

VIRGINIA BUILDING AND FIRE CODE RELATED FAQs

EO 61 (Phase I Limited Reopening) & EO 65 (Phase II Easing of Certain Temporary Restrictions)

This document has been developed by the Division of Building and Fire Regulations, to assist Virginia Department of Health inspectors, interested local building departments and other interested stakeholders, by providing unofficial guidance (staff opinions) in applying the Executive Orders Number Sixty-One (2020) and Number Sixty-Five (2020) guidelines related to the use of buildings and structures. The answers provided in this document include informal staff opinions and are not official language or regulatory requirements. The goal of providing this guidance is assist communities with reopening safely, in compliance with current Executive Orders and Virginia's building and fire codes.

Phase II: Indoor Occupancy and Dining

Effective June 5, 2020: Restaurant and beverage establishments may offer indoor dining at 50 percent occupancy, fitness centers may open indoor areas at 30 percent occupancy, and certain recreation and entertainment venues without shared equipment may open with restrictions. These venues include museums, zoos, aquariums, botanical gardens, and outdoor concert, sporting, and performing arts venues. Swimming pools may also expand operations to both indoor and outdoor exercise, diving, and swim instruction (see [EO 65](#)).

Are restaurants permitted to open for dine-in customers during Phase II?

Yes, however they must adhere to the EO 65 requirements for “Restaurant and Beverage Services” found [here](#), including occupancy limitations and physical distancing requirements. Bar seats and congregating areas of restaurants must be closed to patrons except for through-traffic. Non-bar seating in the bar area (i.e., tables or counter seats that do not line up to a bar or food service area) may be used for customer seating as long as a minimum of six feet is provided between parties at tables.

What are the occupancy limitations for businesses during Phase II?

Restaurant and beverage services:

Occupancy must be limited to no more than 50% of the lowest occupancy load on the certificate of occupancy, if applicable, while maintaining a minimum of six feet of physical distancing between all individuals as much as possible.

The EO states that a minimum of six feet must be provided between parties at tables, (i.e., the six feet cannot include the space taken up by the seated guest). If tables are not movable,

parties must be seated at least six feet apart. Spacing must also allow for physical distancing from areas outside of the facility's control (i.e. provide physical distancing from persons on public sidewalks).

All parties, whether seated together or across multiple tables, must be limited to 50 patrons or less.

Note: Outdoor dining must meet the same requirements as indoor dining during Phase II.

Non-essential brick and mortar retail establishments:

Retailers must limit occupancy to 50% of the lowest occupancy load on the certificate of occupancy. Meeting rooms and other enclosed spaces such as fitting rooms are required to be closed to customers

If seating is available, a minimum of six feet must be provided between tables; if tables are not movable, parties must be spaced at least six feet apart

Gymnasiums, recreation centers, sports facilities and exercise facilities:

Occupancy must be limited to no more than 30% of the lowest occupancy load on the certificate of occupancy, if applicable, while maintaining a minimum of ten feet of physical distancing between all individuals as much as possible.

The total number of attendees (including both participants and instructors) in all group exercise and fitness classes cannot exceed the lesser of 30% of the minimum occupancy load on the certificate of occupancy or 50 persons.

Indoor and outdoor recreational sports activities:

The total number of attendees (including both participants and spectators) of outdoor recreational sports cannot exceed the lesser of 50% of the occupancy load on the certificate of occupancy, if applicable, or 50 persons.

The total number of attendees for indoor recreational sports cannot exceed the lesser of 30% of the lowest occupancy load on the certificate of occupancy or 50 persons. For indoor recreational sports, spectators may not be present except parents, guardians, or caretakers who are supervising children.

Beauty salons, barbershops, spas, massage centers, tanning salons, tattoo shops, and other locations where personal care or personal grooming services are performed:

Occupancy may not exceed 50% of the lowest occupancy load on the certificate of occupancy with at least six feet of physical distancing between work stations

Outdoor performing arts, outdoor concert venues, and outdoor movie theaters (excluding drive-in entertainment):

Ten feet of physical distance must be maintained between all performers, participants, and patrons who are not members of the same household.

Occupancy cannot not exceed the lesser of 50% of the lowest occupancy load on the certificate of occupancy, if applicable, or 50 patrons.

Outdoor professional sports:

If open to spectators, the total number of patrons and spectators cannot exceed the lesser of 50% of the lowest occupancy load on the certificate of occupancy or 50 persons.

Museums, botanical gardens, aquariums, zoos, and public and private social clubs:

Occupancy must be limited to no more than 50% of the lowest occupancy load on the certificate of occupancy.

Public and private social clubs cannot exceed the lesser of 50% of the occupancy load on the certificate of occupancy, if applicable, or 50 persons.

Religious services:

Occupancy shall be limited to no more than 50% of the lowest occupancy load on the certificate of occupancy of the room or facility in which the religious services are conducted.

How do I determine my occupancy limit if I do not have a certificate of occupancy that indicates the existing occupant load of my indoor space?

Contact your local building department for assistance with determining occupancy limits for indoor dining or other spaces.

Should the occupant load be posted for indoor dining areas?

Once the reduced occupant limit is determined for an indoor public area, we recommend posting the reduced occupancy limit where it can easily be seen by anyone entering the facility.

Phase I: Outdoor Dining

Effective May 15, 2020: Restaurants, dining establishments, food courts, breweries, microbreweries, distilleries, wineries, and tasting rooms may operate delivery, take-out, and outdoor dining and beverage services only, provided such businesses comply with the Guidelines for All Business Sectors, and sector-specific guidance for restaurant and beverage services (see [EO 61](#)).

Are restaurants permitted to open for dine-in customers?

Yes, however, they may only do so in outdoor spaces and they must adhere to additional requirements for outdoor service, which can be found [here](#).

Do enclosed decks with removable windows, partially enclosed outdoor seating areas, rooftop bars, and other similar areas need to meet the requirements of the Executive Order?

If an area is partially enclosed it likely does not meet the EO intent of “outdoor space”. Indoor seating with roll up or garage doors does not qualify as outdoor dining under the EO. Bars (even outdoor bars) must remain closed, but an outdoor bar area may be used for seating, as long as the seating complies with the EO. The local building department and Virginia Department of Health may be able to provide additional guidance in evaluating dining areas for compliance with the EO.

What is the occupancy limit for outdoor dining service during Phase I?

The EO requires occupancy of outdoor dining spaces be limited to no more than 50% of the lowest occupancy load on the certificate of occupancy, while maintaining a minimum of six feet of physical distancing between all individuals as much as possible.

Note: In order to meet the physical distancing requirements and maximum table/party limits, the maximum number of patrons that are able to be seated in an outdoor area might be lower than reduced (50%) occupant load.

Should the occupant load be posted for outdoor dining service?

Once the reduced occupant limit is determined for an outdoor dining area, we recommend posting the reduced occupancy limit, where it can easily be seen by anyone entering the facility.

How do I determine my occupancy limit if I do not have a certificate of occupancy that indicates the existing occupant load of my outdoor dining area?

Contact your local building department for assistance with determining occupancy limits for existing outdoor dining spaces.

Note: Under the current building code, the occupant load for dining areas with tables/chairs is one person for every 15 square feet. A 50% reduction would be one person for every 30 square feet.

Are there restrictions on seating arrangements for outdoor dining service?

The EO states that no more than 10 patrons may be seated as a party. Tables at which dining parties are seated must be positioned six feet apart.

Are restroom facilities still required to be provided?

Yes. Business should develop a policy for required restroom facilities that incorporates the Executive Order’s requirements for distancing, cleaning, and disinfecting.

Are tents permitted for outdoor dining service?

Yes. Tents without sides and that do not recirculate air through an HVAC system meet the intent of the Executive Order.

Do tents that do not require a permit need to meet the requirements of the Executive Order?

Yes. Tents under 900 square feet or tents with fewer than 50 occupants, although they do not require a permit, are required to meet the provisions of the building and fire codes, as well as the requirements of the Executive Order.

Note: According to the building and fire code, tents erected less than 12 feet apart are considered one tent.

Are tents permitted to have their sides enclosed during inclement weather?

No. Any business that cannot adhere to the requirements of the Executive Order must close.

Additional Information

[Executive Order Number Sixty-Five \(2020\) –Phase II](#)

[Safer at Home: Phase II Guidelines](#)

[Executive Order Number Sixty-One \(2020\) – Phase I](#)

[Forward Virginia: Phase I Guidelines](#)

Examples of Local Best Practices

[Henrico County Process for Temporary Outdoor Dining](#)

[Chesterfield County Temporary Outdoor Dining Area Application](#)

[Chesterfield Economic Development & Chamber Guidance](#)

[Stafford County Temporary Outdoor Seating Application](#)

[Town of Blacksburg Outdoor Dining Assistance](#)

EO 65 NUMBER SIXTY-FIVE (2020) AND ORDER OF PUBLIC HEALTH EMERGENCY SIX PHASE TWO EASING OF CERTAIN TEMPORARY RESTRICTIONS DUE TO NOVEL CORONAVIRUS (COVID-19)

<https://www.governor.virginia.gov/media/governorviriniagov/governor-of-virginia/pdf/eo/EO-65-Phase-Two.pdf>

safer at home: phase two

guidelines for all business sectors

<https://www.governor.virginia.gov/media/governorviriniagov/governor-of-virginia/pdf/Virginia-Forward-Phase-Two-Guidelines.pdf>

Under Phase Two, the Commonwealth will maintain a Safer at Home strategy with continued recommendations for social distancing, teleworking, and requiring individuals to wear face coverings in indoor public settings. The maximum number of individuals permitted in a social gathering will increase from 10 to 50 people. All businesses should still adhere to physical

distancing guidelines, frequently clean and sanitize high contact surfaces, and continue enhanced workplace safety measures.

Restaurant and beverage establishments may offer indoor dining at 50 percent occupancy, fitness centers may open indoor areas at 30 percent occupancy, and certain recreation and entertainment venues without shared equipment may open with restrictions. These venues include museums, zoos, aquariums, botanical gardens, and outdoor concert, sporting, and performing arts venues. Swimming pools may also expand operations to both indoor and outdoor exercise, diving, and swim instruction.

The current guidelines for religious services, non-essential retail, and personal grooming services will largely remain the same in Phase Two. Overnight summer camps, most indoor entertainment venues, amusement parks, fairs, and carnivals will also remain closed in Phase Two.

Social Gatherings

Social gatherings should be limited to 50% occupancy of the event space, if applicable, or 50 participants, whichever is less.

Limit the occupancy of spaces to ensure that six feet of physical distance can be maintained between all organizers, staff, volunteers, and attendees who are not members of the same household.

Reconfigure seating areas to allow six feet of physical distance between individuals by eliminating or closing select tables or seating areas, or by spreading them out to allow for adequate spacing.

Ensure exits are configured to reduce the occurrence of bottlenecks at the conclusion of the event.

Install physical barriers, such as sneeze guards and partitions, at staffed kiosks.

Restaurants, dining establishments, food courts, breweries, cideries, mobile units (food trucks), distilleries, wineries, and tasting rooms.

During Phase 2, businesses should continue to offer takeout and delivery options. If businesses choose to open to dine-in customers, they may do so in indoor and outdoor spaces and must adhere to the following additional requirements for service:

Occupancy must be limited to no more than 50% of the lowest occupancy load on the certificate of occupancy, if applicable, while maintaining a minimum of six feet of physical distancing between all individuals as much as possible.

Provide a minimum of six feet between parties at tables, (i.e., the six feet cannot include the space taken up by the seated guest). If tables are not movable, seat parties at least six feet apart. Spacing must also allow for physical distancing from areas outside of the facility's control (i.e. provide physical distancing from persons on public sidewalks).

All parties, whether seated together or across multiple tables, must be limited to 50 patrons or less.

Bar seats and congregating areas of restaurants must be closed to patrons except for through-traffic. Non-bar seating in the bar area (i.e., tables or counter seats that do not line up to a bar or food service area) may be used for customer seating as long as a minimum of six feet is provided between parties at tables.

All non-essential brick and mortar retail establishments.

Businesses must strictly adhere to the physical distancing guidelines, enhanced cleaning and disinfection practices, and enhanced workplace safety practices provided in the "Guidelines for All Business Sectors" document. They must also adhere to the following additional requirements:

Retailers must limit occupancy to 50% of the lowest occupancy load on the certificate of occupancy.

If seating is available, provide a minimum of six feet between tables; if tables are not movable, parties must be spaced at least six feet apart

Meeting rooms and other enclosed spaces such as fitting rooms should be closed to customers

Gymnasiums, recreation centers, sports facilities, and exercise facilities.

Businesses must strictly adhere to the physical distancing guidelines, enhanced cleaning and disinfection practices, and enhanced workplace safety practices provided in the "Guidelines for All Business Sectors" document. If businesses choose to offer fitness and exercise services, they must adhere to the following additional requirements for operations:

Occupancy must be limited to no more than 30% of the lowest occupancy load on the certificate of occupancy, if applicable, while maintaining a minimum of ten feet of physical distancing between all individuals as much as possible.

The total number of attendees (including both participants and instructors) in all group exercise and fitness classes cannot exceed the lesser of 30% of the minimum occupancy load on the certificate of occupancy or 50 persons.

Indoor and outdoor recreational sports activities

Participants and organizers of recreational sports activities must strictly adhere to the physical distancing guidelines, enhanced cleaning and disinfection practices, and enhanced workplace safety practices provided in the “Guidelines for All Business Sectors” document. Participants and organizers of recreational sports activities must adhere to the following additional requirements for such activities:

The total number of attendees (including both participants and spectators) of outdoor recreational sports cannot exceed the lesser of 50% of the occupancy load on the certificate of occupancy, if applicable, or 50 persons.

The total number of attendees for indoor recreational sports cannot exceed the lesser of 30% of the lowest occupancy load on the certificate of occupancy or 50 persons. For indoor recreational sports, spectators may not be present except parents, guardians, or caretakers who are supervising children.

Beauty salons, barbershops, spas, massage centers, tanning salons, tattoo shops, and any other location where personal care or personal grooming services are performed

Occupancy may not exceed 50% of the lowest occupancy load on the certificate of occupancy with at least six feet of physical distancing between work stations

Outdoor performing arts venues, outdoor concert venues, outdoor movie theaters, drive-in entertainment, outdoor sports venues, museums, botanical gardens, aquariums, zoos, and public and private social clubs.

Businesses must strictly adhere to the physical distancing guidelines, enhanced cleaning and disinfection practices, and enhanced workplace safety practices provided in the “Guidelines for All Business Sectors” document. They must also adhere to the following additional requirements:

Reconfigure seating areas to allow six feet of physical distance between individuals by eliminating and closing select tables or seating areas, or by spreading them out to allow for adequate spacing.

Ensure facility exits are configured to reduce the occurrence of bottlenecks and large gatherings.

Outdoor performing arts, outdoor concert venues, and outdoor movie theaters (excluding drive-in entertainment):

Ten feet of physical distance must be maintained between all performers, participants, and patrons who are not members of the same household.

Occupancy cannot not exceed the lesser of 50% of the lowest occupancy load on the certificate of occupancy, if applicable, or 50 patrons.

Outdoor professional sports.

If open to spectators, the total number of patrons and spectators cannot exceed the lesser of 50% of the lowest occupancy load on the certificate of occupancy or 50 persons.

Museums, botanical gardens, aquariums, zoos, and public and private social clubs:

Occupancy must be limited to no more than 50% of the lowest occupancy load on the certificate of occupancy.

Public and private social clubs cannot exceed the lesser of 50% of the occupancy load on the certificate of occupancy, if applicable, or 50 persons.

Religious services.

Occupancy shall be limited to no more than 50% of the lowest occupancy load on the certificate of occupancy of the room or facility in which the religious services are conducted.