STATE OF MINNESOTA
Executive Department

Governor Tim Walz

Emergency Executive Order 20-104

Safely Reopening Pools for Lap Swim, Lessons, and Organized Swim Teams

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 in March, I have extended it every 30 days, with the most recent extension occurring on December 14, 2020.

We are over one month into a dial back period on certain social gatherings, sports activities, and places of public accommodation that were instituted to combat an overwhelming statewide surge of COVID-19 cases. Last week, as daily case numbers slowly began to decrease, we made some adjustments to the dial back with Executive Order 20-103. Those adjustments were intentionally small and gradual because case numbers and community transmission remain at dangerous levels. We provided opportunities for families and friends to gather socially in small groups with increased precautionary measures, and for restaurants and venues to begin a slow reopening, starting with outdoor spaces. In addition, recognizing the physical and mental toll of COVID-19 restrictions, we allowed indoor physical fitness and exercise facilities to reopen with reduced capacity, increased social distancing, and mandatory face coverings.

Many athletes are eager to return to organized sports activities, which similarly provide many physical and social benefits. Executive Order 20-103 permitted athletes and coaches to resume one-on-one training and small outdoor group workouts and skill building. When I announced that Executive Order, I also signaled my intention to take additional steps toward the return of organized sports in early January. This Executive Order reopens pools for a narrow range of activities in compliance with industry guidance—including lap swim, lessons, and organized sports—beginning on January 4, 2021.

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 carry out the provisions of Minnesota's 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 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. Effective Sunday, January 3, 2021 at 11:59 pm, through Sunday, January 10, 2021 at 11:59 pm, individuals and businesses throughout Minnesota must continue to comply with the provisions of Executive Orders 20-99 and 20-103, except as modified or superseded by the following amendments. All other provisions of Executive Orders 20-99 and 20-103 remain in full force and effect.

2. Paragraph 7.c.iii of Executive Order 20-99, as amended by Executive Order 20-103, is amended by the following additions (indicated by underlined text) and deletions (indicated by strikethrough text):

    iii. **Certain Places of Public Accommodation Closed to Members of the Public.** The following Places of Public Accommodation are closed to members of the public as set forth below. "Members of the public" means people who are not workers affiliated with the Place of Public Accommodation.

        ~~A. Public pools, as defined in Minnesota Statutes 2020, section 144.1222, subdivision 4(d), are closed to ingress, egress, use, and occupancy.~~

        ~~B.~~ A. Venues providing indoor events and entertainment (whether permanent, temporary, or mobile) such as theaters, cinemas, concert halls, festivals, fairs, vendor fairs, museums, performance venues, stadiums, arcades, trampoline parks, party buses, and bowling alleys are closed to ingress, egress, use, and occupancy by members of the public. Such establishments may, and are encouraged to, use their facilities to provide virtual or remote programming.

        ~~C.~~ B. For professional and intercollegiate athletes and teams authorized to practice and compete under paragraph 7.h.ii.B and C, this closure of event and entertainment venues to members of the public means that

only athletes, coaches, and other essential staff are authorized to be present in venues hosting these activities. Spectators, including family and friends of participants and staff, are not permitted to attend permitted sporting events or practices.

~~D.~~ C. Places of Public Accommodation, which would otherwise be ordered closed, may stay open if they have been repurposed to exclusively provide services permitted under paragraph 7.c.ii or as provided in applicable guidance available on the Stay Safe Minnesota website (https://staysafe.mn.gov/). For example, a venue providing indoor events and entertainment that has been repurposed to provide health care activities, such as blood drives, COVID-19 testing, or vaccinations, is authorized to provide those essential services, subject to relevant licensing and other requirements, and applicable MDH and CDC guidelines.

3. Paragraph 7.c.viii of Executive Order 20-99, as amended by Executive Order 20-103, is amended by the following additions (indicated by underlined text):

viii. Gymnasiums, fitness centers, recreation centers, indoor sports facilities, indoor climbing facilities, indoor and outdoor exercise facilities, martial arts facilities, and dance and exercise studios may be open for individual exercise 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 as determined by the fire marshal, not to exceed 100 people in the entire facility.

B. Physical distancing of at least 12 feet is maintained in any area that one or more persons are exercising. Physical distancing of at least six feet must be maintained in all other situations. 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 the provisions of Executive Order 20-81, face coverings must be worn by all persons at all times, except when participating in activities that 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 a single 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.

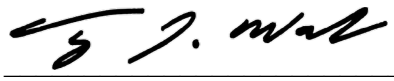
4. Paragraph 7.c of Executive Order 20-99, as amended by Executive Order 20-103, is amended by the following additions (indicated by underlined text) after subparagraph 7.c.x:

   xi. Public pools, as defined in Minnesota Statutes 2020, section 144.1222, subdivision 4(d), may be open for lap swim, lessons, and Organized Youth and Adult Sports in accordance with the guidance available on the Stay Safe Minnesota website (https://staysafe.mn.gov/) and paragraphs 7.g.iv and 7.h.iii of Executive Order 20-99, as amended by Executive Order 20-103. Occupancy of public pool areas must not exceed 25 percent of the normal occupant capacity as determined by the fire marshal, not to exceed 100 people. If a pool is located within a place of public accommodation that has limited occupancy under this Executive Order or industry guidance—such as a fitness center—occupants of the pool must also be included as occupants of that place of public accommodation.

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 December 23, 2020.

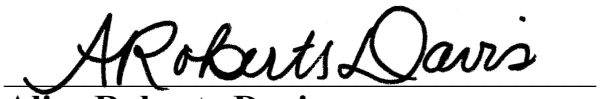


Tim Walz
Governor

Filed According to Law:

Steve Simon
Secretary of State

Approved by the Executive Council on December 23, 2020:



Alice Roberts-Davis
Secretary, Executive Council

Filed on December 23, 2020
Office of the Minnesota
Secretary of State,
Steve Simon