

**CITY OF BOULDER  
CITY COUNCIL AGENDA ITEM**

**MEETING DATE: April 28, 2020**

**AGENDA TITLE**

Introduction and consideration of a motion to order published by title only and adopt by emergency measure Ordinance XXXX Amending Section 2-2.5-7 "Powers" B.R.C. 1981 to Authorize the City Manager to Require the Use of Personal Protective Equipment; and Setting Forth Related Details

**PRESENTERS**

Jane S. Brautigam, City Manager  
Thomas A. Carr, City Attorney

**EXECUTIVE SUMMARY**

On May 6, 2009 Council passed Ordinance 7651 adding a new chapter 2-2.5 "Civil Emergencies and Disasters" to the Boulder Revised Code. Section 2-2.5-7 "Powers" authorizes the city manager to take certain specified actions during a declared disaster emergency. While the list is extensive, not surprisingly, it did not contemplate a worldwide pandemic. As the community addresses the gradual reopening of our economy, it will be necessary for the city manager to issue certain emergency orders requiring members of the community to wear personal protective equipment. No such authority is included among the city manager's emergency powers. Accordingly, staff recommends that council consider an emergency ordinance amending section 2-2.5-7 to authorize the city manger to require the use of personal protective equipment.

## **STAFF RECOMMENDATION**

### **Suggested Motion Language:**

Staff requests council consideration of this matter and action in the form of the following motion:

Motion to introduce, order published by title only and adopt by emergency measure Ordinance xxxx amending section 2-2.5-7 “Powers,” B.R.C. 1981 to authorize the city manager to require the use of personal protective equipment; and setting forth related details.

## **COMMUNITY SUSTAINABILITY ASSESSMENTS AND IMPACTS**

- Economic – The COVID-19 pandemic has taken an unprecedented toll on the world’s economy. Reopening businesses will ease some of this burden. Allowing the city manager the flexibility to require personal protective equipment in situations such as these could have a positive effect on the economy.
- Environmental - None.
- Social – Wearing personal protective equipment has been demonstrated to reduce the likelihood of transmission of certain communicable diseases. Authorizing the city manager to require such use will have a positive effect on the health of the community.

## **OTHER IMPACTS**

- Fiscal - City compliance with a requirement to wear personal protective equipment will have a budget impact.
- Staff time – City compliance and enforcement will require staff hours that are not included in any workplan.

## **BACKGROUND**

On March 26, 2020, The Colorado Department of Health and Environment issued Public Health Order 20-24 implementing executive order D 2020 17 directing residents of the State of Colorado to stay at home. Public Health Order 20-24 allows “Critical Businesses” to continue operations. A copy of Public Health Order 20-24 is attachment A. On April 22, 2020, Jill Hunsaker Ryan, Executive Director, Colorado Department of Health and Environment, issued Public Health Order 20-26 requiring all employees of Critical Businesses who work in close proximity to other employees or with the public to wear non-medical face coverings. A copy of Public Health Order 20-26 is attachment B. Public Health Order 20-26 applies only to employees. It does not require customers to wear masks.

Over the last weekend, Council Members Yates and Weaver contacted the city manager to ask her to consider issuing an emergency order requiring all persons to wear masks in any business that is open. The city's disaster emergency code provisions allow the city manager certain authority during a disaster emergency. There is, however, no authority included for the city manager to require a person to wear any personal protective equipment, including masks. The city manager has the authority to close a business and therefore to issue an order allowing businesses to remain open only if they require masks. Staff believes that an order would be more effective if the burden was also imposed on the customer. This would allow enforcement against the business or the customer depending on what would be most effective. Therefore, staff recommends that council adopt the proposed Emergency Ordinance xxxx, which is attachment C.

A draft emergency order is attachment D. The language in italics would only be included if the council adopted the emergency ordinance.

## **ATTACHMENTS**

Attachment A – Public Health Order 20-24

Attachment B – Public Health Order 20-26

Attachment C – Proposed Ordinance XXXX

Attachment D – Draft Emergency Order



**DATE OF ORDER: MARCH 26, 2020**

**UPDATED PUBLIC HEALTH ORDER 20-24 IMPLEMENTING STAY AT HOME  
REQUIREMENTS**

**PURPOSE OF THE ORDER**

I issue this Amended Public Health Order (PHO or Order) pursuant to the Governor's directive in Executive Orders D 2020 017 (**Ordering Coloradans to Stay at Home Due to the Presence of COVID-19 in the State**) in response to the existence of hundreds of confirmed and presumptive cases of Coronavirus disease 2019 (COVID-19) and related deaths across the State of Colorado. Further, there is substantial evidence of community spread of COVID-19 throughout the State. This Order has been amended to direct Coloradans to Stay at Home.

**FINDINGS**

1. Due to the increasing incidence of COVID-19 in the general public, the designation of pandemic by the World Health Organization, the Declaration of a Disaster Emergency by Governor Polis on March 10, 2020, and a National Emergency by the President of the United States on March 13, 2020, and previous PHOs issued by this Department, including PHO 20-20 (Restricting Visitors all all Colorado Skilled Nursing Facilities, Assisted Living Residences and Intermediate Care Facilities); PHO 20-22 (Closing Bars, Restaurants, Theaters, Gymnasiums, Casinos, Noncritical Personal Services Facilities, and Horse Track and Off-Track Betting Facilities Statewide); and PHO 20-23 (Implementing Social Distancing Measures); I hereby declare that the actions and prohibitions outlined in this PHO are necessary for the health and safety of the residents of Colorado.
2. Scientific evidence and best practices regarding the most effective manner to slow the transmission of communicable diseases generally and COVID-19 specifically, and evidence that the population of Colorado is at risk for serious health complications, including death, from COVID-19 make it imperative that the measures included in this PHO be taken immediately.
3. There is clear evidence that some individuals who contract the COVID-19 virus have no symptoms or have mild symptoms, which means they may not be aware they carry the virus. Because even people without symptoms can transmit the disease, and because evidence shows the disease is easily spread, gatherings promote transmission of COVID-19. COVID-19 also physically contributes to property loss, contamination, and damage due to its propensity to attach to surfaces for prolonged periods of time.

4. The scientific evidence also shows that at this stage of the emergency, it is critical to slow transmission as much as possible to protect the most vulnerable and to prevent Colorado's health care system from being overwhelmed. One proven way to slow the transmission is to limit interactions among people to the greatest extent practicable and increase the distance between people in the work environment. This PHO helps to reduce the property damage caused by COVID-19 and preserves the welfare of our residents by reducing the spread of the disease in our communities and our workplaces, and preserving critical emergency and healthcare capacity in the State.

### INTENT

5. The intent of this PHO is to minimize contact between residents and to the greatest extent possible minimize the exposure of the public to contaminated public surfaces. By staying home we can maximize the number of people isolating in place, reduce the number of people congregating in workplaces at one time and reduce the proximity of people in the workplace, and enable the services, businesses, and travel necessary to protect public health and safety and preserve the continuity of social and commercial life as we save lives.

6. When people leave their places of residence, whether to obtain or perform critical emergency services, recreate, go to work, or for other valid reasons, they should at all times comply with **Social Distancing Requirements** as defined in Section III.F below. All provisions of this PHO should be interpreted to effectuate this intent. Failure to comply with any of the provisions of this PHO constitutes an imminent threat to public health.

### ORDER

The following authorities in Public Health Order 20-24 Implementing Fifty Percent Reduction in Nonessential Business In-Person Work and Extreme Social Distancing are hereby superseded by this Updated Public Health Order 20-24:

1. Any provision authorizing a noncritical business to remain open to in-person work by reducing their in-person workforce by fifty percent;
2. Any provision authorizing a noncritical business to remain open to in-person work by self-certifying that the business meets the Social Distancing Requirements for all employees.

Public Health Order 20-23 Implementing Social Distancing is hereby superseded by this Updated Public Health Order 20-24.



## I. STAY AT HOME

A. All individuals currently living within the State of Colorado are ordered to **Stay at Home whenever possible**. Individuals living in shared or outdoor spaces must at all times, to the greatest extent possible, comply with **Social Distancing Requirements**, and may leave their **Residences** only to perform or utilize **Necessary Activities**.

B. All public and private gatherings of any number of people occurring outside a **Residence** are prohibited, except for the limited purposes expressly permitted in this PHO which include Essential Activities. Nothing in this PHO prohibits the gathering of members living in the same **Residence**.

C. People at high risk of severe illness from COVID-19 and people who are sick are urged to stay in their **Residence at all times** except as necessary to seek medical care.

D. Individuals experiencing symptoms of COVID-19 must self-isolate until their symptoms cease or until they have a negative test result. Due to limited testing availability and narrow criteria for testing, if an individual has tested positive for COVID-19 and/or has developed symptoms of COVID-19, including early or mild symptoms (such as cough and shortness of breath), they should be in isolation (staying away from others) until they have had no fever for at least seventy-two (72) hours (that is three full days of no fever without the use of medicine that reduces fevers), other symptoms have improved (such as cough or shortness of breath) and at least seven (7) days have passed since symptoms first appeared.

E. People experiencing homelessness are strongly urged to obtain shelter, and governmental and other entities are strongly urged to make shelter available as soon as possible and to the maximum extent practicable. People experiencing homelessness must comply with **Social Distancing Requirements** at all times.

F. All travel, including, but not limited to, travel by automobile or public transit, except **Necessary Travel** is prohibited. People must use public transit only for purposes of performing **Necessary Activities** or to travel to and from work to operate **Critical Businesses** or maintain **Critical Governmental Functions**. People riding on public transit must comply with **Social Distancing Requirements** as defined in Section III.F, below, to the greatest extent feasible.



## II. BUSINESS REQUIREMENTS

A. **Critical Businesses**, as defined below, are exempt, subject to certain limitations, from this PHO and are encouraged to remain open. **Critical Businesses** must comply with **Social Distancing Requirements** at all times and implement tele-work or other strategies, such as staggered schedules or re-designing workplaces, to create more distance between workers unless doing so would make it impossible to carry out critical functions. **Critical Businesses** that serve the public such as grocery stores and other Critical Retail shall comply with **Social Distancing Requirements** at all times including, but not limited to, when any customers are standing in line.

B. To successfully contain the spread of the virus, all employers and individuals must observe **Social Distancing Requirements** at all times and to the greatest extent possible.

C. All businesses required to close down their in-person work under this Order may continue to carry out **Minimum Basic Operations** as defined below. Businesses that can continue to operate through work at home arrangements with their employees are encouraged to do so

D. Child care facilities providing services exempted in this PHO must, to the extent possible, operate under the following mandatory conditions: (1) child care must be carried out in stable groups of 10 or fewer (“stable” means that the same 10 or fewer children are in the same group each day); (2) children shall not change from one group to another; (3) If more than one group of children is cared for at one facility, each group shall be in a separate group. Groups shall not mix with each other; (4) child care workers shall remain solely with one group of children. To the extent possible, child care shall be performed in compliance with **Social Distancing Requirements**.

## III. DEFINITIONS

A. **Necessary Activities**. For purposes of this PHO, individuals may leave their Residence only to perform any of the following **Necessary Activities**, provided they comply at all times and to the greatest extent possible with **Social Distancing Requirements** below. People at high risk of severe illness from COVID-19 and people who are sick, however, must not leave their **Residence** except as necessary to receive medical care. **Necessary Activities** include:

1. Engaging in activities or perform tasks essential to their health and safety, or to the health and safety of their family or household members, including, but not



limited to, pets and livestock, such as, by way of example only and without limitation, obtaining medical supplies, walking your dog, feeding barnyard animals, obtaining durable medical equipment, obtaining medication, visiting a healthcare professional, or obtaining supplies they need to work from home.

2. Obtaining necessary services or supplies for themselves and their family or household members, or to deliver those services or supplies to others, such as, by way of example only and without limitation, food, pet supply, other household consumer products, and products or equipment necessary to maintain the safety, sanitation, and essential operation of a Residence.
3. Engaging in outdoor activity, such as, by way of example and without limitation, walking, hiking, nordic skiing, snowshoeing, biking or running. For purposes of outdoor activity, State parks will remain open to the public to engage in walking, hiking, biking, running, and similar outdoor activities but all playgrounds, picnic areas, other similar areas conducive to public gathering, and attended areas shall be closed. For other parks, check with the local jurisdiction and follow any requirements for that jurisdiction. Additionally, the permitted outdoor activities in this PHO do not include activities that would violate the **Social Distancing Requirements** defined in Section III.F, below.
4. Performing work providing essential products and services for a **Critical Business** or **Critical Government Function** as defined in Section III.C and D, below, or to otherwise carry out activities permitted in this PHO.
5. Caring for a family member, a vulnerable person, or pet in another household, or to care for livestock kept at a location other than an individual's home.

**B. Necessary Travel.** For purposes of this Order, travel is Necessary for any of the following purposes: (1) providing or accessing **Necessary Activities, Minimum Basic Operations, Critical Government Functions, and Critical Businesses**; (2) receiving materials for distance learning, for receiving meals, and any other related services from educational institutions; (3) returning to a place of **Residence** from outside the jurisdiction; (4) travel required by law enforcement or court order; (5) non-residents returning to their place of **Residence**.

**C. Critical Business.** Any business, including any for profit or non-profit, regardless of its corporate structure, engaged in any of the commercial, manufacturing, or service activities listed below, may continue to operate as normal. **Critical Businesses** must comply with the guidance and directives for maintaining a clean and safe work environment issued by the Colorado Department of Public Health and Environment (CDPHE) and any applicable local health department. **Critical Businesses** must comply with **Social Distancing Requirements** and all PHOs currently in effect to the greatest extent possible and will be held accountable for doing





so. **Critical Businesses** do NOT include health clubs as defined in C.R.S. § 6-1-102(4.6), fitness and exercise gyms, and similar facilities, or any of the other businesses required to close by PHO 20-22.

“**Critical Business**” means:

**1. Healthcare Operations, Including:**

- Hospitals, clinics, and walk-in health facilities
- Medical and dental care, including ambulatory providers
- Research and laboratory services
- Medical wholesale and distribution
- Home health care companies, workers and aides
- Pharmacies
- Pharmaceutical and biotechnology companies
- Behavioral health care providers
- Veterinary care and livestock services
- Nursing homes, residential health care, or congregate care facilities
- Medical supplies and equipment manufacturers and providers, including durable medical equipment technicians and suppliers
- Blood banks

**2. Critical Infrastructure, Including:**

- Utilities and electricity, including generation, transmission, distribution and fuel supply
- Road and railways
- Oil and gas extraction, production, refining, storage, transport and distribution
- Public water and wastewater
- Telecommunications and data centers
- Transportation and infrastructure necessary to support critical businesses
- Hotels, and places of accommodation
- Businesses and organizations that provide food, shelter, social services, and other necessities of life for economically disadvantaged, persons with access and functional needs, or otherwise needy individuals
- Food and plant cultivation, including farming crops, livestock, food processing and manufacturing, animal feed and feed products, rendering, commodity sales, and any other work critical to the operation of any component of the food supply chain



- Any business that produces products critical or incidental to the construction or operation of the categories of products included in this subsection

### **3. Critical Manufacturing, Including:**

- Food processing, manufacturing agents, including all foods and beverages
- Chemicals
- Computers and computer components
- Medical equipment, components used in any medical device, supplies or instruments
- Pharmaceuticals
- Sanitary products
- Telecommunications
- Microelectronics/semiconductor
- Agriculture/farms
- Household paper products
- Any business that produces products critical or incidental to the processing, functioning, development, manufacture, packaging, or delivery of any of the categories of products included in this subsection
- Any manufacturing necessary to support a **Critical Business**

### **4. Critical Retail, Including:**

- Grocery stores including all food and beverage stores
- Farm and produce stands
- Gas stations and convenience stores
- Restaurants and bars (for take-out/delivery only as necessary under **Executive Order D 2020 011** and **PHO 20-22**, as amended)
- Marijuana dispensary (only for the sale of medical marijuana or curbside delivery pursuant to **Executive Order D 2020 011**)
- Liquor stores
- Firearms stores
- Hardware, farm supply, and building material stores
- Establishments engaged in the retail sale of food and any other household consumer products (such as cleaning and personal care products)
- Establishments engaged in the sale of products that support working from home



## 5. Critical Services, Including:

- Trash, compost, and recycling collection, processing and disposal
- Mail and shipping services, and locations that offer P.O. boxes
- Self-serve laundromats and garment and linen cleaning services for critical businesses
- Building cleaning and maintenance
- Child care services
- Automobile rental, auto supply and repair (including retail dealerships that include repair and maintenance, but not in person retail sales)
- Warehouse/distribution and fulfillment, including freight distributors
- Funeral homes, crematoriums, and cemeteries, with strict compliance with **Social Distancing Requirements** for employees and any attendees of services
- In-person pastoral services for individuals who are in crisis or in need of end of life services provided social distancing is observed to the greatest extent possible. Houses of worship may remain open, however, these institutions are encouraged to implement electronic platforms to conduct services whenever possible or to conduct smaller (10 or fewer congregants), more frequent services to allow strict compliance with **Social Distancing Requirements**.
- Storage for **Critical Businesses**
- Animal shelters, animal boarding services, animal rescues, zoological facilities, animal sanctuaries, and other related facilities

## 6. News Media

- Newspapers
- Television
- Radio
- Other media services

## 7. Financial and Professional Institutions, Including:

- Banks and credit institutions
- Insurance and payroll
- Services related to financial markets
- Professional services, such as legal, title companies, or accounting services, real estate appraisals and transactions



**8. Providers of Basic Necessities to Economically Disadvantaged Populations, Including:**

- Homeless shelters and congregate care facilities
- Food banks
- Human services providers whose function includes the direct care of patients in State-licensed or funded voluntary programs; the care, protection, custody and oversight of individuals both in the community and in State-licensed residential facilities; those operating community shelters and other critical human services agencies providing direct care or support

**9. Construction, Including but not Limited To:**

- Housing and housing for low-income and vulnerable people
- Skilled trades such as electricians, plumbers
- Other related firms and professionals for who provide services necessary to maintain the safety, sanitation, and critical operation of residences and other **Critical Businesses** or **Critical Government Functions**, and other essential services

**10. Defense**

- Defense, security, and intelligence-related operations supporting the State of Colorado, local government, the U.S. Government or a contractor for any of the foregoing
- Aerospace operations
- Military operations and personnel
- Defense suppliers

**11. Critical Services Necessary to Maintain the Safety, Sanitation and Critical Operations of Residences or Other Critical Businesses, Including:**

- Law enforcement
- Fire prevention and response
- Building code enforcement
- Security
- Emergency management and response
- Building cleaners or janitors
- General maintenance whether employed by the entity directly or a vendor



- Automotive and bicycle repair
- Disinfection
- Snow removal

**12. Vendors that Provide Critical Services or Products, Including Logistics and Technology Support, Child Care and Services:**

- Logistics
- Technology support for online and telephone services
- Child care programs and services
- Government owned or leased buildings
- **Critical Government Functions**

**13. Educational Institutions that Provide Critical Services to Students and the General Public:**

- K-12 public school and private schools for the purpose of providing meals, housing, facilitating or providing materials for distance learning, and providing other essential services to students, provided that **Social Distancing Requirements** are observed.
- Postsecondary institutions, including private and public colleges and universities, for the purpose of facilitating distance learning or performing essential functions, provided that **Social Distancing Requirements** are observed, such as security, medical and mental health services, housing, food services, and critical research.

**D. Critical Government Functions.** The provision, operation and support of the following government functions shall continue:

1. Critical services, including
  - Public safety (police stations, fire and rescue stations, correctional institutions, emergency vehicle and equipment storage, and, emergency operation centers)
  - Emergency response
  - Judicial branch operations, including attorneys if necessary for ongoing trials and required court appearances, unless appearances can be done remotely
  - Legislative and executive branch functions
  - Emergency medical (hospitals, ambulance service centers, urgent care centers having emergency treatment functions, and non-ambulatory



surgical structures but excluding clinics, doctors offices, and non-urgent care medical structures that do not provide these functions)

- Designated emergency shelters
- Communications (main hubs for telephone, broadcasting equipment for cable systems, satellite dish systems, cellular systems, television, radio, and other emergency warning systems, but excluding towers, poles, lines, cables, and conduits)
- Public utility plant facilities for generation and distribution (hubs, treatment plants, substations and pumping stations for water, power and gas, but not including towers, poles, power lines, buried pipelines, transmission lines, distribution lines, and service lines)
- Transportation. Airlines, taxis, transportation network providers (such as Uber and Lyft), vehicle rental services, paratransit, and other private, public, and commercial transportation and logistics providers necessary for **Necessary Activities**
- Transportation infrastructure (aviation control towers, air traffic control centers, and emergency equipment aircraft hangars), critical road construction and maintenance
- Hazardous material safety
- Services to at-risk populations and **Vulnerable Individuals**
- Any government service required for the public health and safety, government functionality, or vital to restoring normal services

**E. Minimum Basic Operations.** The minimum necessary activities to (1) maintain the value of the business's inventory, ensure security, process payroll and employee benefits, or for related functions; or (2) facilitate employees of the business being able to continue to work remotely from their **Residences** are allowable pursuant to this Order. Any business supporting **Minimum Basic Operations** must comply at all times with **Social Distancing Requirements**.

**F. Social Distancing Requirements.** To reduce the risk of disease transmission, individuals shall maintain at least a six-foot distance from other individuals, wash hands with soap and water for at least twenty seconds as frequently as possible or using hand sanitizer, cover coughs or sneezes (into the sleeve or elbow, not hands), regularly clean high-touch surfaces, and not shake hands.

**G. "Stay at Home"** means to stay in your place of **Residence**, which includes hotels, motels, and shared rental facilities, and not leave unless necessary to provide, support,



perform, or operate **Necessary Activities, Minimum Basic Operations, Critical Government Functions, and Critical Businesses.**

**H.** “**Vulnerable Individual**” means anyone with a disability, anyone over the age of 60 and anyone with a serious underlying health condition.

**IV.** Pursuant to Executive Order 2020 017, local public health agencies may apply for relief from the Executive Order or this Public Health Order to more effectively meet local conditions and needs through a process to be established by CDPHE.

**V. Enforcement**

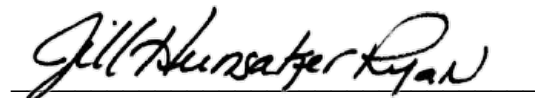
This order will be enforced by any appropriate legal means. Local authorities are encouraged to determine the best course of action to encourage maximum compliance. Failure to comply with this order could result in penalties including a fine of up to one thousand (1,000) dollars and imprisonment in the county jail for up to one year, pursuant to 25-1-114, C.R.S.

**VI. Severability**

If any provision of this PHO to the application thereof to any person or circumstance is held to be invalid, the remainder of the PHO, including the application of such part or provision to other persons or circumstances, shall not be affected and shall continue in full force and effect. To this end, the provisions of this PHO are severable.

**VII. Duration**

This PHO shall become effective at 6:00 a.m. on Thursday March 26, 2020 and will continue to be in effect until 11:59 p.m. on April 11, 2020, unless extended, rescinded, superseded, or amended in writing.



Jill Hunsaker Ryan, MPH  
Executive Director

March 26, 2020



**PUBLIC HEALTH ORDER 20-26 FACE COVERINGS FOR CRITICAL BUSINESSES****PURPOSE OF THE ORDER**

I issue this Public Health Order (PHO or Order) pursuant to the Governor's directive in **Executive Order D 2020 0139 Ordering Workers in Critical Businesses and Critical Government Functions to Wear Non-Medical Face Coverings** in response to the existence of thousands of confirmed and presumptive cases of Coronavirus disease 2019 (COVID-19) and related deaths across the State of Colorado. Further, as there is substantial evidence of community spread of COVID-19 throughout the State, it is crucial to take measures now that can mitigate further spread of disease in our communities.

**FINDINGS**

1. Governor Polis issued Executive Order D 2020 003 on March 11, 2020, declaring a disaster emergency in Colorado due to the presence of COVID-19. Since that time, the Governor has taken numerous steps to implement measures to mitigate the spread of disease within Colorado, and has further required that several public health orders be issued to implement his orders.
2. I have issued public health orders pertaining to the limitation of visitors and nonessential individuals in skilled nursing facilities, intermediate care facilities, and assisted living residences; closing bars and restaurants to in-person services; and defining the terms of the Governor's stay at home requirements and critical business designations. These measures all act in concert to reduce the exposure of individuals to disease, and are necessary steps to protect the health and welfare of the public. Additionally, in reducing the spread of disease, these requirements help to preserve the medical resources needed for those in our communities who fall ill and require medical treatment, thus protecting both the ill patients and the healthcare workers who courageously continue to treat patients.
3. PHO 20-24 lists numerous critical businesses and government functions that must continue during our response to this pandemic. As many employees of Critical Businesses and Critical Government Functions serve in public-facing roles, in doing these jobs, they are risking that they may become ill through contact with others, and also that if they are ill and they may not know it, they may infect others. To protect against further spread of disease, Governor Polis has ordered that all workers in Critical Businesses and Critical Government Functions where workers interact in close proximity with other employees or with the public wear medical or



non-medical cloth face coverings that cover the nose and mouth while working, except where doing so would inhibit that individual's health, and also, to the extent possible, wear gloves when in contact with customers or goods if gloves are provided to workers by their employer.

## ORDER

**I. Face Coverings.** All employees of Critical Businesses or performing Critical Government Functions who work in close proximity to other employees or with the public shall wear a medical or non-medical face covering to help prevent the spread of disease. Employers who operate Critical Businesses or manage Critical Government Functions should make every effort to provide their workforce with medical or non-medical face coverings. Unless working in a healthcare setting, employers should provide non-medical face coverings for their employees. 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.

A. Workers who may routinely or consistently come within 6 feet of other workers or the public are considered to be in close proximity to others and must wear a medical or non-medical face covering that covers the worker's nose and mouth, unless doing so would inhibit the individual's health. Workers with health issues that preclude them from wearing a face covering must document those concerns with their employer.

B. A worker may use a face covering provided by their employer, if available, or may choose to use their own face covering. Cloth face coverings 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. Workers should replace face coverings when theirs becomes dirty, wet, and/or difficult to breathe through.

C. Workers who prepare or handle food that will be made available to the public for purchase, such as restaurant or grocery store workers, must wear a face covering while performing tasks involving food preparation and handling.

D. As directed in **Executive Order D 2020 039**, workers in the congregate care settings identified in **Amended Public Health Order 20-20**, and all third parties entering congregate care settings must wear face coverings in the workplace.

**II. Gloves.** All employees of Critical Businesses or performing Critical Government Functions who come into contact with customers or goods should wear gloves, if gloves are provided by their employer. Employees in food and child care industries shall minimally utilize disposable gloves as normally required by their governing regulations. Employees that are

directly involved with disinfecting equipment and surfaces within critical business and/or have direct contact with customers shall wear gloves when involved in these activities.

**III. Enforcement.** This order will be enforced by any appropriate legal means. Local authorities are encouraged to determine the best course of action to encourage maximum compliance. Failure to comply with this order could result in penalties including a fine of up to one thousand (1,000) dollars and imprisonment in the county jail for up to one year, pursuant to 25-1-114, C.R.S.

**IV. Severability.** If any provision of this PHO to the application thereof to any person or circumstance is held to be invalid, the remainder of the PHO, including the application of such part or provision to other persons or circumstances, shall not be affected and shall continue in full force and effect. To this end, the provisions of this PHO are severable.

**VII. Duration.** This PHO shall become effective at 6:00 a.m. on Thursday April 23, 2020 and will continue to be in effect until 11:59 p.m. on May 17, 2020, unless extended, rescinded, superseded, or amended in writing.



Jill Hunsaker Ryan, MPH  
Executive Director

April 22, 2020

ORDINANCE XXXX

AN EMERGENCY ORDINANCE AMENDING SECTION 2-2.5-7 "POWERS," B.R.C. 1981, TO AUTHORIZE THE CITY MANAGER DURING A DISASTER EMERGENCY TO REQUIRE MEMBERS OF THE PUBLIC TO WEAR PERSONAL PROTECTIVE EQUIPMENT AND SETTING FORTH DETAILS IN RELATION THERETO.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BOULDER, COLORADO:

Section 1. Section 2-2.5-2 "Definitions," B.R.C. 1981, is amended to read:

2-2.5-2. - Definitions.

*Civil emergency* means conditions of unrest, including but not limited to riot, civil disturbance, unlawful assembly, hostile military or paramilitary action, war, terrorism or sabotage.

*Declaration* means a written document executed by the city manager which declares a civil emergency, emergency or disaster.

*Disaster* means the occurrence of widespread or severe damage, injury or loss of life or property resulting from any natural or human cause, including but not limited to lightning, wildfire, wind, blizzard, geological hazard, hurricane, flood, building or structural collapse or failure, epidemic, utility emergency, sudden and severe energy shortages, snowstorm, ice storm, windstorm, hazardous substance spills, chemical or petroleum spills, biological material release, radiological release or spill, public health emergency or accident.

*Disaster emergency* shall include the meanings of the terms civil emergency, emergency and disaster.

*Emergency* means any occurrence or threat of a disaster of major proportions, in which the safety and welfare of the inhabitants of the city or their property are jeopardized or placed at extreme peril and in which timely action to avert or minimize damage is essential.

1 Personal Protective Equipment means equipment worn to minimize exposure to hazards that can  
2 cause serious injuries and illnesses. These injuries and illnesses may result from contact with  
3 biological, chemical, radiological, physical, electrical, mechanical, or other similar hazards.  
4 Personal protective equipment protects the person or anyone in which the person contacts and  
5 includes, but is not limited to, gloves, safety glasses and shoes, earplugs or muffs, hard hats,  
6 respirators, coveralls, vests and full body suits.

7 Section 2. Section 2-2.5-7 “Powers,” B.R.C. 1981, is amended to read:

8 **2-2.5-7. - Powers.**

9 Upon the issuance of a declaration of disaster emergency, the city manager shall, upon a finding  
10 of need, issue such orders as may be required to protect the health, safety, and welfare of persons  
11 or property within the city or to otherwise preserve the public peace or abate, clean up, or mitigate  
12 the effects of any disaster emergency. Such orders, once issued, may be changed from time to time  
13 during the period of a declared disaster emergency based upon the discretion of the city manager  
14 and may include, but are not limited to, orders to accomplish the following objectives:

- 15
- 16 (a) Direct and compel the evacuation of all or a part of the population from any stricken or  
17 threatened areas or property within the city if the city manager deems this action is  
18 necessary for the preservation of life or property, and preclude members of the public  
19 from reentering an evacuated area;
  - 20 (b) Prescribe routes, modes of transportation, and destination in connection with an  
21 evacuation;
  - 22 (c) Establish transportation control routes related to ingress to or egress from any part of the  
23 city;
- 24  
25

- 1 (d) Impose traffic restrictions to allow emergency response or otherwise control traffic,  
2 including the imposition of a prohibition of all traffic except for vehicles operated by  
3 individuals deemed essential to assist in the emergency operations, and prohibit any  
4 person from stopping, standing, parking, or abandoning a vehicle in a right of way that  
5 obstructs emergency operations;
- 6 (e) Close streets, alleys, sidewalks, public parks, public ways, or other public places or  
7 eliminate access to buildings, streets, alleys, sidewalks, or other public or private places;
- 8 (f) Delegate authority to such city officials as the city manager determines reasonably  
9 necessary or expedient;
- 10 (g) Transfer the direction, personnel, or functions of city departments and agencies for the  
11 purposes of performing or facilitating emergency services;
- 12 (h) Require emergency services of any city officer or employee;
- 13 (i) Utilize all available resources of the city as may be reasonably necessary to cope with the  
14 disaster emergency whether in preparation for, response to, or recovery from a disaster  
15 emergency;
- 16 (j) Acquire the services of non-city personnel as may be available, including citizen  
17 volunteers, if regular city employee resources are determined to be inadequate, with the  
18 understanding that all duly authorized persons rendering emergency services pursuant to  
19 this provision shall be entitled to the privileges and immunities provided by state law;
- 20 (k) Appropriate and expend funds, execute contracts, authorize the acquisition of property,  
21 equipment, services, supplies, and materials without the strict compliance with normal  
22 city procurement procedures;  
23  
24  
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- 1 (l) Accept services, gifts, grants and loans, equipment, supplies, and materials whether from  
2 private, nonprofit, or governmental sources;
- 3 (m) Hire or contract for construction, snow removal, engineering, architectural, building,  
4 electrical, plumbing, and/or other professional or construction services essential to  
5 continue the activities of the city without the advertising of bids or strict compliance with  
6 other formal procurement requirements;
- 7 (n) Make application for local, state, or federal assistance;
- 8 (o) Make such special provisions for the health and safety of animals as may be necessary  
9 and feasible;
- 10 (p) Terminate or suspend any process, operation, machine, device, or event when, in the  
11 absence of such termination or suspension, there is imminent danger that the life, health,  
12 safety, and/or welfare of persons or the physical security of property within the city will  
13 be seriously compromised;
- 14 (q) Establish a curfew during such hours of the days or nights that shall affect categories of  
15 persons as may be designated in a curfew order;
- 16 (r) Suspend or modify provisions of any ordinance if strict compliance with such ordinance  
17 would prevent, hinder, or delay action that is necessary to cope with any disaster  
18 emergency;
- 19 (s) Suspend or limit use of the city's water resources;
- 20 (t) Require the continuation, termination, disconnection, or suspension of natural gas,  
21 electric power, water, sewer, or other public utilities;
- 22 (u) Close or cancel the use of any city-owned or operated building or other public facility.  
23  
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- 1 (v) Control, restrict, allocate, or regulate the use, sale, production, or distribution of food,  
2 water, clothing, and other commodities, materials, goods, services, and resources;
- 3 (w) Require the closing of businesses when, in the absence of such action, there would be an  
4 imminent danger that the life, health, safety, and/or welfare of persons or the physical  
5 security of property within the city might be seriously compromised;
- 6 (x) Suspend or limit the sale, distribution, dispensing, or transportation of alcoholic  
7 beverages, firearms, explosives, and/or combustible products and require the closing of  
8 those businesses or parts of businesses insofar as the sale, distribution, dispensing, or  
9 transportation of these items are concerned;
- 10 (y) Prohibit the sale or distribution within the city of any products which could be employed  
11 in a manner that would constitute a danger to public health or safety; ~~and~~
- 12 (z) Commandeer or use any private property if that action is necessary to cope with an  
13 imminent threat to life, health, or property that is caused by a disaster emergency  
14 condition, subject, however, to applicable legal requirements for compensation-; and
- 15 (aa) Require members of the public to wear or use personal protective equipment if there  
16 would be an imminent danger that life, health, safety, and/or welfare of persons might be  
17 seriously comprised in the absence of the use of such personal protective equipment.

18 Section 3. This ordinance is hereby declared to be an emergency measure due to the  
19 ongoing COVID-19 pandemic. It is necessary that this ordinance become effective  
20 immediately because the state and county will shortly be allowing more businesses to open.  
21 The ability for the city manager to craft effective orders increasing the safety of individuals  
22 using those business will increase public safety and reduce the loss of life and as such this  
23 ordinance shall be in full force and effect upon its final passage.  
24  
25

1           Section 4. This ordinance is necessary to protect the public health, safety, and welfare of  
2 the residents of the city, and covers matters of local concern.

3           Section 5. The city council deems it appropriate that this ordinance be published by title  
4 only and orders that copies of this ordinance be made available in the office of the city clerk for  
5 public inspection and acquisition.

6           INTRODUCED, READ ON FIRST READING, PASSED AND ADOPTED AS AN  
7 EMERGENCY MEASURE BY TWO-THIRDS COUNCILMEMBERS PRESENT, AND  
8 ORDERED PUBLISHED BY TITLE ONLY this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

10 \_\_\_\_\_  
11 Sam Weaver,  
12 Mayor

12 Attest:

13 \_\_\_\_\_  
14 Lynnette Beck,  
15 City Clerk



## Emergency Order 2020-15

### CITY OF BOULDER ORDER RELATED TO DECLARATION OF LOCAL DISASTER EMERGENCY

A disaster emergency was declared by the city manager on March 14, 2020. The city council confirmed and extended the emergency declaration until further notice at the March 16, 2020 special council meeting. Pursuant to Section 2-2.5-7 "Powers" B.R.C. 1981, the city manager finds a need to issue this order in order to protect the health, safety and welfare of persons or property within the city or to otherwise preserve the public peace or abate, clean up or mitigate the effects of any disaster emergency.

**On March 24, 2020, the city manager issued Emergency Order 2020-6 directing residents of the city to stay at home. The order provided for closure of parks facilities that would encourage or require gatherings of residents that would put those residents and our community at risk.**

**On March 25, 2020, Boulder County Public Health issued an order directing residents of Boulder County to stay at home.**

**On March 25, 2020, the city manager issued Emergency Order 2020-9 repealing Emergency Order 2020-6 to avoid confusion.**

**On March 26, 2020, The Colorado Department of Health and Environment issued Public Health Order 2020-24 implementing executive order D 2020 17 directing residents of the State of Colorado to stay at home. Public Health Order 2020-24 allows "Critical Businesses" to continue operations.**

**On April 22, 2020, Jill Hunsaker Ryan, Executive Director, Colorado Department of Health and Environment, issued Public Health Order 20-26 requiring all employees of Critical Businesses who work in close proximity to other employees or with the public to wear non-medical face coverings.**

**City of Boulder Emergency Order 2020-4 prohibits any person from violating "any emergency order issued by the Colorado Department of Health and Environment, Executive Order issued by the Governor of the State of Colorado or order issued by Boulder County Public Health."**

**Section 2-2.5-7 "Powers" B.R.C. 1981 authorize the city manager to "Require the closing of businesses when, in the absence of such action, there would be an imminent danger that the life, health, safety, and/or welfare of persons or the physical security of property within the city might be seriously compromised" and to "Require members of the public to wear or use personal protective equipment if there would be an imminent danger that life, health, safety, and/or welfare of persons might be seriously comprised in the absence of the use of such personal protective equipment."**

**I find that the operation of critical businesses without requiring all present to wear face mask presents an imminent threat to life, health, safety and welfare of persons in our community.**

**Accordingly, effective immediately no person shall operate any public accommodation, unless all persons therein including, employees, vendors and customers are required to wear non-medical face coverings as required by Public Health Order 20-26. Provided, however, that employees who do not come into contact with the public are not required to wear such face coverings.**

***No person shall enter or remain in any public accommodation without wearing a non-medical face covering.***

**No person shall be in violation of this order if the person is wearing a medical face covering.**

**For the purpose of this order “public accommodation” means any place of business engaged in any sales to the general public and any place that offers services, facilities, privileges, or advantages to the general public.**

This order is necessary to prevent the assembly of large groups of people which will present a risk of infection during the disaster emergency. Once issued, this order may be changed from time to time during the period of a declared disaster emergency based upon the discretion of the city manager.

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**Enforcement:** Pursuant to Section 2-2.5-8 “Adherence to Emergency Orders” B.R.C. 1981, Police, code enforcement and such other law enforcement and peace officers as may be authorized by the city manager shall be authorized to enforce the orders, rules and regulations made or issued pursuant a declared disaster emergency.

**Notice:** All members of the public shall be deemed to have been given notice of the restrictions contained within a declaration upon its dissemination to the news media or publication on city websites or by use of other means of publicity.

**Violation of Order:** During the period of a declared disaster emergency, a person shall not:

- (1) Enter or remain upon the premises of any establishment not open for business to the general public, unless such person is the owner or authorized agent of the establishment;
- (2) Violate any of the orders duly issued by the city manager or designee pursuant to such declaration; or
- (3) Willfully obstruct, hinder or delay any duly authorized city officer, employee or volunteer in the enforcement or exercise of the provisions of this chapter, or of the undertaking of any activity pursuant to this chapter.

DATE: \_\_\_\_\_ 2020, \_\_\_\_\_ a.m. / p.m.

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City Manager or other Authorized  
City Official as designated by  
Chapter 2-2.5 “Civil Emergencies and Disasters” B.R.C.,  
1981.