

EMERGENCY EXECUTIVE ORDER 2022-5 (Amending 2022-4)

I, Melvin Carter III, Mayor of the City of Saint Paul, on January 13, 2022, pursuant to Saint Paul Legislative Code Section 13.06, do hereby issue the following Executive Order:

On March 13, 2020, Minnesota Governor Tim Walz issued Executive Order 20-01 Declaring a Peacetime Emergency and Coordinating Minnesota's Strategy to Protect Minnesotans from COVID-19 pursuant to Minn. Stat. § 12.31, Subd. 2. That Executive Order has expired.

On March 15, 2020, Saint Paul Mayor Melvin Carter issued an Emergency Declaration in response to the COVID-19 pandemic pursuant to Minn. Stat. § 12.29; which the City Council consented to on March 17, 2020. This Emergency Declaration has been extended and remains in effect.

The U.S. Centers for Disease Control and Prevention ("CDC") identified new variants of the COVID-19 virus which are present in the United States and medical experts determined that some of these variants are significantly more contagious than previously known variants. The COVID-19 Delta variant has been determined by the CDC to be a "variant of concern" due to its high transmissibility and continues to account for a large number of new cases sequenced in Minnesota and Ramsey County, thereby substantially increasing the potential risk of infection and the spread of the virus through the community. The COVID-19 Omicron variant, which has been identified in Ramsey County, has been determined by the CDC to be a "variant of concern" and appears to be easily transmitted. The Omicron variant accounts for 68% of the cases in Minnesota.

Since the beginning of the pandemic there have been more than 5,617 COVID-19 hospitalizations and 1,090 COVID-19 deaths in Ramsey County. Case rates are now at an extremely high level of approximately 536 new COVID-19 cases per 100,000 people per day in Ramsey County, which places Ramsey County in the Centers for Disease Control and Prevention's high transmission category (which includes any location over 100 or more cases per 100,000). The positivity rate in Ramsey County is currently more than 13%.

COVID-19 infection is transmitted predominately by inhalation of respiratory droplets and studies show that face coverings block the release of respiratory droplets into the environment and can also reduce the wearer's exposure to droplets from others because COVID-19 viral particles spread between people more readily indoors and when people are closer together for longer periods of time indoors. Inside activities, and in particular inside activities where individuals gather without face coverings and where individuals gather for extended periods, or both, increase the likelihood of the spread of COVID-19. Studies have indicated and public health experts have concluded that indoor dining is a significant driver of the COVID-19 pandemic, in part because it is not possible to wear a face covering while eating or drinking.

The WHO and the U.S. Centers for Disease Control and Prevention have advised all individuals to take measures to reduce their risk of COVID-19, especially the Delta and Omicron variants, including proven public health and social measures such as wearing well-fitting face coverings, hand hygiene, physical distancing, improving ventilation of indoor spaces, avoiding crowded

spaces, and getting vaccinated. Safe, highly effective COVID-19 vaccines are now widely available in the United States. Administration of a COVID-19 vaccine is a medically accepted and recommended form of prophylactic treatment that dramatically reduces the likelihood of experiencing a symptomatic SARS-CoV-2 infection, and recent studies show that available COVID-19 vaccines also reduce asymptomatic infection and transmission. COVID-19 vaccines are now readily available for all eligible individuals five years of age and older, while those four years of age and under remain ineligible for vaccination and therefore subject to greater exposure of infection and transmission. Broad distribution and uptake of COVID-19 vaccines is essential to ending the COVID-19 pandemic.

Saint Paul Leg. Code Chapter 13.06(b) provides that, “whenever necessary to meet an emergency ... the mayor may by executive order promulgate regulations ... for which adequate regulations have not been adopted ... respecting the conduct of persons and the use of property during emergencies; the repair, maintenance and safeguarding of essential public services; emergency health, fire and safety regulations; and all other matters which are required to protect public safety, health and welfare in emergencies.”

Executive Order 2022-3 includes the requirement that businesses licensed by the City of Saint Paul must, regardless of vaccine status, require all Individuals to wear a face covering indoors at all times when social distancing of at least 6 feet is not maintained, except for temporary removal of face covering when eating or drinking. This order is in addition to that order and will help protect the safety of patrons of licensed establishments who are permitted to remove masks to eat or drink.

Executive Order 2022-4 included a requirement that businesses subject to that order would comply with certain OSHA requirements that were stayed by the United States Supreme Court in *National Federation of Independent Business v. Department of Labor*, 595 U. S. ____ (2022). NOW, THEREFORE, I, Melvin Carter, Mayor of the City of Saint Paul, do hereby issue the following Emergency Executive Order:

Regulations

- 1) Effective January 19, 2022, any licensed business that is a space of public accommodation in the City of Saint Paul during any time that food and/or drink is sold or served indoors for consumption onsite shall limit admission of patrons to the area of the licensed premises where food and/or drink is being consumed, to only those persons who furnish proof of a completed vaccination series against COVID-19 or a negative COVID-19 test obtained within seventy-two (72) hours of entry.
- 2) Effective January 26, 2022, any licensed business, during any time that a ticketed event is being held, that is a space of public accommodation in the City of Saint Paul during any time that food and/or drink is sold or served indoors for consumption onsite shall limit admission of patrons to the area of the licensed premises where food and/or drink is being consumed, to only those persons who furnish proof of a completed vaccination series against COVID-19 or a negative COVID-19 test obtained within seventy-two (72) hours of entry.

- 3) This regulation shall not prevent any business from establishing more strict requirements for its workforce, contractors, volunteers, customers or clientele, including requiring all persons onsite to be vaccinated (to the extent otherwise permitted under applicable law).
- 4) Athletes, performers, and supporting staff (such as coaches, trainers, road crew, and similar supportive staff) competing or performing at any space of public accommodation subject to this regulation are not subject to the regulation, provided that the facility follows all supplemental COVID-19 safety measures.
- 5) Any facility hosting an event or activity (on a one-time or ongoing basis) that holds a license issued by the City of Saint Paul is not subject to these requirements for a specific event if no food or beverages will be consumed at the event and the facility follows all supplemental COVID-19 safety measures.
- 6) ~~All employers of businesses that are spaces public accommodation subject to this Regulation shall comply with OSHA standards 1910.501(e) and (g), as existing on the date of issuance of this Emergency Regulation, relating to employee vaccination status and testing at covered locations, regardless of the number of their employees.~~

Definitions

- 1) A licensed business that is a space of public accommodation means an entity that holds a City license that is a business, or an educational, refreshment, entertainment, or recreation facility, or an institution of any kind, whose goods, services, facilities, privileges, advantages, or accommodations are extended, offered, sold, or otherwise made available to the public.
- 2) Proof of a completed vaccination series against COVID-19 means presentation of a CDC-provided card, photograph of card, other government-approved record of vaccination, or an application approved by a governmental entity (e.g. Docket) to hold immunization information in conjunction with any photo identification that includes a photograph and name of the individual. A photo identification is not required for individuals under the age of 18.
- 3) Completed Vaccination Series means two weeks following completion of any CDC approved vaccination series, including:
 - A 2-dose series of an mRNA COVID-19 vaccine (Pfizer-BioNTech or Moderna), or
 - A single-dose COVID-19 vaccine (Johnson & Johnson's Janssen vaccine).
- 4) A negative COVID-19 test means an email, printout or screen shot with the name of the individual and the test result showing the date of the test in conjunction with any photo identification that includes a photograph and name of the individual. A photo identification is not required for individuals under the age of 18. At-home tests do not

meet this requirement.

- 5) Face covering includes manufactured or homemade cloth face masks. Face coverings must fully cover an individual's nose and mouth. Face coverings are not required to be medical-grade masks, but medical-grade masks are strongly encouraged.
- 6) A ticketed event is an event where all patrons must obtain a ticket to attend the event and tickets were available for purchase at least 14 days in advance of the event.
- 7) Supplemental COVID-19 safety measures include:
 - a. Requiring face coverings be worn by all individuals, regardless of vaccine status, except young children at risk of suffocation and persons who cannot medically tolerate wearing a face covering.
 - b. Make masks available for staff and attendees.
 - c. Providing sufficient hand sanitizer and hand washing facilities.
 - d. Following CDC-recommended cleaning protocols.
 - e. Maintaining as much social distancing as possible.
 - f. Maximize indoor air ventilation.

Exemptions

- 1) Individuals under the age of 5.
- 2) The pedestrian skyway system as defined in Saint Paul Legislative Code chapter 140.
- 3) Any educational facility for students and staff during school hours.
- 4) Any location providing COVID-19 vaccinations or testing provided that the facility follows all supplemental COVID-19 safety measures.
- 5) Any location hosting a Naturalization ceremony during the ceremony provided that no food or beverages are provided or consumed the facility follows all COVID-19 safety measures.
- 6) Grocery stores, convenience stores, or other establishments that primarily sell food or other articles for offsite use, except in seated dining areas within those stores.
- 7) Any portion of a location that is outdoors, meaning the area is fully open to the outside on two or more sides, regardless of whether the area has a ceiling or roof.

Pursuant to Chapter 13 of the Saint Paul Legislative Code, this Executive Order will take effect on January 19, 2022 and January 26, 2022 for ticketed events following my signature and, if not sooner rescinded or later extended, shall expire at the end of forty (40) days after January 19, 2022 or at the end of the declared local emergency to which it relates, whichever occurs first.

Signed: January 13, 2022



Mayor Melvin Carter III