

July 7, 2020

On March 10, 2020, the Governor of the State of Colorado issued an Executive Order declaring a state of disaster emergency due to the risk of spread of the novel coronavirus, now designated COVID-19.

On March 12, 2020, the Mayor of the City and County of Denver declared a state of local disaster emergency pursuant to C.R.S. § 24-33.5-701, *et seq.*, due to the risk of spread of COVID-19, which, on March 16, 2020, was extended by the City Council for the City and County of Denver through May 11, 2020 due to the risk of spread of COVID-19.

Since that time, the Executive Director of the Denver Department of Public Health & Environment (“DDPHE”), pursuant to section 24-16 of the Denver Revised Municipal Code, has issued numerous public health orders to implement measures to mitigate the spread of COVID-19 within the City and County of Denver.

These public health orders have restricted access to certain facilities; restricted mass gatherings of people; closed restaurants and bars to in-person services; and implemented stay at home requirements and critical business operations. In conjunction with steps taken by the Governor and the Colorado Department of Public Health and Environment, these measures all act in concert to minimize the spread of COVID-19 by reducing the exposure of individuals to the virus.

The United States Centers for Disease Control and Prevention (“CDC”), Colorado Department of Public Health and Environment (“CDPHE”), and the DDPHE have recommended that members of the public, when they need to interact with others outside the home, and especially in settings where many people are present, should cover the mouth and nose to prevent inadvertently spreading COVID-19. One key transmission method for the COVID-19 virus is through respiratory droplets that people expel when they breathe, cough, or sneeze. Moreover, people can be infected with the COVID-19 virus and be asymptomatic but still be contagious. People can also be infected and contagious 48 hours before developing symptoms when they are pre-symptomatic. Many people with COVID-19 have mild symptoms and do not recognize they are infected and contagious, and they can unintentionally infect others.

On April 17, 2020, the Governor of the State of Colorado issued an Executive Order D2020-039 requiring workers in critical businesses and critical government functions to wear a non-medical mask covering their nose and mouth while at work and while serving the public, and directing the Executive Director of CDPHE to issue a public health order consistent with the directives in the executive order (“EO D2020-039”).

On April 22, 2020, the Executive Director of CDPHE, pursuant to Colorado Revised Statute §§ 25-1.5-101(1)(a) and 25-1.5-102(1)(a)(I), issued an order requiring employees who work in close proximity to other employees or with the public to wear a non-medical or medical face covering unless

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doing so would inhibit the individual's health, and recommending that these employees wear gloves if gloves are provided by their employer ("CDPHE PHO 20-26").

On April 26, 2020, the Governor of the State of Colorado issued an Executive Order D2020-044, otherwise known as the "Safer at Home" order, permitting the limited reopening of certain institutions and businesses in Colorado, and directing the Executive Director of the Colorado Department of Public Health and Environment to issue a public health order consistent with the directives in the executive order ("EO D2020-044").

On April 26, 2020, the Executive Director of CDPHE, pursuant to Colorado Revised Statute §§ 25-1.5-101(1)(a) and 25-1.5-102(1)(a)(I), issued an order implementing the Safer at Home requirements, which was subsequently amended on May 4, May 8, May 14, May 26, June 2, June 5, and June 19 ("CDPHE PHO 20-28").

On May 16, 2020, the Governor of the State of Colorado issued an Executive Order D2020-067 extending Executive Order D2020-039 another additional thirty (30) days from May 16, 2020. ("EO D2020-067").

On June 4, 2020, the Governor of the State of Colorado issued an Executive Order D2020-092, amending Executive Orders D2020-039 and D2020-067 to provide discretion to employers and operators of places of public accommodation to deny admittance or service and require the removal of any individual who fails to wear a face covering ("EO D2020-092").

On June 20, 2020, the Governor of the State of Colorado issued an Executive Order D2020-110 amending and restating Executive Orders D2020-039, D2020-067, and D2020-092 requiring employees, contractors, and others providing services for mass transportation operations, critical businesses, and government offices and facilities to wear face coverings if they interact in close proximity with other employees or with the public; and extending EO D2020-039, as extended by EO D2020-067 and as amended and extended by EO D2020-092, for thirty (30) days from June 20, 2020 ("EO D2020-110").

On June 30, 2020, the Executive Director of CDPHE, pursuant to Colorado Revised Statutes §§ 25-1.5-101(1)(a) and 25-1.5-102(1)(a)(I), issued an order requiring face coverings for all employees, contractors, and others providing services for Mass Transportation Operations and Critical Businesses, including Government Offices and Facilities, who interact in close proximity with other employees or with the public ("CDPHE PHO 20-31").

Hereby finding that wearing a face covering, in combination with physical distancing of at least 6 feet and frequent hand-washing, may reduce the risk of transmitting the COVID-19 virus when in public and engaged in necessary activities by reducing the spread of respiratory droplets, this "**FACE COVERING ORDER**" ("Order") requires that people wear Face Coverings in certain public settings as further described below.

Consistent with the above guidance and information, and pursuant to the authority granted to the Executive Director of DDPHE in §24-16 of the Denver Revised Municipal Code, the following is ordered:

1. "**Face Covering**," as used in this Order, means a covering made of cloth, fabric, or other soft or permeable material, without holes, that covers the nose and mouth and surrounding areas of the lower face. A Face Covering may be factory-made, or may be handmade and improvised from

ordinary household materials. The Face Covering should fit snugly but comfortably against the side of the face, include multiple layers of fabric, allow for breathing without restriction, and be able to be laundered and machine-dried without damage or change to shape. Face Coverings need to cover the nose and mouth at all times and should remain in place until taken off safely. If a worker's Face Covering moves during work, it needs to be replaced with one that does not need to be frequently adjusted to reduce touching of the face. Face Coverings should be replaced when it becomes dirty, wet, and/or difficult to breathe through.

A video showing how to make a face covering and additional information about how to wear and clean Face Coverings may be found at the website of Centers for Disease Control and Prevention, at <https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/diy-cloth-face-coverings.html>.

2. Except as specifically exempted below, all members of the public, including children three (3) years of age or older, must wear a Face Covering outside their home or place they reside in the following situations:
  - a. When they are inside or attending, or in line to enter, any indoor/outdoor business, including Critical Businesses, as defined in the CDPHE PHO 20-28, as amended, and any indoor/outdoor event.
  - b. When they are inside, or in line to enter, any Government Offices and Facilities, as defined in the CDPHE PHO 20-31.
  - c. When they are obtaining services at Limited Healthcare Operations or Personal Services, as defined in the CDPHE PHO 20-28, as amended, or at Healthcare Operations, as defined in CDPHE PHO 20-24, as amended, unless directed otherwise by an employee because the healthcare or personal services require removal of the face covering;
  - d. When they are waiting for or riding on public transportation (including without limitation any bus or light rail services), paratransit, or while they are riding in a taxi, private car service, or ride-sharing vehicle; or
  - e. When they are in a common area of an apartment building, condominium, or similar residential building, including lobbies, pool areas, elevators, common recreation areas, and in offices or other spaces used by the public. Face coverings may be removed while individuals are swimming or exercising.
3. Drivers or operators of any public transportation, paratransit vehicle, taxi, private car service, ride-sharing vehicle, or any other vehicle for hire must wear a Face Covering while driving or operating such vehicle, regardless of whether a member of the public is in the vehicle, to reduce the spread of respiratory droplets in the vehicle at all times. This Order does not require any person to wear a Face Covering while driving in a private motor vehicle for personal use.
4. All businesses and Government Offices and Facilities, must:

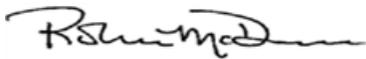
- a. Require that their employees, contractors, owners, volunteers, and performers wear a Face Covering at the workplace and when performing work off-site any time the employee, contractor, owner, or volunteer is:
  - i. Interacting in person with any member of the public;
  - ii. Working in any space visited by members of the public, such as by way of example and without limitation, reception areas, grocery store or pharmacy aisles, service counters, public restrooms, cashier and checkout areas, waiting rooms, service areas, and other spaces used to interact with the public, regardless of whether anyone from the public is present at the time;
  - iii. Working in any space where food or beverages are prepared or packaged for sale or distribution to others;
  - iv. Working in or walking through common areas such as hallways, stairways, elevators, and parking facilities; or
  - v. In any room or enclosed area when other people (except for members of the person's own household or residence) are present.
- b. Take reasonable measures, such as posting signs, to remind their customers and the public of the requirement that they wear a Face Covering while inside of or waiting in line to enter the business, facility, or location. Businesses and organizations performing Critical Government Functions must take all reasonable steps to prohibit any member of the public who is not wearing a Face Covering from entering.
- c. A Face Covering is not required under the following circumstances:
  - i. When a person is in a personal office (a single room or cubicle) where others outside of that person's household are not present as long as the public does not regularly visit the room, but that individual must put on a Face Covering when coworkers are working within six feet, when being visited by a client/customer, and anywhere members of the public or other coworkers are regularly present;
  - ii. Customers of Restaurants and Bars and other Places of Public Accommodation, as those terms are defined in CDPHE PHO 20-28, as amended, who are seated for dining or drinking at the establishment. Face Coverings are required whenever customers of these establishments are not seated at their table;
  - iii. Performers who maintain at least a 25-foot distance from attendees or patrons and at least a six-foot distance from each other and other employees at all times during their performance. Performers must wear a face covering at all other times when they are on the premises and not performing;

- iv. Any child under the age of three should not wear a Face Covering because of the risk of suffocation;
- v. Childcare facilities should provide face coverings for children over the age of three; however, Face Coverings should be removed during naps and nap mats should be placed at least six (6) feet apart. Parents and caregivers must supervise the use of Face Coverings by children to avoid misuse;
- vi. When a person is (1) inside or obtaining services at a business, Critical Government Function, or Healthcare Operation, any of which are engaged primarily in providing congregate care, residential health care, or congregate shelter, and (2) the individual is engaged in activities not conducive to wearing a Face Covering, such as eating or sleeping, or the individual is in an area of the facility that is not designed for community gathering, such as a sleeping area; or
- vii. When wearing a Face Covering would inhibit the individual's health, in which case reasonable accommodations should be pursued to maintain the safety and health of all parties. Employers shall make every effort to assign employees who cannot wear face coverings for health or safety reasons to perform work that does not bring the worker into close proximity with other employees or the public. Workers with health issues that preclude them from wearing a Face Covering must document those concerns with their employer.

Pursuant to section 24-24 of the Denver Revised Municipal Code, it is unlawful for any person to fail to comply with this Order. Any person who fails to comply with this Order may also be subject to a civil penalty of up to nine hundred ninety-nine dollars (\$999.00) per violation. Enforcement actions are intended to be cumulative in nature and Denver may pursue one or more civil, criminal, and administrative actions, fees, fines, sentences, penalties, judgments, and remedies and may do so simultaneously or in succession.

This Order shall become effective on July 2, 2020 and will continue until further notice.

Issued by:



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Robert M. McDonald  
Public Health Administrator, City & County of Denver  
Executive Director, Denver Dept of Public Health & Environment