STATE OF MINNESOTA

Executive Department

Governor Tim Walz

Emergency Executive Order 21-01

Protecting Recent Progress and Cautiously Resuming Certain Activities

I, Tim Walz, Governor of the State of Minnesota, by the authority vested in me by the Constitution and applicable statutes, issue the following Executive Order:

The COVID-19 pandemic continues to present an unprecedented and rapidly evolving challenge to our State. Minnesota has taken extraordinary steps to prevent and respond to the pandemic. On March 13, 2020, I issued Executive Order 20-01 and declared a peacetime emergency because this pandemic, an act of nature, threatens the lives of Minnesotans, and local resources are inadequate to address the threat. Since declaring the peacetime emergency, I have extended it every 30 days, with the most recent extension occurring on December 14, 2020.

Almost seven weeks ago, Minnesota joined an increasing number of states in dialing back social gatherings, organized sports, and activities in a range of places of public accommodation in response to a significant surge in COVID-19 cases. As state health officials predicted, the surge's consequences were dire. Hospitals reported dangerous strains on their capacity, and average daily deaths due to the virus were far higher than we had experienced at any point in the pandemic. In light of the sobering infection rates and loss of life, I called on the people of Minnesota to forego holiday gatherings, sports leagues, and other social activities, and we temporarily closed businesses and gathering spaces that pose high risks of virus transmission. Minnesotans answered the call, making difficult personal sacrifices to change the pandemic's trajectory and save their neighbors' lives. If not for our collective action to stem the rapidly rising tide of COVID-19 infections, the consequences could have been far worse.

Indeed, Minnesota's daily COVID-19 case numbers began to slowly decrease after we started the dial back. After the first four weeks, we made minor adjustments with Executive Orders 20-103 and 20-104, which were targeted to help Minnesotans cope with the challenges of isolation by slightly easing social gathering restrictions and prioritizing the slow return of physical fitness and sports activities with the goal of improving physical and mental well-being. Because new COVID-19 cases remained at problematic levels, these steps were intentionally gradual. Since then, the outlook has improved. In the past week, the White House Coronavirus Task Force ("Task Force") has shared cautious optimism about the state's improving COVID-19 situation. Although many key metrics—including COVID-19 deaths, new hospitalizations, daily case numbers, and test positivity rate—are now well below where they were at the most severe stages

of our late fall and early winter surge, we continue to be in an area of high risk for further COVID-19 spread by most Task Force and Minnesota Department of Health ("MDH") measures.

Although we must continue to be cautious, the recent change in the virus's trajectory allows us to again take measured steps to reopen businesses closed under previous Executive Orders. These businesses have suffered through no fault of their own. The state and federal measures have provided some relief to affected businesses, but we know that the ultimate goal of businesses is to reopen to serve their customers. I appreciate the efforts of all Minnesotans in buckling down to reduce our infection rates as much as possible in the past seven weeks. Those efforts allow workers and business owners to get back to work.

We continue to face a challenging balancing act. As we allow more settings to reopen, the risk of transmission increases. As I have noted previously, some settings continue to pose more risks than others. Indoor activities pose higher risks than outdoor activities. Strenuous activities resulting in increased respiration pose higher risk than sedentary activities. Unpredictable settings are riskier than more predictable and controlled settings. Settings conducive to prolonged contact provide more opportunity for transmission than settings featuring more transitory interactions. In addition, science, data, and experience also show that the late-night bar and restaurant hours are particularly risky for patrons. Recognizing the impact of these variables, this Executive Order continues to limit certain settings more than others due to the varying levels of risk.

Staying at home and avoiding gatherings is still the most effective way to prevent transmission and doing so is particularly important for those who are at risk of severe illness from COVID-19. It is also important to continue to limit the size of social gatherings with family and friends, as these familiar and uncontrolled gatherings present special transmission risks. While gatherings of people from different households continue to pose risk of transmission, we can reduce transmission by each of us doing our part and ensuring compliance with safety measures. As the White House Task Force recently summarized: "Mitigation measures to limit transmission in personal gatherings need ongoing strengthening, including continuing to ask Minnesotans to limit travel, wear masks, physically distance, and avoid gatherings in both public and private spaces, especially indoors."

We all play a part in preserving the gains that we have made over the past two months. When Minnesotans leave their homes, they must continue to follow the science and adhere to public health guidance to avoid the need for dial backs. The Centers for Disease Control and Prevention ("CDC") estimates that the basic measure of wearing a face covering can reduce transmission risk by 70 to 80 percent. When face coverings are paired with consistent social distancing, we can dramatically reduce transmission. I continue to ask everyone in Minnesota to support these basic measures to allow our children to return to school, keep our businesses open, preserve our hospital capacity, and protect our neighbors.

In Minnesota Statutes 2020, section 12.02, the Minnesota Legislature conferred upon the Governor emergency powers to "(1) ensure that preparations of this state will be adequate to deal with disasters, (2) generally protect the public peace, health, and safety, and (3) preserve the lives and property of the people of the state." Pursuant to Minnesota Statutes 2020, section

12.21, subdivision 1, the Governor has general authority to control the state's emergency management as well as to carry out the provisions of the Minnesota Emergency Management Act.

Minnesota Statutes 2020, section 12.21, subdivision 3(7), authorizes the Governor to cooperate with federal and state agencies in "matters pertaining to the emergency management of the state and nation." This includes "the direction or control of . . . the conduct of persons in the state, including entrance or exit from any stricken or threatened public place, occupancy of facilities, and . . . public meetings or gatherings." Pursuant to subdivision 3 of that same section, the Governor may "make, amend, and rescind the necessary orders and rules to carry out the provisions" of the Minnesota Emergency Management Act. When approved by the Executive Council and filed in the Office of the Secretary of State, such orders and rules have the force and effect of law during the peacetime emergency. Any inconsistent rules or ordinances of any agency or political subdivision of the state are suspended during the pendency of the emergency.

For these reasons, I order as follows:

1. Executive Orders 20-99, 20-103, and 20-104 are rescinded as of Sunday, January 10, 2021 at 11:59 pm.

2. This Executive Order is effective as of Sunday, January 10, 2021 at 11:59 pm.

3. **Masks and face coverings required.** Executive Order 20-81, requiring face coverings in certain settings, remains in full force and effect except as modified by this Executive Order.

4. **At-risk persons.** All persons currently living within the State of Minnesota who are at risk of severe illness from COVID-19, as defined by Executive Order 20-55, are strongly urged to stay at home or in their place of residence and follow the provisions of Executive Order 20-55.

5. **Definitions.**

    a. "Home," "homes," "residence," and "residences" are broadly defined to include mobile homes, hotels, motels, shared rental units, shelters, and similar facilities, to the extent that they are used for lodging.

    b. "Worker" and "workers" are broadly defined to include owners, proprietors, employees, contractors, vendors, volunteers, and interns.

    c. "Business" and "businesses" are broadly defined to include entities that employ or engage workers, including private-sector entities, public-sector entities, non-profit entities, and state, county, and local governments.

    d. "Critical Businesses" are all businesses whose workers qualified for a Critical Sector exemption under paragraph 6 of Executive Order 20-48.

e. "Non-Critical Businesses" are all businesses that are not Critical Businesses or Places of Public Accommodation.

f. "Place of Public Accommodation" means a business, or an educational, refreshment, entertainment, recreation facility, or an institution of any kind, whether licensed or not, whose goods, services, facilities, privileges, advantages, or accommodations are extended, offered, sold, or otherwise made available to the public. This definition also includes those businesses, facilities, and institutions that offer or provide shared or communal goods, services, facilities, privileges, advantages, or accommodations to members of more than a single household, regardless of whether they are made available to the public. Places of Public Accommodation include, but are not limited to, the businesses identified in paragraph 7.c of this Executive Order.

g. "Establishments Providing Personal Care Services" are broadly defined to include tanning establishments, body art establishments, tattoo parlors, piercing parlors, businesses offering massage therapy or similar body work, spas, salons, nail salons, cosmetology salons, esthetician salons, advanced practice esthetician salons, eyelash salons, and barber shops. This includes, but is not limited to, all salons and shops licensed by the Minnesota Board of Cosmetologist Examiners and the Minnesota Board of Barber Examiners.

h. "Organizers" are businesses or individuals who plan, organize, host, or disseminate information encouraging people to attend prohibited social gatherings.

i. "Social gatherings" are groups of individuals who are not members of the same household, congregated together for a common or coordinated social, community, or leisure purpose—even if social distancing can be maintained. Social gatherings include indoor and outdoor gatherings, planned and spontaneous gatherings, and public and private gatherings.

j. "Normal occupant capacity" means the applicable lawful capacity as established by state or local authorities in accordance with established codes and requirements. Businesses that do not have an applicable lawful capacity must calculate their normal occupant capacity according to the applicable industry guidance at the Stay Safe Minnesota website (https://staysafe.mn.gov).

6. **Activities outside of the home.** Mindful that we must continue to limit social interactions to protect public health, individual activities outside of the home are subject to the limitations and guidelines set forth below. These requirements may be clarified, as deemed necessary by the Governor, to ensure the health, safety, and security of all Minnesotans. Clarifications will be available for public review at the Stay Safe Minnesota website (https://staysafe.mn.gov).

a. **Social gatherings.** Except as specifically permitted in this Executive Order, social gatherings are prohibited. Indoor social gatherings are strongly discouraged; but indoor social gatherings involving not more than two households, up to a maximum of 10 people, are permitted as long as members of different households maintain at least six feet of separation from each other and adhere to additional precautions for social gatherings on the Stay Safe Minnesota website (https://staysafe.mn.gov/). Outdoor social gatherings involving not more than three households, up to a maximum of 15 people, are permitted as long as members of different households maintain at least six feet of separation from each other, and participants adhere to additional precautions for social gatherings on the Stay Safe Minnesota website (https://staysafe.mn.gov/). Organizers of prohibited social gatherings may be subject to appropriate enforcement action by city, county, and/or state authorities pursuant to paragraph 10 of this Executive Order.

   i. **Activity by workers or customers.** Prohibited social gatherings do not include activity by workers or customers of businesses permitted to remain open under this Executive Order, providing that these businesses follow the requirements and limitations set forth in this Executive Order.

   ii. **Places of Public Accommodation permitted to be open.** Prohibited social gatherings do not include persons in Places of Public Accommodation that are permitted to be open to members of the public under this Executive Order, provided that those Places of Public Accommodation follow the requirements and limitations set forth in this Executive Order.

   iii. **Educational and care services for children and youth.** Prohibited social gatherings do not include educational and care services for children and youth, including child care, educational support services for distance and hybrid learners, and other educational services. Prohibited social gatherings do not include services in a personal home, such as family, friend, and neighbor care necessary for workers to continue to perform their duties. Individuals and programs providing educational support services must follow the applicable guidance available at the Stay Safe Minnesota website (https://staysafe.mn.gov).

   iv. **Care of others.** Individuals may care for a family member, friend, or pet in another household, and may transport family members, friends, or pets, including the transport of children pursuant to existing parenting time schedules or other visitation schedules pertaining to a child in need of protective services ("CHIPS") proceeding.

   v. **Relocation to ensure safety.** Nothing in this Executive Order should be construed to prevent individuals whose homes or residences are

unsafe or become unsafe, including individuals who have suffered or are at risk of domestic violence or for whom the safety, sanitation, or essential operations of their home or residence cannot be maintained, from leaving their home or residence, or relocating to a safe alternative home or residence.

vi. **Health and safety activities**. Nothing in this Executive Order should be construed to prevent individuals from seeking emergency services; obtaining medical services, supplies, or medications; donating blood; or visiting a healthcare or dental professional or facility, or a veterinarian.

vii. **Sobriety and mental health support groups.** Prohibited social gatherings do not include sobriety or other mental health support groups. Remote meetings are encouraged whenever possible. When remote meetings are not possible, smaller meetings of shorter duration are encouraged. Any in-person meetings must comply with applicable public health guidance, including relevant MDH guidance.

viii. **Health care and residential facilities.** Prohibited social gatherings do not include gatherings of persons in health care facilities, long-term care facilities, residential treatment facilities, residential and in-home programs licensed by the Minnesota Department of Human Services, correctional facilities, juvenile justice facilities, and shelters or drop-in centers. These facilities and settings must continue to follow applicable state and federal guidance, including guidance related to visitation. In-person visitation may not be possible under that guidance, and individuals are strongly encouraged to visit with loved ones virtually.

ix. **Displacement.** Individuals without a home are exempt from the restrictions on gatherings in this Executive Order, but they are strongly encouraged to avoid gatherings whenever possible. Executive Order 20-55, which includes provisions related to encampments, remains in full force and effect.

x. **Legislative and other governmental meetings.** The limits on gatherings in this Executive Order do not apply to legislative and other governmental meetings. Remote meetings are strongly encouraged whenever possible as permitted by state or local authority.

xi. **The Judicial Branch.** The limits on gatherings in this Executive Order do not apply to proceedings held by the Minnesota Judicial Branch. Proceedings held by the Judicial Branch are subject to the policies established by the chief justice and will occur as directed by court order. Individuals may appear as directed by a Minnesota state court, including to serve as a juror, appear as a party, as a witness, or

as legal counsel on behalf of a party, or otherwise to comply as directed by a court order, subpoena, or summons.

xii. **Federal activities.** Nothing in this Executive Order will be construed to limit, prohibit, or restrict in any way the operations of the federal government or the movement of federal officials in Minnesota while acting in their official capacity, including federal judicial, legislative, and executive staff and personnel.

xiii. **Drive-in gatherings.** To enable safe congregation of people, drive-in gatherings are permitted, provided that all participants remain within their own vehicles and follow the applicable guidance available at the Stay Safe Minnesota website (https://staysafe.mn.gov).

xiv. **Weddings, funerals, and services.** Places of worship, funeral homes, and other venues that offer gathering space for wedding ceremonies, funeral services, or other planned services such as worship, rituals, prayer meetings, or scripture studies are strongly encouraged to offer virtual alternatives to the maximum extent possible. Places of worship, funeral homes, and other venues that offer gathering space for wedding services, funeral services, or other planned services such as worship, rituals, prayer meetings, or scripture studies, may host such wedding ceremonies, funeral services, or other services, provided that they adhere to the following requirements:

A. In all settings, ensure a minimum of six feet of physical distancing between households.

B. In indoor settings, occupancy must not exceed 50 percent of the normal occupant capacity.

C. Develop and implement a COVID-19 Preparedness Plan in accordance with applicable guidance available at the Stay Safe Minnesota website (https://staysafe.mn.gov).

xv. **Celebrations and receptions.** Venues may host celebrations, receptions, private parties, or other social gatherings, including but not limited to those connected to weddings, funerals, life milestones (such as birthdays and retirements), family reunions, planned religious services, and other similar occasions if they develop and implement a COVID-19 Preparedness Plan in accordance with applicable venue guidance available at the Stay Safe Minnesota website (https://staysafe.mn.gov). Celebrations, receptions, private parties, and other gatherings that offer food or beverages (including alcoholic beverages) for on-premises consumption or that permit food or beverages to be consumed on premises must not take place between the hours of 10:00 pm and 4:00 am, must ensure at least six feet of

separation between members of different households, and must be limited as follows:

A. Indoors, no more than two households, up to a maximum of 10 people.

B. Outdoors, no more than three households, up to a maximum of 15 people.

b. **Outdoor recreational activity.** Individuals **must not** engage in outdoor recreational activities where they will come into close proximity (less than six feet of separation) with others from different households. Individuals may engage in the outdoor recreational activities listed below, provided that they adhere to the limitations on social gatherings in paragraph 6.a and follow the Minnesota Department of Natural Resources ("DNR") and MDH guidelines on outdoor recreation and guidelines for facilities and the public ("Outdoor Recreation Guidelines") available at DNR's COVID-19 website (https://www.dnr.state.mn.us/covid-19.html):

i. Individuals may engage in any outdoor activity that is dependent upon or derives its principal benefit from natural surroundings and open space, including but not limited to hunting, fishing, trapping, boating, hiking, biking, golfing, picnicking, skiing, skating, and snowshoeing for the purposes of pleasure, rest, exercise, or relaxation, provided that the activity can be engaged in accordance with the Outdoor Recreation Guidelines, including maintaining at least six feet of separation between participants from different households and limiting gathering size according to paragraph 6.a. Groups **within a single household** may engage in outdoor activities or sports that do not allow for social distancing (*e.g.*, soccer, hockey, or basketball) but must not engage in such activities with members of other households.

ii. Outdoor recreational activities allowed by this Executive Order do not include rallies, spectator entertainment events, fairs, festivals, concerts, or other similar outdoor organized events, which are governed by paragraph 7.c.x (if held in a venue) or paragraph 6.a (if not held in a venue). Organized Youth and Adult Sports activities are governed by the requirements in paragraphs 7.g. and 7.h.

iii. Nothing in this paragraph permits trespass upon private property, and all activities undertaken pursuant to this paragraph must be undertaken in accordance with Minnesota law, including but not limited to license and permit requirements, invasive species regulations, and park rules. Nothing in this paragraph should be construed to abrogate existing local authority to limit or restrict activities or close facilities.

c. **Voting.** Individuals are permitted and encouraged to vote in all state and local elections. Voters are also encouraged to vote by mail using an absentee ballot where feasible. Additional information is available at the Secretary of State's website.

d. **Unnecessary travel strongly discouraged.** Consistent with federal guidance and to protect our neighbors, Minnesotans are encouraged to stay close to home and are strongly discouraged from engaging in unnecessary travel, particularly to other states or countries.

e. **Travel advisory.** Persons arriving in Minnesota from other states or countries, including returning Minnesota residents, are strongly encouraged to follow the recommendations in MDH's Quarantine Guidance (https://www.health.state.mn.us/diseases/coronavirus/quarguide.pdf). This recommendation does not apply to individuals who must cross state or country borders for work, study, medical care, or personal safety and security. Students returning home for school breaks are strongly encouraged to follow the recommendations available at MDH's Institutes of Higher Education website (https://www.health.state.mn.us/diseases/coronavirus/schools/ihe.html).

f. **Guidelines.** Individuals engaging in activities outside of the home must follow the requirements of this Executive Order, Executive Order 20-81 (face coverings), and MDH and CDC Guidelines. Individuals engaging in outdoor recreational activities must follow the Outdoor Recreation Guidelines available at DNR's COVID-19 website (https://www.dnr.state.mn.us/covid-19.html).

g. **Tribal activities and lands.**

   i. Activities by tribal members within the boundaries of their tribal reservations are exempt from the restrictions in this Executive Order but may be subject to restrictions by tribal authorities.

   ii. Activities within the boundaries of federal land held in trust for one of the 11 Minnesota Tribal Nations are exempt from the restrictions in this Executive Order but may be subject to restrictions by tribal authorities.

   iii. Activities by tribal members to exercise their federal treaty rights within the boundaries of their treaty territory (also known as "ceded territory") are exempt from the restrictions in this Executive Order but may be subject to restrictions by applicable tribal authorities.

   iv. Tribal members may travel to and from their tribal reservations in accordance with applicable tribal law.

7. **Workers and businesses.** Workers and businesses are subject to the requirements set forth below. These requirements may be clarified, as deemed necessary by the Governor, to ensure the health, safety, and security of all Minnesotans. Clarifications will be available for public review at the State's COVID-19 website (https://mn.gov/covid19/).

    a. **Continue to work from home whenever possible**. Any worker who can work from home must do so.

    b. **Safe work.** The protections noted in Executive Order 20-54 (Protecting Workers from Unsafe Working Conditions and Retaliation) remain in full force and effect. All work must be conducted in a manner that adheres to Minnesota OSHA Standards and MDH and CDC Guidelines, including social distancing and hygiene practices. Under existing law and authority, the Department of Labor and Industry ("DLI") may issue citations, civil penalties, or closure orders to places of employment with unsafe or unhealthy conditions, and DLI may penalize businesses that retaliate against employees who raise safety and health concerns.

    c. **Places of Public Accommodation**. Places of Public Accommodation are subject to the following requirements and limitations:

        i. **All Places of Public Accommodation open under this Executive Order must adhere to the requirements set forth in paragraph 7.d of this order**, including development and implementation of a COVID-19 Preparedness Plan in accordance with applicable guidance available at the Stay Safe Minnesota website (https://staysafe.mn.gov).

        ii. For the purposes of this Executive Order, the following establishments and facilities are not Places of Public Accommodation:

            A. Establishments and facilities that offer food and beverage not for on-premises consumption, including grocery stores, markets, convenience stores, pharmacies, drug stores, and food pantries, other than those portions of the Place of Public Accommodation otherwise subject to the requirements of this paragraph 7.c.

            B. Health care facilities, child care facilities, residential care facilities, congregate care facilities, correctional facilities, and juvenile justice facilities.

            C. Crisis shelters, soup kitchens, or similar institutions.

        iii. Places of Public Accommodation that would otherwise be subject to the restrictions in this Executive Order may be exempted from such restrictions if they have been repurposed to exclusively provide

services permitted under paragraph 7.c.ii, subject to relevant licensing and other requirements, and applicable MDH and CDC guidelines.

iv. Places of Public Accommodation subject to this Executive Order are encouraged to offer food, beverages, and other products using delivery services, window service, walk-up service, drive-through service, or drive-up service, and to use precautions in doing so to mitigate the potential transmission of COVID-19, including social distancing.

v. Barbershops, salons, and other Establishments Providing Personal Care Services may remain open. Occupancy must not exceed 50 percent of the normal occupant capacity, with a maximum of 250 people in a single self-contained space. Workers, customers, and clients must follow all requirements, including face-covering requirements, as set forth in the applicable guidance available at the Stay Safe Minnesota website (https://staysafe.mn.gov).

vi. Restaurants, food courts, cafes, coffeehouses, bars, taverns, breweries, microbreweries, distilleries, brewer taprooms, micro distiller cocktail rooms, tasting rooms, wineries, cideries, clubhouses, dining clubs, tobacco product shops, hookah bars, cigar bars, vaping lounges, and other Places of Public Accommodation offering food, beverages (including alcoholic beverages), or tobacco products for on-premises consumption, may provide indoor and outdoor service if they adhere to the applicable guidance available on the Stay Safe Minnesota website (https://staysafe.mn.gov) and the following requirements:

A. Occupancy of any indoor space must not exceed 50 percent of the normal occupant capacity, with a maximum of 150 people, provided that physical distancing of at least six feet is maintained between parties at different tables.

B. Occupancy of any outdoor space must ensure that number of customers at any one time is limited to the number for whom physical distancing of six feet can be maintained between parties at different tables, not to exceed 150 people.

C. All establishments must ensure that no more than six customers are seated at one table.

D. All establishments must close and remain closed each day for on-premises consumption between the hours of 10:00 pm and 4:00 am. Nothing in this paragraph is intended to limit or discourage delivery service, window service, walk-up service, or drive-up service offered under paragraph 7.c.iv.

E. All establishments must follow applicable state and local laws and regulations. Local governments are encouraged to work

collaboratively with establishments to allow for outdoor service.

F. The capacity limitation on indoor activity extends to the sale and play of lawful games as provided under Minnesota Statutes 2020, section 349.12.

G. Pursuant to Minnesota Statutes 2020, section 349.12, subdivision 3a, veterans or fraternal organizations may lend gambling funds to their general fund accounts for up to one year to pay for allowable expenses necessary to reopen such organizations' permitted premises as set forth in the guidance available at the Gambling Control Board's website (https://mn.gov/gcb/).

vii. Public pools, as defined in Minnesota Statutes 2020, section 144.1222, subdivision 4(d), may be open in accordance with the guidance available on the Stay Safe Minnesota website (https://staysafe.mn.gov/) and paragraphs 7.g and 7.h of this Executive Order. Occupancy of public pool areas must not exceed 25 percent of the normal occupant capacity, not to exceed 150 people. If a pool is located within a Place of Public Accommodation that has limited occupancy under this Executive Order or applicable industry guidance—such as a fitness center—occupants of the pool must also be counted as occupants of that Place of Public Accommodation.

viii. Indoor gymnasiums, fitness centers, recreation centers, indoor sports facilities, climbing facilities, exercise facilities, martial arts facilities, and dance and exercise studios may be open in accordance with the applicable guidance available on the Stay Safe Minnesota website (https://staysafe.mn.gov/) and the following requirements:

A. Occupancy of any indoor space and the entire facility must not exceed 25 percent of the normal occupant capacity, not to exceed 150 people in the entire facility.

B. Physical distancing requirements must be maintained as set forth in the applicable guidance available on the Stay Safe Minnesota website (https://staysafe.mn.gov/). Organized Youth and Adult Sports must follow the specific social distancing requirements in the applicable guidance available on the Stay Safe Minnesota website (https://staysafe.mn.gov/).

C. Notwithstanding paragraphs 10.a and 10.b of Executive Order 20-81, face coverings must be worn by all persons at all times, except when participating in activities that would involve

soaking or submerging a face covering in water, such as swimming or showering.

D. These establishments may provide services permitted under paragraphs 7.e (child care) and 7.f (youth programs).

E. The establishments covered by this paragraph include shared or communal facilities serving more than one household, regardless of whether such facilities are open to the public, including but not limited to those facilities located in an apartment building, condominium, or housing complex.

ix. Venues providing indoor events and entertainment (whether permanent, temporary, or mobile) such as theaters, cinemas, concert halls, museums, performance venues, arcades, trampoline parks, party buses, and bowling alleys may be open in accordance with the applicable guidance available on the Stay Safe Minnesota website (https://staysafe.mn.gov/) and the following requirements:

A. All venues must ensure that physical distancing of at least six feet is maintained between participants from different households. Venues may not exceed 25 percent of normal occupant capacity with a maximum of 150 people.

B. Any venue that offers food or beverages for on-premises consumption or that permits food or beverages to be consumed on premises must not offer food and beverage service each day between the hours of 10:00 pm and 4:00 am and must prohibit on-premises food and beverage consumption each day between the hours of 10:00 pm and 4:00 am. Venues must also comply with relevant industry guidance available on the Stay Safe Minnesota website (https://staysafe.mn.gov), including ensuring that customers are seated when consuming food and beverage.

x. Venues providing outdoor events and entertainment (whether permanent, temporary, or mobile) such as racetracks, paintball, go-karts, mini-golf, and amusement parks may open to the general public only in accordance with industry guidance available on the Stay Safe Minnesota website (https://staysafe.mn.gov) and the following requirements:

A. All venues must ensure that physical distancing of at least six feet is maintained between participants from different households. Venues may not exceed 25 percent of normal occupant capacity with a maximum of 250 people.

B. Any venue that offers food or beverages for on-premises consumption or that permits food or beverages to be consumed on premises must not offer food and beverage service each day between the hours of 10:00 pm and 4:00 am and must prohibit on-premises food and beverage consumption each day between the hours of 10:00 pm and 4:00 am. Venues must also comply with relevant industry guidance available on the Stay Safe Minnesota website (https://staysafe.mn.gov), including ensuring that customers are seated when consuming food and beverage.

C. Such venues are encouraged to offer drive-in or drive-through experiences, provided that all participants remain within their own vehicles and follow the applicable guidance available at the Stay Safe Minnesota website (https://staysafe.mn.gov). Drive-in and drive-through experiences are not subject to the capacity limits set forth above.

D. To ensure renewal of Class C licenses in a safe manner with proper social distancing and other mitigation measures to reduce the risk of virus transmission, Class C licenses issued in 2020 by the Minnesota Racing Commission under Minnesota Statutes 2020, section 240.08, are extended until March 1, 2021.

xi. **Outdoor recreational facilities**. The below facilities are permitted to be open and do business, provided that they adhere to paragraphs 6 and 7 of this Executive Order and the Outdoor Recreation Guidelines available at the Stay Safe Minnesota website (https://staysafe.mn.gov). Businesses and Places of Public Accommodation associated with outdoor recreational facilities must comply with paragraphs 6 and 7 of this Executive Order, as applicable. Public outdoor recreational facilities are encouraged to be open for all Minnesotans, including families and children, and all individuals utilizing such facilities must follow the Outdoor Recreation Guidelines. All outdoor recreational activities and facilities must also comply with Minnesota law, including but not limited to license and permit requirements, invasive species regulations, and park rules.

A. Minnesota State Parks, Trails, State Forests, State Recreation Areas, Wildlife Management Areas, Scientific and Natural Areas, and other State managed recreational lands.

B. Locally, regionally, publicly, and privately managed outdoor parks, trails, arboretums, and gardens.

C. State, regional, or local public water accesses.

D. Public and private marinas and docks that provide storage, docking, and mooring services to slip owners, seasonal renters, and the general public, as well as facilities that provide safety-related services including fueling, emergency dockage, and sanitary pump-out stations.

E. Public and private golf courses and outdoor driving ranges.

F. Ski areas, Nordic trails, snow tubing hills, sledding hills, and outdoor skating rinks.

G. Lake service providers to install, repair, and remove docks, boatlifts, and other water related equipment or deliver boats.

H. Outdoor shooting ranges and game farms.

I. Outdoor recreational equipment rental outlets. Equipment may be rented if outlets implement clear check-in and check-out procedures that minimize contact between customers and workers. Any rentals must be conducted in accordance with the Outdoor Recreation Guidelines.

J. Dispersed and remote camping sites in accordance with the Outdoor Recreation Guidelines. A dispersed campsite is a single campsite, not in a developed campground, used for overnight camping. A remote campsite is a designated backpack or watercraft campsite, not in a developed campground, used for overnight camping.

K. Public and private campgrounds that have adopted a COVID-19 Preparedness Plan in accordance with the Guidance for Campgrounds website (https://www.dnr.state.mn.us/aboutdnr/safely-opening-outdoor-recreation.html).

L. Charter boats and launches that have adopted a COVID-19 Preparedness Plan in accordance with Guidance for Charter and Launch Boats website (https://www.dnr.state.mn.us/aboutdnr/safely-opening-outdoor-recreation.html).

M. Guided and instructional activities such as guided fishing or birding that adhere to social distancing requirements, do not involve more than one guide or instructor, and are conducted in accordance with the Outdoor Recreation Guidelines. This paragraph does not apply to activities covered by paragraph 7.e or 7.f.

N. Any other outdoor recreation activities and facilities that may be designated in the Outdoor Recreation Guidelines.

d. **Requirements for all businesses.** Since June 29, 2020, all businesses in Minnesota (whether Critical or Non-Critical) have been required to have a COVID-19 Preparedness Plan ("Plan") and implement that plan. All businesses must continue to follow the same requirements. Each Plan must provide for the business's implementation of guidance for their specific industry or, if there is no specific guidance, general guidance for all businesses, as well as Minnesota OSHA Standards and MDH and CDC Guidelines in their workplaces. These requirements are set forth in guidance ("Plan Guidance") available on the Stay Safe Minnesota website (https://staysafe.mn.gov).

i. **Required Plan content.** As set forth in the Plan Guidance, at a minimum, each Plan must adequately address the following areas:

A. **Require work from home whenever possible.** All Plans must ensure that all workers who can work from home continue to do so.

B. **Ensure that sick workers stay home.** All Plans must establish policies and procedures, including health screenings, that prevent sick workers from entering the workplace.

C. **Social distancing.** All Plans must establish social distancing policies and procedures.

D. **Worker hygiene and source control.** All Plans must establish hygiene and source control policies for workers.

E. **Cleaning, disinfection, and ventilation protocols.** All Plans must establish cleaning, disinfection, and ventilation protocols for areas within the workplace.

ii. **Customer facing businesses.** All businesses that are customer facing (*i.e.*, businesses that have in-person customer interactions) must include additional Plan provisions to keep the public and workers safe as set forth in the applicable guidance available on the Stay Safe Minnesota website (https://staysafe.mn.gov). This includes requirements that workers and customers must maintain physical distancing of six feet and that store occupancy must not exceed limits set forth in the guidance. In customer facing businesses that share common areas, such as malls, all Plans must similarly include a facility occupancy that must not exceed the limits set forth in the guidance and provide an enhanced sanitizing, cleaning, and disinfecting regimen consistent with Minnesota OSHA Standards and

MDH and CDC Guidelines for those common areas. All Plans must also include signage in common areas to discourage congregating.

iii. **Household services businesses.** All businesses that provide household services (*e.g.*, housecleaning, maid services, and piano tuners) must also develop Plan provisions intended to keep customers and workers safe as set forth in the applicable guidance available on the Stay Safe Minnesota website (https://staysafe.mn.gov).

iv. **Optional template.** A template COVID-19 Preparedness Plan, which covers the above requirements, is available as part of the Plan Guidance, available on the Stay Safe Minnesota website (https://staysafe.mn.gov).

v. **Certification and signature.** Senior management responsible for implementing the Plan must sign and certify the Plan, affirming their commitment to implement and follow the Plan.

vi. **Dissemination and posting.** Each business must provide its Plan, in writing, to all workers, and the Plan must be posted at all of the business's workplaces in locations that will allow for the Plan to be readily reviewed by all workers. Where physical posting is impracticable, the Plan can be posted electronically, provided that the Plan is received by all workers and remains available for their review.

vii. **Training.** Each business must ensure that training is provided to workers on the contents of its Plan and required procedures, so that all workers understand and are able to perform the precautions necessary to protect themselves and their co-workers. This training should be easy to understand and available in the appropriate language and literacy level for all workers. Businesses should also take steps to supervise workers and ensure that workers understand and adhere to necessary precautions to prevent COVID-19 transmission. Documentation demonstrating compliance with this training requirement must be maintained and made available to regulatory authorities and public safety officers, including DLI, upon request.

viii. **Compliance.** Workers and management must work together to ensure compliance with the Plan, implement all protocols, policies, and procedures, and create a safe and healthy work environment.

ix. **Exposure notification protocol.** As set forth in the general industry guidance available on the Stay Safe Minnesota website (https://staysafe.mn.gov), businesses must establish a protocol for identifying and communicating with workers who may have been exposed to a person with COVID-19 symptoms or who has tested positive for COVID-19 while at work.

x. **Availability to regulatory authorities and public safety officers.** Businesses do not need to submit their Plans for preapproval. Upon request, businesses must make their Plans available to regulatory authorities and public safety officers, including DLI, MDH, the Minnesota Attorney General's Office, and city and county attorneys.

xi. **Complaints or disputes.** In the event of a complaint or dispute related to a business's Plan, DLI is authorized to determine whether the Plan adequately implements the applicable guidance, Minnesota OSHA Standards, and MDH and CDC Guidelines in its workplaces.

e. **Child care.** Licensed child care providers, including child care centers, certified child care centers, and family and group day care homes, as well as license exempt child care, may continue to operate and serve families. Child care providers continuing to operate must do so in accordance with the following requirements:

i. Child care providers other than family, friends, or neighbors providing license exempt care to children from only one household must adhere to the requirements set forth in paragraph 7.d of this Executive Order, including development and implementation of a COVID-19 Preparedness Plan in accordance with applicable guidance for schools and child care available on the Stay Safe Minnesota website (https://staysafe.mn.gov).

ii. Child care providers must comply with any public restrictions implemented by the manager or owner of property or facilities used by the program, including any restrictions set by schools or school districts on use of their facilities.

f. **Youth Programs.** Youth programs that provide care or supervision of children can continue to operate if they can do so safely in accordance with the COVID-19 Prevention Guidance for Youth and Student Programs available on the Stay Safe Minnesota website (https://staysafe.mn.gov).

i. "Youth Programs" means programs providing care or enrichment to children or adolescents that require registration and have on-site supervision. This includes certified child care centers, youth enrichment programs, programs exempt from licensure, community education classes, community center based programs, school age care, programs operated by public and private schools, parks and recreation programs, art programs, and camps. "Youth Programs" does not include:

A. Licensed child care facilities or school-district summer learning programs; or

B. Organized Youth Sports organizations and programs, described in paragraph 7.g, unless the primary purpose of the program is to provide care or supervision to children or youth, and not provide sports instruction or competition.

ii. Youth Programs must adhere to the requirements set forth in paragraph 7.d of this Executive Order, including development and implementation of a COVID-19 Preparedness Plan in accordance with guidance for youth and student programs available on the Stay Safe Minnesota website (https://staysafe.mn.gov). COVID-19 Preparedness Plans must be distributed, available for review, and followed by participants and their parents or guardians.

iii. Youth Programs must comply with any public health restrictions implemented by the manager or owner of property or facilities used by the program, including any restrictions set by schools or school districts on the use of their facilities.

g. **Organized Youth Sports.** Organized Youth Sports organizations and programs intending to operate must do so in accordance with the following requirements:

i. "Organized Youth Sports" means any sports activity in which participants are children or adolescents and which is organized by an entity, association, club, or organization providing for registration of participants and oversight on a regular basis for a defined period of time. Sports activities within this definition include all sports offered by schools (public and nonpublic), the Minnesota State High School League, or similar organizations, as well as dance, cheerleading, and other sports traditionally offered by supplemental associations or organizations.

ii. Entities, associations, organizations, and clubs that provide Organized Youth Sports must adhere to the requirements set forth in paragraph 7.d of this Executive Order, including development and implementation of a COVID-19 Preparedness Plan in accordance with applicable guidance for youth sports available on the Stay Safe Minnesota website (https://staysafe.mn.gov). COVID-19 Preparedness Plans must be distributed and available for review by participants and their parents or guardians.

iii. Entities, associations, organizations, and clubs that provide Organized Youth Sports must ensure that all trainers and coaches understand and follow their COVID-19 Preparedness Plan and related guidance.

iv. Indoor or outdoor facilities that support Organized Youth Sports must also adhere to the requirements set forth in paragraph 7.d, including

development and implementation of a COVID-19 Preparedness Plan in accordance with applicable guidance for youth sports available on the Stay Safe Minnesota website (https://staysafe.mn.gov). COVID-19 Preparedness Plans must be distributed to, available for review, and followed by entities, associations, organizations, and clubs that provide Organized Youth Sports.

v. Notwithstanding paragraphs 10.a and 10.b of Executive Order 20-81, face coverings must be worn in accordance with applicable guidance for youth sports available on the Stay Safe Minnesota website (https://staysafe.mn.gov).

h. **Organized Adult Sports.** Organized Adult Sports organizations and programs intending to operate must do so in accordance with the following requirements:

i. "Organized Adult Sports" means any sports activity in which participants are adults and which is organized by an entity, association, club, or organization providing for registration of participants and oversight on a regular basis for a defined period of time. "Organized Adult Sports" does not include:

A. Professional sports, meaning sports in which the athletes receive non-de minimis payment for performance.

B. Collegiate sports, meaning any collegiate or university institution team or athlete participating in intercollegiate athletics, provided that the team or athlete follows guidance for sports activities as listed in COVID-19 Intercollegiate Sports Guidance for Higher Education available at MDH's Institutes of Higher Education website (https://www.health.state.mn.us/diseases/coronavirus/schools/sportsihe.pdf).

ii. Entities, associations, organizations, and clubs that provide Organized Adult Sports must adhere to the requirements set forth in paragraph 7.d of this Executive Order, including development and implementation of a COVID-19 Preparedness Plan in accordance with applicable guidance for adult sports available on the Stay Safe Minnesota website (https://staysafe.mn.gov). COVID-19 Preparedness Plans must be distributed and available for review by participants or guardians.

iii. Entities, associations, organizations, and clubs that provide Organized Adult Sports must ensure that all trainers and coaches understand their COVID-19 Preparedness Plan and related guidance.

iv. Indoor or outdoor facilities that support Organized Adult Sports must also adhere to the requirements set forth in paragraph 7.d, including

the development and implementation of a COVID-19 Preparedness Plan in accordance with applicable guidance for adult sports available on the Stay Safe Minnesota website (https://staysafe.mn.gov). COVID-19 Preparedness Plans must be distributed to, available for review, and followed by entities, associations, organizations, and clubs that provide Organized Adult Sports.

v. Notwithstanding paragraphs 10.a and 10.b of Executive Order 20-81, face coverings must be worn in accordance with applicable guidance for adult sports available on the Stay Safe Minnesota website (https://staysafe.mn.gov).

i. **Higher education institutions.** Higher education institutions, in consultation with their governing boards, may offer in-person classes or activities consistent with MDH guidelines for offering in-person or on-site activities and programming at higher education institutions. Higher education institutions must follow guidelines available at MDH's Institutes of Higher Education website (https://www.health.state.mn.us/diseases/coronavirus/schools/ihe.html). This includes following parameters set forth in Recommendations for Different Levels of COVID-19 Transmission Among Higher Education Institutions, available at MDH's Institutes of Higher Education website. Education and training programs not registered or licensed with the Office of Higher Education ("OHE") or part of the Minnesota State Colleges and Universities or University of Minnesota systems must follow the guidance provided by the state agency or governing board under which they are authorized to operate. In the absence of an applicable state agency or governing board, higher education institutions must follow MDH guidelines.

i. **Higher education definitions.** For the purposes of paragraph 7.i of this Executive Order:

A. "Higher education institution" means the Minnesota State Colleges and Universities, the University of Minnesota, private colleges and universities and all other post-secondary institutions, including but not limited to institutions licensed and registered with the OHE, with a physical campus in the State.

B. "Staff and instructors" means all employees, contractors, and volunteers of a higher education institution, including but not limited to janitorial and cleaning professionals, secretarial and administrative professionals, instructors, instructor assistants, researchers, research assistants, graduate assistants, faculty, and administrators.

C. "Students" means any person enrolled at a higher education institution.

D. "Activities" includes but is not limited to, testing, short-term training programs, student services, advising, clinical rotations or placements, customized training, internships, campus visits, programs, credit and non-credit classes, and all research activities and functions.

ii. **Requirements for higher education institutions.** Higher education institutions must continue to establish and implement a higher education institution COVID-19 Preparedness Plan ("Higher Ed Plan"). Each Higher Ed Plan must provide for implementation of Minnesota OSHA Standards and MDH and CDC Guidelines in classrooms, labs, or other areas that students and staff may visit. Such requirements, which are adaptable to higher education institutions, are set forth in the general guidance available at the Stay Safe Minnesota website (https://staysafe.mn.gov) and other applicable guidelines.

A. **Required Higher Ed Plan content.** At a minimum, each Higher Ed Plan must adequately address the following areas:

1. **Follow OHE and MDH guidance.** All in-person activities must be subject to limitations set forth in relevant OHE and MDH guidance.

2. **Ensure that sick students and institution staff and instructors stay home**. Each Higher Ed Plan must establish policies and procedures, including health screenings, that prevent sick students or institution staff and instructors from entering the institution for in-person or on-site activities.

3. **Require social distancing and face-coverings.** Each Higher Ed Plan must implement social distancing policies and procedures set forth by the CDC and MDH. Higher Ed Plans must also include signage in common areas to discourage gathering. Each Higher Ed Plan must ensure compliance with the applicable face-covering requirements set forth in Executive Order 20-81.

4. **Implement cleaning and disinfection protocols.** Each Higher Ed Plan must establish cleaning and disinfection protocols for areas within the institution where students, staff, and instructors may visit and provide an enhanced sanitizing, cleaning, and disinfecting regimen consistent

with Minnesota OSHA Standards and MDH and CDC Guidelines for common areas.

B. **Certification and signature.** Institutional leadership responsible for implementing the Higher Ed Plan must sign and certify such Higher Ed Plan, affirming their commitment to implement and follow the Higher Ed Plan.

C. **Dissemination and posting.** A higher education institution must make its Higher Ed Plan available according to applicable guidance.

D. **Training.** Higher education institutions must ensure that staff and instructors are trained on the contents of their Higher Ed Plan according to applicable guidance.

8. **Respect for workers.** Minnesotans must respect the efforts of employers and businesses to protect the safety of their workers and customers by complying with those businesses' social distancing and hygiene instructions. Employers and businesses must post social distancing and hygiene instructions at entrances and in locations that can be easily seen by customers and visitors.

9. **Enhanced local measures permitted.** Nothing in this Executive Order or previous Executive Orders should be construed to prohibit or prevent political subdivisions from implementing, within their jurisdictions and pursuant to applicable law and authority, restrictions beyond the restrictions contained in this Executive Order, as long as those additional restrictions have a real or substantial relation to the public health crisis caused by COVID-19. Pursuant to Minnesota Statutes 2020, section 12.32, political subdivisions may not relax or reduce this Executive Order's restrictions. In other words, to the extent that they have authority to do so, cities and other political subdivisions may take actions that are more protective of the public health but may not take actions that are less protective of the public health.

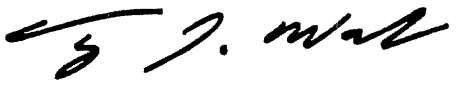
10. **Enforcement.** I urge all Minnesotans to voluntarily comply with this Executive Order. Pursuant to Minnesota Statutes 2020, section 12.45, an individual who willfully violates this Executive Order is guilty of a misdemeanor and upon conviction must be punished by a fine not to exceed $1,000 or by imprisonment for not more than 90 days. Any business owner, manager, or supervisor who requires or encourages any of their employees, contractors, vendors, volunteers, or interns to violate this Executive Order is guilty of a gross misdemeanor and upon conviction must be punished by a fine not to exceed $3,000 or by imprisonment for not more than one year. In addition to those criminal penalties, the Attorney General, as well as city and county attorneys, may investigate and seek any civil relief available pursuant to Minnesota Statutes 2020, section 8.31, for violations or threatened violations of this Executive Order, including but not limited to injunctive relief, civil penalties in an amount to be determined by the court, up to $25,000 per occurrence, costs of investigation and reasonable attorney's fees and costs, and other equitable relief as

determined by the court in accordance with section 8.31. State and local licensing and regulatory entities that inspect businesses for compliance with rules and codes to protect the public are encouraged to assess regulated businesses' compliance with this Executive Order and use existing enforcement tools to bring businesses into compliance. Nothing in this Executive Order is intended to encourage or allow law enforcement to transgress individual constitutional rights.

Pursuant to Minnesota Statutes 2020, section 4.035, subdivision 2, and section 12.32, this Executive Order is effective immediately upon approval by the Executive Council. It remains in effect until the peacetime emergency declared in Executive Order 20-01 is terminated or until it is rescinded by proper authority.

A determination that any provision of this Executive Order is invalid will not affect the enforceability of any other provision of this Executive Order. Rather, the invalid provision will be modified to the extent necessary so that it is enforceable.

Signed on January 6, 2021.



Tim Walz
Governor

Filed According to Law:

Steve Simon
Secretary of State

Approved by the Executive Council on January 7, 2021:

Alice Roberts-Davis
Secretary, Executive Council