS, the path to reopening Florida and the City of Winter Garden must promote business operation and economic recovery while maintaining focus on core safety principles; and

WHEREAS, in observance of the foregoing, the Governor issued Executive Order No. 20-112, which establishes rules and guidelines for a phased reopening of certain businesses within the state; and

WHEREAS City is granted the authority under § 2(b), Art. VIII of the Florida Constitution, to exercise any power for municipal purposes, except when expressly prohibited by law; and

WHEREAS, this Emergency Ordinance is authorized by Section 21 of the City of Winter Garden Charter, § 166.041(3)(b), Florida Statutes, and § 252.38, Florida Statutes, and other applicable provisions of law; and

WHEREAS, §§ 252.38 and 252.46 expressly authorize the City to make, amend, and rescind such orders and rules as area necessary for emergency management purposes and to supplement the carrying out of the provisions of §§ 252.31-252.90, and such orders and rules have the full force and effect of law after adoption; and

WHEREAS, the Office of the Governor issued a FAQ in connection with Executive Order No. 20-91, published on April 3, 2020, stating that the City is allowed to adopt requirements directly on businesses, operations or venues, including buildings, beaches, and parks, that may be stricter than Executive Order No. 20-91; and

WHEREAS, the Office of the Governor issued another statement via its FAQ for Executive Order No. 20-112, published on April 29, 2020, that "[t]he Governor's Executive Orders do not contain a preemption on local rules where those rules restrict or close businesses or buildings;" and

WHEREAS, this Ordinance is intended to implement a phased and prudent reopening of businesses and economic activity within the City in accordance with the provisions of the Governor’s Executive Ordinance No. 20-112 while providing for supplemental and complementary COVID-19 mitigation rules; and

WHEREAS, the City finds that this Ordinance is in the best interest of the public health, safety, and welfare of the citizens of Winter Garden.

NOW, THEREFORE, BE IT ENACTED BY THE CITY OF WINTER GARDEN, FLORIDA:

SECTION 1. Recitals. The above recitals are true and accurate and are incorporated herein.

SECTION 2. Affirmation of Emergency. The City Commission affirms, due to those reasons enumerated herein, that a statewide State of Emergency affecting the state in general and the City in particular has been declared by the Governor of the State of Florida and continues to exist. The City Commission therefore affirms the Governor’s Declaration of a State of Emergency.

SECTION 3. Phased Reopening. The City Commission hereby adopts the Governor’s plan for a phased reopening pursuant to Executive Order No. 20-112, and such order is hereby adopted as part of this Ordinance as set forth in **Exhibit A**, attached hereto and incorporated herein. Such order has the force and effect of law within the City pursuant to § 252.36(1)(b), Florida Statutes, and is hereby expressly adopted by the City pursuant to the City’s home rule powers until such order is superseded, rescinded, or modified by the Governor.

SECTION 4. Supplemental Regulations. In addition to the Phased Reopening rules imposed by Executive Order No. 20-112, the City adopts the following additional restrictions on local businesses as authorized by the Governor. Such restrictions are intended to supplement and complement the Governor’s Executive Orders and may not be interpreted in any manner that would conflict with such orders:

- a. *Occupancy.* Retail and restaurant businesses may not exceed 25% building occupancy as set forth in Executive Order No. 20-112. For the purposes of this Ordinance, “building occupancy” is a facility’s occupancy rating as determined pursuant to the Florida Building Code. In calculating whether a retail or restaurant business’s capacity remains within the 25% building occupancy limit, employees and contractors of such businesses are to be excluded.
- b. *Outdoor Dining.* Social distancing must be maintained for outdoor dining areas. No more than 10 individuals may be seated together, and all tables must be spaced at least 6 feet from one another. Persons in outdoor dining areas are required to be seated with their groups and not permitted to compromise social

distancing measures by standing about or loitering from table to table in such areas.

- c. *Restaurant Workers.* All persons employed or otherwise contracted or hired to work at a restaurant business and are either onsite at the restaurant or engaged in delivery service (“Restaurant Workers”) must wear facial coverings designed or otherwise worn so that they cover the nose and mouth in accordance with current Centers for Disease Control and Prevention (“CDC”) guidelines. Restaurants businesses open to the public, regardless of whether open for delivery, takeout, or dine-in service, are required to comply with the screening and prohibition requirements set forth in Section 3.C. of Executive Order No. 20-68 with regard to their respective Restaurant Workers.
- d. *Bar and Counter Seating.* Restaurants and other food service establishments open to the public shall ensure that customers and other invitees are seated only at tables and booths and shall prohibit customers and other invitees from being seated at bars or counters. For row seating in waiting areas, Restaurants and other food service establishments must ensure that groups number no more than 10 and are seated at least 6 feet apart.
- e. *Generally.* All owners, managers, supervisors, and directors of retail and restaurant and food service establishments are responsible for regularly reviewing applicable Executive Orders of the Governor pertaining to the mitigation of COVID-19 and ensuring that their respective businesses are in compliance therewith and meeting all applicable prescribed guidelines contained therein.

SECTION 5. Emergency Powers. The City has the right to exercise any of the powers provided to local governments pursuant to §§ 252.38 and 252.46, Florida Statutes, and the City Manager is authorized and empowered to make, amend, and rescind such orders and rules as are necessary for emergency management purposes and to supplement the carrying out of the provisions of §§ 252.31-252.90, Florida Statutes, but which are not inconsistent with any orders or rules adopted by the division or by any state agency exercising a power expressly and duly delegated to it by order of the Governor or the division. For the purpose of carrying out COVID-19 mitigation, the City Manager is encouraged to seek assistance from any and all applicable federal, state, and local agencies that may be capable of providing emergency services, compensation, or reimbursement to the City. The City Commission grants the City Manager the authority to issue executive orders making changes to the COVID-19 mitigation restrictions contained in this ordinance based upon any subsequent executive orders or emergency proclamations issued by the Governor’s office or other local jurisdictions, which orders are subject to ratification by the City Commission at its next scheduled public meeting.

SECTION 6. Enforcement. If the City determines that a business is not following any of the requirements herein, including any requirements pertaining to

COVID-19 mitigation as may be or may have been issued by the Governor via executive order or other proclamation, the City has the authority to order the business closed. For the purposes of this section, closure mandates may be issued by the City Manager, the City's Code Enforcement office, or law enforcement having jurisdiction within the City. Nothing herein may be read or construed to preclude the City from enforcing violations of this Ordinance pursuant to § 242.47, Florida Statutes, or any applicable municipal code enforcement provisions.

SECTION 7. Ratification. The City Commission hereby ratifies, affirms, and confirms any and all past emergency actions and other activities undertaken by the City since the City Commission's adoption of Ordinance 20-22 on March 12, 2020. Such actions and other activities are deemed to have been undertaken pursuant to the home rule authority of the City and this ordinance and are deemed lawful hereunder.

SECTION 8. Severability. If any portion of this Ordinance is finally determined by a court of competent jurisdiction to be invalid, unconstitutional, unenforceable or void, the balance of the Ordinance shall continue in full force and effect.

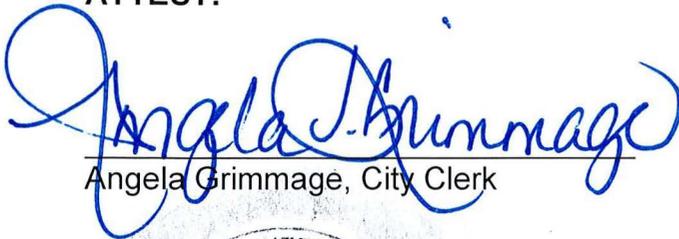
SECTION 9. Non-Codification. Given the temporary nature and effect of this Ordinance, it is the intent of the City Commission that this Ordinance will not be codified.

SECTION 10. Effective Date. This Ordinance shall become effective immediately. Pursuant to § 21 of the City Charter, this Ordinance shall expire as provided by applicable law unless otherwise extended by the City Commission.

READ AND ADOPTED this 4th day of May, 2020

CITY OF WINTER GARDEN, FLORIDA

ATTEST:


Angela Grimmage, City Clerk


John Rees, Mayor/Commissioner



Exhibit A

STATE OF FLORIDA

OFFICE OF THE GOVERNOR

EXECUTIVE ORDER NUMBER 20-112

(Phase 1: Safe. Smart. Step-by-Step. Plan for Florida's Recovery)

WHEREAS, on March 9, 2020, I issued Executive Order 20-52 declaring a state of emergency for the entire State of Florida as a result of COVID-19; and

WHEREAS, on April 3, 2020, I issued Executive Order 20-91 and Executive Order 20-92 directing all persons in Florida to limit their movements and personal interactions outside of their home only to those necessary to obtain or provide essential services or conduct essential activities; and

WHEREAS, my administration has implemented a data-driven strategy devoted to high-volume testing and aggressive contact tracing, as well as strict screening protocols in long-term care facilities to protect vulnerable residents; and

WHEREAS, data collected by the Florida Department of Health indicates the State has achieved several critical benchmarks in flattening the curve, including a downward trajectory of hospital visits for influenza-like illness and COVID-19-like syndromic cases, a decrease in percent positive test results, and a significant increase in hospital capacity since March 1, 2020; and

WHEREAS, during the week of April 20, 2020, I convened the Task Force to Re-Open Florida to evaluate how to safely and strategically re-open the State; and

WHEREAS, the path to re-opening Florida must promote business operation and economic recovery while maintaining focus on core safety principles.

NOW, THEREFORE, I, RON DESANTIS, as Governor of Florida, by virtue of the authority vested in me by Article IV, Section (1)(a) of the Florida Constitution and Chapter 252, Florida Statutes, and all other applicable laws, promulgate the following Executive Order:

Section 1. Phase 1 Recovery

In concert with the efforts of President Donald J. Trump and the White House Coronavirus Task Force, and based on guidance provided by the White House and the Centers for Disease Control and Prevention (CDC), the Occupational Safety and Health Administration (OSHA), and the Florida Surgeon General and State Health Officer, Dr. Scott Rivkees, I hereby adopt the following in response to the recommendations in Phase 1 of the plan published by the Task Force to Re-Open Florida.

Section 2. Responsible Individual Activity

A. All persons in Florida shall continue to limit their personal interactions outside the home; however, as of the effective date of this order, persons in Florida may provide or obtain:

1. All services and activities currently allowed, *i.e.*, those described in Executive Order 20-91 and its attachments, which include activities detailed in Section 3 of Executive Order 20-91, the U.S. Department of Homeland Security in its Guidance on the Essential Critical Infrastructure Workforce and a list propounded by Miami-Dade County in multiple orders (as of April 1, 2020), as well as other services and activities approved by the State Coordinating Officer. Such services should continue to follow safety

guidelines issued by the CDC and OSHA. If necessary, employee screening or use of personal protective equipment should continue.

2. Additional services responsibly provided in accordance with Sections 3 and 4 of this order in counties other than Miami-Dade, Broward and Palm Beach. In Miami-Dade, Broward and Palm Beach counties, allowances for services and activities from Sections 3 and 4 of this order will be considered in consultation with local leadership.

B. Except as provided in Section 2(A)(1) of this order, senior citizens and individuals with a significant underlying medical condition (such as chronic lung disease, moderate-to-severe asthma, serious heart conditions, immunocompromised status, cancer, diabetes, severe obesity, renal failure and liver disease) are strongly encouraged to stay at home and take all measures to limit the risk of exposure to COVID-19.

C. For the duration of this order, all persons in Florida should:

1. Avoid congregating in large groups. Local jurisdictions shall ensure that groups of people greater than ten are not permitted to congregate in any public space that does not readily allow for appropriate physical distancing.
2. Avoid nonessential travel, including to U.S. states and cities outside of Florida with a significant presence of COVID-19.
3. Adhere to guidelines from the CDC regarding isolation for 14 days following travel on a cruise or from any international destination and any area with a significant presence of COVID-19.

D. This order extends Executive Order 20-80 (Airport Screening and Isolation) and Executive Order 20-82 (Isolation of Individuals Traveling to Florida), with exceptions for persons involved in military, emergency, health or infrastructure response or involved in commercial activity. This order extends Sections 1(C) and 1(D) of Executive Order 20-86 (Additional Requirements of Certain Individuals Traveling to Florida), which authorize the Department of Transportation, with assistance from the Florida Highway Patrol and county sheriffs, to continue to implement checkpoints on roadways as necessary.

Section 3. Businesses Restricted by Previous Executive Orders

Unless I direct otherwise, for the duration of this order, the following applies to businesses directly addressed by my previous Executive Orders:

- A. Bars, pubs and nightclubs that derive more than 50 percent of gross revenue from the sale of alcoholic beverages shall continue to suspend the sale of alcoholic beverages for on-premises consumption. This provision extends Executive Order 20-68, Section 1 as modified by Executive Order 20-71, Sections 1 and 2.
- B. Restaurants and food establishments licensed under Chapters 500 or 509, Florida Statutes, may allow on-premises consumption of food and beverage, so long as they adopt appropriate social distancing measures and limit their indoor occupancy to no more than 25 percent of their building occupancy. In addition, outdoor seating is permissible with appropriate social distancing. Appropriate social distancing requires maintaining a minimum of 6 feet between parties, only seating parties of 10 or fewer people and keeping bar counters closed to seating. This provision

extends Executive Order 20-68, Section 3 and supersedes the conflicting provisions of Executive Order 20-71, Section 2 regarding on-premises food consumption.

- C. Gyms and fitness centers closed by Executive Order 20-71 shall remain closed.
- D. The prohibition on vacation rentals in Executive Order 20-87 remains in effect for the duration of this order.
- E. The Department of Business and Professional Regulation shall utilize its authorities under Florida law to implement and enforce the provisions of this order as appropriate.

Section 4. Other Affected Business Services

Unless I direct otherwise, for the duration of this order, the following applies to other business services affected by my previous Executive Orders:

- A. In-store retail sales establishments may open storefronts if they operate at no more than 25 percent of their building occupancy and abide by the safety guidelines issued by the CDC and OSHA.
- B. Museums and libraries may open at no more than 25 percent of their building occupancy, provided, however, that (a) local public museums and local public libraries may operate only if permitted by local government, and (b) any components of museums or libraries that have interactive functions or exhibits, including child play areas, remain closed.

Section 5. Medical Procedures

Subject to the conditions outlined below, elective procedures prohibited by Executive Order 20-72 may resume when this order goes into effect. A hospital ambulatory surgical center, office surgery center, dental office, orthodontic office, endodontic office or other health care

practitioners' office in the State of Florida may perform procedures prohibited by Executive Order 20-72 only if:

- A. The facility has the capacity to immediately convert additional facility-identified surgical and intensive care beds for treatment of COVID-19 patients in a surge capacity situation;
- B. The facility has adequate personal protective equipment (PPE) to complete all medical procedures and respond to COVID-19 treatment needs, without the facility seeking any additional federal or state assistance regarding PPE supplies;
- C. The facility has not sought any additional federal, state, or local government assistance regarding PPE supplies since resuming elective procedures; and
- D. The facility has not refused to provide support to and proactively engage with skilled nursing facilities, assisted living facilities and other long-term care residential providers.

The Agency for Health Care Administration and the Department of Health shall utilize their authority under Florida law to further implement and enforce these requirements. This order supersedes the conflicting provisions of Executive Order 20-72.

Section 6. Previous Executive Orders Extended

The Executive Order 20-69 (Local Government Public Meetings) is extended for the duration of this order.

Section 7. Enforcement

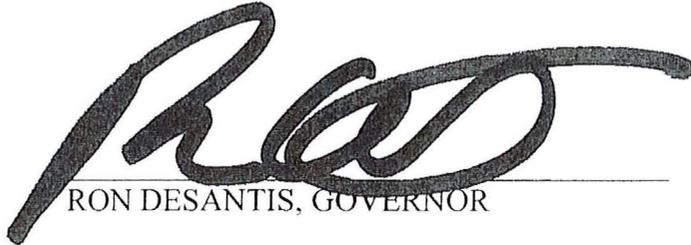
This order shall be enforced under section 252.47, Florida Statutes. Violation of this order is a second-degree misdemeanor pursuant to section 252.50, Florida Statutes, and is punishable by imprisonment not to exceed 60 days, a fine not to exceed \$500, or both.

Section 8. Effective Date

This order is effective at 12:01 a.m. on May 4, 2020.



IN TESTIMONY WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of Florida to be affixed, at Tallahassee, this 29th day of April, 2020.



RON DESANTIS, GOVERNOR

ATTEST:



SECRETARY OF STATE

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FILED