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Public Health Emergency Order No. 20-14

BUSINESSES; INDIVIDUALS, FACE COVERINGS; AIRPORT; BARS; and PUBLIC MEETINGS

February 19, 2021

WHEREAS, on March 11, 2020, the World Health Organization declared the worldwide outbreak of COVID-19 (coronavirus) a pandemic, and on March 13, 2020, the President of the United States issued an emergency declaration for the country in response to the increasing number of COVID-19 cases within the U.S.; and

WHEREAS, on March 13, 2020, Idaho Governor Brad Little signed a declaration of emergency for the State of Idaho in response to concerns that cases of COVID-19 are imminent in Idaho; and

WHEREAS, on March 16, 2020, the Mayor of the city of Boise City ("Boise City"), Lauren McLean, declared a local disaster emergency, as per the Disaster Preparedness Act (Title 46, Chapter 10 of the Idaho Code), in Boise City due to the threat that COVID-19 poses to the health and welfare of the residents of Boise City, and on March 17, 2020, the Boise City Council ratified and extended the Declaration of Emergency; and

WHEREAS, on March 17, 2020, and repealed and replaced in full on April 7, 2020, the Council for Boise City adopted an ordinance enacting a new Chapter 15 to Title 1, setting forth the authority, purpose, and intent of emergency powers to address the threat of COVID-19; and

WHEREAS, beginning on March 25, 2020, Governor Little, by way of the Idaho Department of Health and Welfare Order of the Director, issued multiple state-wide orders, all with the purpose of protecting the health, safety, and welfare of the citizens of Idaho; and

WHEREAS, on June 11, 2020, Governor Little entered, in conjunction with the Idaho Department of Health and Welfare Guidelines of the Director, guidelines titled, State of Idaho, Idaho Department of Health and Welfare Stay Healthy Guidelines, with an effective date of June 13, 2020, providing guidelines for reopening certain businesses and permitting certain activities in Stage Four of the State's reopening plan ("Stay Healthy Guidelines - Stage Four"); and

WHEREAS, on October 20, 2020, CDH reissued an order "Order of the District Board of Health Central District Health, State of Idaho" ("CDH Order: Restriction") which requires face coverings in all public places in Ada County when others are present and physical distancing of six (6) feet cannot be maintained; declares all bars and nightclubs remain closed by order of quarantine until such time as CDH designates Ada County as category 2 (Yellow) for schools; allows visits to long-term care facilities subject to guidelines, and restricts social gatherings to no more than ten people; and

WHEREAS, on October 26, 2020, Governor Little, by way of the Idaho Department of Health and Welfare Order of the Director, issued a new Order rescinding the Stay Healthy Guidelines of June 13, 2020, and moving the state back to Stage Three of Reopening, ("Stay Healthy Order- Stage Three") with modifications to the original orders issued in March; and

WHEREAS, on November 13, 2020, Governor Little, by way of the Idaho Department of Health and Welfare Order of the Director, issued a new Order rescinding the October 26 Stay Healthy Order – Stage Three, and moving the state back to Stage Two of Reopening with modifications to the original orders issued in March; and

WHEREAS, on November 17, 2020, CDH issued a public health advisory strongly recommending the use of face coverings, working from home, minimizing non-essential travel, suspending visits to congregate living facilities, and avoiding social gatherings; and

WHEREAS, Governor Little on December 10, 2020, warned Idahoans about the potential of activating Crisis Standards of Care in hospitals if we are unable to reverse the trend in rising COVID-19 cases; and

WHEREAS, on December 30, 2020, Governor Little, by way of the Idaho Department of Health and Welfare Order of the Director, issued a new modified Order ("Stage Two Modified Order"), based upon scientific evidence showing it was necessary to slow virus transmission in order to protect Idaho's vulnerable population, and to prevent the healthcare system from being overwhelmed; and

WHEREAS, on February 2, 2021, Governor Little, by way of the Idaho Department of Health and Welfare Order of the Director, issued Stay Healthy Guidelines – Stage Three rescinding the December 30 modified Stay Healthy Order – Stage Two, and moving the state forward to Stage Three of Reopening with modifications to the original orders issued in March; and

WHEREAS, on February 19, 2021, CDH rescinded CDH Order: Restriction and replaced the November 17, 2020, public health advisory with a new public health advisory "Public Health Advisory for Central District Health's Jurisdiction: Ada, Boise, Elmore, and Valley Counties" ("CDH Public Health Advisory") strongly recommending the use of face coverings, avoiding indoor social gatherings, avoiding large indoor gatherings of any type with greater than 50 people present, keeping distance and wearing face coverings while engaging in any sporting/community/extra-curricular activities, implementing certain safe workplace practices, and encouraging COVID-19 vaccinations; and

WHEREAS, as of February 8, 2021, test results at both Boise City wastewater treatment facilities show 78,673.49 units per liter, indicating the continuous presence of SARS-CoV-2 virus in City wastewater; and

WHEREAS, as of February 11, 2021, CDH reported a total of confirmed cases of COVID-19 in Ada County as 38,246, most recently reporting 55 confirmed cases on February 6, 2021, 43 confirmed cases on February 7, 2021, 61 confirmed cases on February 8, 2021, 73 confirmed cases on February 9, 2021, and 66 confirmed cases on February 10, 2021, indicating a continued danger of community spread; and

WHEREAS, the Department of Health and Human Services Centers for Disease Control and Prevention ("CDC") reported that multiple SARS-CoV2 variants are circulating globally, including new variants that emerged in the fall of 2020. CDH reported that Boise area wastewater testing revealed evidence of two COVID-19 variants underscoring the importance of continuing to practice health and safety measures; and

WHEREAS, the risk of community spread throughout Boise City impacts the life and health of the public and imperils public health by the person-to-person spread of COVID-19, it is, therefore, necessary to reduce opportunities for the person-to-person transmission of COVID-19 to combat the spread of the disease; and

WHEREAS, both CDC and the White House have recommended practices to prevent the rapid spread of COVID-19. The recommendations include that people wear cloth face coverings in public settings in addition to maintaining other social distancing measures, including staying at least six (6) feet apart from non-household members and avoiding crowds; and

WHEREAS, CDC's Considerations for Wearing a Mask advises that a mask is not a substitute for social distancing, and masks should be worn in addition to staying at least six (6) feet apart; and

WHEREAS, there is a continuing and urgent need to protect all residents, employees, and visitors in Boise City from the risks relating to the COVID-19 pandemic through the protection provided by wearing facial coverings; and

WHEREAS, there is a continued need to reduce and prevent hospitalizations for COVID-19 in order to prevent critical healthcare shortages and the activation of Crisis Standards of Care in Boise and Idaho; and

WHEREAS, additional measures and further enforcement are necessary to protect the health, safety, and welfare of the citizens of Boise City by mitigating any negative repercussions of reopening the community due to Boise City's large population, size, and scope of Boise City services offered, and its status as the State of Idaho's business and transportation hub; and

WHEREAS, based on the prudent and efficient recommendations and guidance included in the CDH Public Health Advisory, the Mayor hereby incorporates by reference the recommendations and requirements of the CDH Public Health Advisory, and the Stay Healthy Guidelines - Stage Three; and

WHEREAS, on January 21, 2021, the Mayor of the City of Boise, Lauren McLean, issued Reissued Public Health Emergency Order, 20-13b; Businesses; Individuals; Airport, Bars, Bicycle Bars; and Public Meetings, extending the provisions outlined in the original Emergency Order 20-13 and the Reissued Public Emergency Order 20-13a; and

WHEREAS, this Public Health Emergency Order 20-14; Businesses; Individuals; Airport; Bars; and Public Meetings replaces and repeals Reissued Public Health Emergency Order 20-13b.

NOW, THEREFORE, I, Lauren McLean, Mayor of Boise City, Idaho, by virtue of the authority vested in me by Boise City Code Sections 1-15-05, 1-15-08, and 3-1A-1, Idaho Code Title 50, Chapters 3 and 6, and Article XII, Section 2 of the Idaho Constitution, to protect the public hereby issue this Public Health Emergency Order 20-14; Businesses; Individuals; Face Coverings; Airport; Bars, and Public Meetings ("Emergency Order 20-14"):

Section 1. Stay Healthy Guidelines - Stage Three – Incorporated Herein. The Stay Healthy Guidelines - Stage Three are hereby incorporated in its entirety in this Public Health Emergency Order 20-14 except as otherwise specifically set forth herein.

Section 2. CDH Public Health Advisory. The CDH Public Health Advisory is hereby incorporated in its entirety into this Public Health Emergency Order 20-14, except as otherwise specifically set forth herein.

Section 3. Businesses - Required Compliance. All businesses that are eligible to remain open pursuant to the Stay Healthy Guidelines - Stage Three and the CDH Public Health Advisory must comply with all physical distancing and sanitation recommendations and requirements as provided in the Stay Healthy Guidelines - Stage Three, CDH Public Health Advisory, and Section 4 of this Emergency Order 20-14. Additionally, all businesses that are eligible to remain open pursuant to the Stay Healthy Guidelines - Stage Three, CDH Public Health Advisory, and this Emergency Order 20-14 must comply with all relevant

business protocol recommendations and requirements for Stage Three business reopening as provided for by Central District Health ("CDH") and as found at <https://rebound.idaho.gov/>.

Section 4. Individuals - Social Distancing, Face Coverings, and Sanitation Requirements-

Required Compliance. To the extent individuals are outside of their residence, individuals must comply with the Stay Healthy Guidelines - Stage Three and the CDH Public Health Advisory, in addition to the following:

- A. Individuals shall maintain at least six (6) feet minimum physical distancing from non-household members, whenever possible.
- B. Gatherings of 50 or more people are hereby prohibited.
- C. Every person is required to wear a face covering that completely covers the person's nose and mouth when the person is in a public place.

a. DEFINITIONS:

- i. For purposes of this Public Health Emergency Order, "public place" shall mean any place open to all members of the public without specific invitation, including but not necessarily limited to retail business establishments, government offices, medical, educational, arts and recreational institutions, and public transportation, including taxi cabs and ridesharing vehicles, outdoor public areas, including but not limited to public parks, trails, streets, sidewalks, lines for entry, exit or service.
- ii. For the purposes of this order, "face covering" includes but is not limited to paper or disposable masks, cloth masks, religious face coverings, scarves, neck gaiters, or bandannas. Any mask that incorporates a valve or vent or contains openings, holes, or visible gaps is non-compliant.

b. EXEMPTIONS:

- i. Children under the age of two (2).
- ii. Persons with medical conditions, mental health conditions, or disability that prevent them from wearing a face covering. A person is not required to provide documentation demonstrating that the person cannot tolerate wearing a face covering.
- iii. Persons who are deaf and hard of hearing, or communicating with a person who is deaf and hard of hearing, where the ability to see the mouth is essential for communication.
- iv. Persons, including on-duty first responders, for whom wearing a face covering would create a risk to the person related to their work, as determined by local, state, or federal regulators or workplace safety guidelines.
- v. Persons who are obtaining a service involving the nose, face, or head for which temporary removal of the face covering is necessary to perform the service.
- vi. Persons who are eating or drinking at a restaurant or other establishment that offers food or beverage service, so long as they engage in physical distancing.
- vii. Persons actively engaged in athletic competition, training, or practice when wearing a face covering is not feasible.

C. Individuals should:

- i. Wash hands with soap and water for at least twenty (20) seconds as frequently as possible or use hand sanitizer;
- ii. Cover coughs or sneezes (into the sleeve or elbow, not hands);
- iii. Regularly clean high-touch surfaces; not shake hands; and
- iv. Stay home if sick.

Section 5. Airport Public Area Access. Access to the public areas of the Boise Airport terminal is restricted to individuals who can demonstrate they fall within one of the following categories:

- A. Ticketed airline passengers;
- B. An individual accompanying a ticketed airline passenger, provided the passenger needs assistance with arrival or departure;
- C. Individuals whose employment requires access to public areas;
- D. Individuals who have been authorized by airport officials or have a business need to access the public areas;
- E. Individuals in vehicles who are at the passenger pick-up and drop-off locations waiting for or dropping off ticketed passengers; and
- F. Individuals in rental vehicles at the airport pick up or drop off rental car locations.

Section 6. Public Meetings. All meetings of Boise City commissions, committees, and boards are suspended except as provided in this Section 6. The following commissions, committees, and boards shall meet in accordance with the requirements of Idaho Code Section 74-203(5):

- A. Boise City Council (B.C.C. Title 1, Chapter 6);
- B. Planning and Zoning Commission (B.C.C. Title 2, Chapter 4);
- C. Design Review Committee (B.C.C. Title 11, Chapter 2);
- D. Historic Preservation Commission (B.C.C. Title 11, Chapter 2); and
- E. Other commissions, committees, and boards as deemed necessary in the Mayor and Department Director's discretion or as otherwise legally required.

Section 7. Bars, Restaurants, and Nightclubs. All bars, restaurants, and nightclubs shall remain closed until they are permitted to open according to the criteria and requirements set forth by CDH, and shall comply with all recommendations for bars, restaurants, and nightclubs included in the Stay Healthy Guidelines – Stage Three. All bars, restaurants, and nightclubs shall comply with the physical distancing and sanitation requirements in the Stay Healthy Guidelines – Stage Three and the recommendations in the CDH Public Health Advisory.

Section 8. Penalty and Enforcement. Individuals and businesses within Boise City are urged to voluntarily comply with this Emergency Order No. 20-14. In accordance with Boise City Code Section 1-15-10, any person who knowingly violates the provisions of this Emergency Order No. 20-14 shall be guilty of a misdemeanor, punishable by fine, imprisonment, or both. The City Clerk's Office has determined that any business licensed by the City of Boise that operates in violation of Emergency Order No. 20-14, Stay Healthy Guidelines - Stage Three; CDH Public Health Advisory, or any other State law and/or Municipal ordinance, may represent a clear and immediate threat to the health, safety, or welfare of the public and may

be subject to immediate business license suspension or revocation pursuant to Boise City Code Section 3-1A-19.

Section 9. Governing Language. To the extent this Emergency Order No. 20-14 is more stringent than the 1) Stay Healthy Guidelines - Stage Three, or 2) the CDH Public Health Advisory, the language of this Emergency Order No. 20-14 shall govern.

Section 10. Costs. No person shall be entitled to recover from Boise City any costs incurred or profits lost, as may be attributed to the enactment of this Emergency Order No. 20-14.

Section 11. Severability. To the extent any provision of this Emergency Order No. 20-14 or its application to any person or business is held to be invalid, the remainder of this Emergency Order No. 20-14, including any application thereof, shall remain in full force and effect. To this end, provisions of this Emergency Order No. 20-14 are severable.

Section 12. Other Public Health Emergency Orders. This Emergency Order 20-14 supersedes all previous City of Boise Public Health Emergency Orders.

Section 13. Effective Date. This Emergency Order No. 20-14 shall take effect at 11:59 p.m. on February 19, 2021, and remain in full force and effect pursuant to the provisions of Boise City Code Section 1-15-6 (E) unless it is terminated, modified, or extended at an earlier date. In anticipation of the Governor, or CDH Director issuing future Stay Healthy Guidelines or Orders, the Mayor, in consultation with CDH and local healthcare providers, will monitor the state of Boise City pursuant to the gating criteria outlined at <https://rebound.idaho.gov/>, specifically the syndromic, epidemiologic, and healthcare indicators to determine whether this Emergency Order No. 20-14 should be amended, modified or terminated.

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