

November 6, 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.

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 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.

On September 15, 2020, the Executive Director of the Colorado Department of Public Health and Environment (“CDPHE”) issued Public Health Order 20-35 (“CDPHE PHO 20-35”). On September 18, 2020, DDPHE adopted CDPHE PHO 20-35 and all CDPHE amendments thereto.

On November 2, 2020, CDPHE issued Public Health Order 20-36 (“CDPHE PHO 20-36”), which supersedes and replaces CDPHE Public Health Orders 20-32 and 20-35. On November 3, 2020, DDPHE adopted CDPHE PHO 20-36 and rescinded and superseded its order dated September 18, 2020.

The City and County of Denver’s 7-day moving average of new COVID-19 cases has increased from 290.0 on October 29, 2020 to 418.9 on November 5, 2020. Similarly, the City and County of Denver’s two-week cumulative incidence rate per 100,00 people has increased from 341.6 on October 22, 2020 to 683.2 on November 5, 2020. In addition, the number of COVID hospitalizations is on the rise.

The City and County of Denver and DDPHE attribute the surge of COVID-19 to a number of factors, including increased social gatherings, both indoors and outdoors, among people of different households.

Due to these alarming increases in positivity rates and hospitalization trends in the City and County of Denver, the Executive Director of DDPHE, pursuant to section 24-16 of the Denver Revised Municipal Code, hereby orders the following:

1. All public and private gatherings of any number of people who are not members of a single household are prohibited, except for the limited purposes as expressly permitted in CDPHE PHO 20-36 and this Order.

Denver Department of Public Health & Environment
101 W Colfax Ave, Suite 800 | Denver, CO 80202
www.denvergov.org/PublicHealthandEnvironment
p. 720-913-1311 | f. 720-865-5531 | [@DDPHE](https://twitter.com/DDPHE)

- a. Individuals who live alone may gather with members of their immediate family in compliance with the restrictions provided in CDPHE PHO 20-36.
 - b. Nothing in this Order prohibits the gathering of members living in the same residence.
 - c. This prohibition shall be temporarily suspended on Thursday, November 26, 2020, for the Thanksgiving holiday, and persons are permitted to gather as specified in CDPHE PHO 20-36. However, individuals who are sick or experiencing flu-like symptoms and Individuals at Risk of Severe Illness from COVID-19, as defined in CDPHE PHO 20-36, are urged to avoid gathering with individuals outside of their immediate household.
2. All individuals anywhere in the City and County of Denver (“Denver”) are ordered to be **HOME BY TEN** and to stay at their place of residence between the hours of 10:00 p.m. and 5:00 a.m. each day (“HOME BY TEN hours”).
- a. During the HOME BY TEN hours, any business that is not a **Critical Business**, as defined in CDPHE PHO 20-36 but with the exceptions outlined below, must be closed to the public. Employees and individuals providing goods or services to the business are not considered members of the public for purposes of this Order.
 - b. During the HOME BY TEN hours, all persons are prohibited from using, standing, sitting, traveling or being otherwise present on any public street or in any public place, including for the purpose of travel, with the following exceptions:
 - i. Providing or accessing **Necessary Activities** as defined in CDPHE PHO 20-36.
 - ii. Providing or accessing a **Critical Government Function** as defined in CDPHE PHO 20-36.
 - iii. Providing or accessing a **Critical Business** as defined in CDPHE PHO 20-36; however, liquor sales must cease at 10:00 p.m. daily. Restaurants must be closed to in-person dining at 10:00 p.m., but may provide *food only* through curbside, drive-through, and delivery services after 10:00 p.m.
 - iv. Engaging in **Necessary Travel** as defined in CDPHE PHO 20-36, and including the following activities:
 1. All law enforcement, fire, paramedics or other medical personnel, Colorado National Guard as well as any other emergency response personnel authorized by the City and County of Denver, and credentialed members of the news media.
 2. Individuals traveling directly to and from the Denver International Airport or traveling through Denver to a location outside the corporate city and county limits of Denver.

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3. Individuals traveling directly to and from work.
 4. Individuals fleeing dangerous circumstances or persons experiencing homelessness.
 5. Any person to whom permission by authorized City and County of Denver officials is specifically granted. The Executive Director of the Department of Public Health & Environment shall designate any additional personnel that are exempt from this Order.
- v. For purposes of this Order, “travel” includes, without limitation, travel on foot, bicycle, skateboard, scooter, motorcycle, automobile, or public transit, or any other mode of transporting a person from one location to another.
 - vi. For purposes of this Order, “public place” means any place, whether on privately or publicly owned property, accessible to the general public, including but not limited to public streets and roads, alleys, highways, driveways, sidewalks, parks, vacant lots, and unsupervised property. For purposes of this order, “public place” does not include the Denver International Airport and individuals may be present at Denver International Airport notwithstanding this Order.
3. Spectators are prohibited at all non-professional sporting events, including all post-secondary and Colorado High School Activities Association (CHSAA) sanctioned sporting events. All other recreational sports activities, including organized recreational youth and adult league sports, practices, games, and tournaments, are hereby prohibited.
 4. Bars may only allow on-premises consumption of alcohol via seated table service and must provide food from a licensed retail food establishment, following the Restaurant requirements in CDPHE PHO 20-36. All other Bars are closed to ingress, egress, use, and occupancy by members of the public, but may offer alcoholic beverages through delivery service, window service, walk-up service, drive-through service, drive-up service, or curbside delivery, before 10:00 p.m. and pursuant to CDPHE PHO 20-36.
 - a. “Bar” means a bar, tavern, brew pub, brewery, microbrewery, distillery pub, winery, tasting room, special licensee, club, and other place of public accommodation serving alcoholic beverages licensed pursuant to Articles 3, 4, and 5 of Title 44 of the Colorado Revised Statutes and, if serving food, only snacks and not kitchen-prepared meals.
 - b. In order to qualify for this exemption, bars using on-site food service must use an on-premises licensed retail food kitchen that provides a full food menu and not just snacks or microwaved snack items.
 - c. In order to qualify for this exemption, bars using off-site food service must use a licensed retail food establishment (such as a food truck or neighboring restaurant) located immediately adjacent to the licensed premises.

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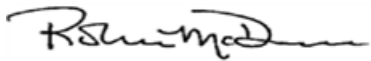
- d. Bars must make meals available at all times that alcohol beverages are served for on-premises consumption.
 - e. Bars must keep groups seated together, ensure that groups do not mix or mingle with each other, and ensure that people remain seated except when necessary. Groups are limited to six people from no more than two households.
5. Restaurants and Bars must provide seated dining service only and limit group size to six people from no more than two households. Restaurants and Bars are encouraged to place a time limit on diners in order to maximize table turnover during hours of operation.

If at any time CDPHE determines that the City and County of Denver is moved to Level Red in CDPHE PHO 20-36, the more restrictive measures shall govern.

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 take become effective at 10:00 p.m. on Sunday, November 8, 2020, and shall terminate at 5:00 a.m. on Monday, December 7, 2020, unless earlier rescinded, superseded, or amended in writing by the Executive Director of the Department of Public Health & Environment.

Issued by:



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