SECRETARY OF SENATE
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GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
OFFICE OF THE GOVERNOR
LANSING

GARLIN GILCHRIST II
LT. GOVERNOR

EXECUTIVE ORDER

No. 2020-43

Temporary restrictions on the use of places of public accommodation

Rescission of Executive Order 2020-20

The novel coronavirus (COVID-19) is a respiratory disease that can result in serious illness or death. It is caused by a new strain of coronavirus not previously identified in humans and easily spread from person to person. There is currently no approved vaccine or antiviral treatment for this disease.

On March 10, 2020, the Michigan Department of Health and Human Services identified the first two presumptive-positive cases of COVID-19 in Michigan. On that same day, I issued Executive Order 2020-4. This order declared a state of emergency across the state of Michigan under section 1 of article 5 of the Michigan Constitution of 1963, the Emergency Management Act, 1976 PA 390, as amended, MCL 30.401 et seq., and the Emergency Powers of the Governor Act of 1945, 1945 PA 302, as amended, MCL 10.31 et seq.

In the three weeks that followed, the virus spread across Michigan, bringing deaths in the hundreds, confirmed cases in the thousands, and deep disruption to this state's economy, homes, and educational, civic, social, and religious institutions. On April 1, 2020, in response to the widespread and severe health, economic, and social harms posed by the COVID-19 pandemic, I issued Executive Order 2020-33. This order expanded on Executive Order 2020-4 and declared both a state of emergency and a state of disaster across the State of Michigan under section 1 of article 5 of the Michigan Constitution of 1963, the Emergency Management Act, and the Emergency Powers of the Governor Act of 1945.

The Emergency Management Act vests the governor with broad powers and duties to "cop[e] with dangers to this state or the people of this state presented by a disaster or emergency," which the governor may implement through "executive orders, proclamations, and directives having the force and effect of law." MCL 30.403(1)-(2). Similarly, the Emergency Powers of the Governor Act of 1945 provides that, after declaring a state of emergency, "the governor may promulgate reasonable orders, rules, and regulations as he or she considers necessary to protect life and property or to bring the emergency situation within the affected area under control." MCL 10.31(1).

To mitigate the spread of COVID-19, protect the public health, and provide essential protections to vulnerable Michiganders, it is reasonable and necessary to impose limited and temporary restrictions on the use of places of public accommodation.

Executive Order 2020-20 imposed such restrictions, which were then supplemented by the restrictions on in-person work, travel, and gatherings imposed by Executive Order 2020-42. Because these restrictions on places of public accommodation remain reasonable and necessary to suppress the spread of COVID-19 and protect the public health and safety of this state and its residents, this order extends their duration to April 30, 2020, to match the duration of the further restrictions imposed by Executive Order 2020-42. With this order, Executive Order 2020-20 is rescinded.

Acting under the Michigan Constitution of 1963 and Michigan law, I order the following:

1. Effective immediately and continuing until April 30, 2020 at 11:59 pm, the following places of public accommodation are closed to ingress, egress, use, and occupancy by members of the public:

   (a) Restaurants, food courts, cafes, coffeehouses, and other places of public accommodation offering food or beverage for on-premises consumption;

   (b) Bars, taverns, brew pubs, breweries, microbreweries, distilleries, wineries, tasting rooms, special licensees, clubs, and other places of public accommodation offering alcoholic beverages for on-premises consumption;

   (c) Hookah bars, cigar bars, and vaping lounges offering their products for on-premises consumption;

   (d) Theaters, cinemas, and indoor and outdoor performance venues;

   (e) Libraries and museums;

   (f) Gymnasiums, fitness centers, recreation centers, indoor sports facilities, indoor exercise facilities, exercise studios, and facilities offering non-essential personal care services;

   (g) Casinos licensed by the Michigan Gaming Control Board, racetracks licensed by the Michigan Gaming Control Board, and Millionaire Parties licensed by the Michigan Gaming Control Board; and

   (h) Places of public amusement not otherwise listed above.

   Places of public accommodation subject to this section are encouraged to offer food and beverage using delivery service, window service, walk-up service, drive-through service, or drive-up service, and must use precautions in doing so to mitigate the potential transmission of COVID-19, including social distancing. In offering food or beverage, a place of public accommodation subject to this section may permit up to five members of the public at one time in the place of public accommodation for the

purpose of picking up their food or beverage orders, so long as those individuals are at least six feet apart from one another while on premises.

This section does not prohibit an employee, contractor, vendor, or supplier of a place of public accommodation from entering, exiting, using, or occupying that place of public accommodation in their professional capacity.

2. The restrictions imposed by this order do not apply to any of the following:

   (a) Places of public accommodation 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 subject to the requirements of section 1;

   (b) Health care facilities, residential care facilities, congregate care facilities, and juvenile justice facilities;

   (c) Crisis shelters or similar institutions; and

   (d) Food courts inside the secured zones of airports.

3. For purposes of this order:

   (a) "Non-essential personal care services" includes but is not limited to hair, nail, tanning, massage, traditional spa, tattoo, body art, and piercing services, and similar personal care services that require individuals to be within six feet of each other. This does not include services necessary for medical treatment as determined by a licensed medical provider.

   (b) "Place of public accommodation" means a business, or an educational, refreshment, entertainment, or 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. Place of public accommodation also includes the facilities of private clubs, including country clubs, golf clubs, boating or yachting clubs, sports or athletic clubs, and dining clubs.

   (c) "Place of public amusement" means a place of public accommodation that offers indoor services or facilities, or outdoor services or facilities involving close contact of persons, for amusement or other recreational or entertainment purposes. A place of public amusement includes an amusement park, arcade, bingo hall, bowling alley, indoor climbing facility, skating rink, trampoline park, and other similar recreational or entertainment facilities.

4. The director of the Department of Health and Human Services, the Michigan Liquor Control Commission, and the executive director of the Michigan Gaming Control Board must issue orders and directives and take other actions pursuant to law as necessary to implement this order.

5. This order does not alter any of the obligations under law of an employer affected by this order to its employees or to the employees of another employer.

6. The restrictions and requirements imposed by this order supplement, and must not be construed to diminish or relax in any way, the restrictions and requirements imposed by Executive Order 2020-42 or any executive order that may follow from it.

7. Consistent with MCL 10.33 and MCL 30.405(3), a willful violation of this order is a misdemeanor.

8. Executive Order 2020-20 is rescinded.

Given under my hand and the Great Seal of the State of Michigan.

Date: April 13, 2020

Time: 8:12 pm

GRETCHEN WHITMER
GOVERNOR

By the Governor:

SECRETARY OF STATE