STATE OF WEST VIRGINIA

EXECUTIVE DEPARTMENT

At Charleston

EXECUTIVE ORDER NO. 9-20

By the Governor

WHEREAS, a State of Emergency was declared on the Sixteenth Day of March, Two Thousand Twenty for all counties in West Virginia (the "State of Emergency Declaration"), to allow agencies to coordinate and create necessary measures to prepare for and respond to the outbreak of respiratory disease caused by a novel coronavirus now known as COVID-19; and

WHEREAS, Chapter 15, Article 5, Section 6 of the Code of West Virginia authorizes the Governor to, among other things, control ingress and egress to and from a disaster area or an area where large-scale threat exists, the movement of persons within the area, and the occupancy of premises therein; and

WHEREAS, Executive Order 2-20, Executive Order 3-20, Executive Order 6-20, and Executive Order 8-20 have ordered closed or otherwise limited occupancy of businesses and establishments such as casinos, restaurants, bars, fitness centers, gymnasiums, recreation centers, barber shops, nail salons, hair salons, state park lodges, and the Hatfield McCoy Trail, all to protect public health, safety, and welfare; and

WHEREAS, further measures are necessary to protect the health, safety, and welfare of the public, to disrupt the spread of the virus, and to mitigate the impact of COVID-19, including the closure of additional businesses and facilities throughout the state; and

WHEREAS, the Centers for Disease Control and Prevention ("CDC") and the West Virginia Department of Health and Human Resources have recommend the public practice of social distancing, meaning staying home whenever possible and otherwise maintaining a six feet distance from other individuals, to minimize the transmission of COVID-19; and

WHEREAS, locations where people congregate unnecessarily and/or fail to follow adequate social distancing practices are therefore areas of large-scale threat and emergency; and

WHEREAS, businesses that are to remain open will need to reduce their operations to continue with minimum contact with members of the public and only essential employees, and must require proper social distancing at all times; and

WHEREAS, these measures relating to the closure of certain businesses and to limit the operation of non-essential businesses are necessary because of the propensity of the COVID-19 virus to spread via personal interactions and because of physical contamination of property due to its ability to remain on surfaces for prolonged periods of time; and

WHEREAS, it is the duty of every West Virginian to practice proper social distancing and to comply with these measures in order to protect our people, our families, and each other, against this terrible epidemic.

NOW, THEREFORE, I, JIM JUSTICE, pursuant to the authority vested in me pursuant to the provisions of Chapter 15, Article 5, Section 6 and Chapter 15, Article 5, Section 1 of the Code of West Virginia, hereby **DECLARE** and **ORDER**, effective as of 8:00 PM, Eastern Standard Time, on the Twenty-fourth day of March, Two Thousand Twenty, as follows:

1. **Stay at home or your place of residence.** To preserve public health and safety, and to ensure the healthcare system in West Virginia is capable of serving all citizens in need, especially those at high risk and vulnerable to COVID-19, all individuals within the State of West Virginia are under a general stay-at-home order and are directed to stay at home or their place of residence unless performing an essential activity. An activity is essential if the purpose of the activity is one of the following:

a. Obtaining food, medicine, and other similar goods necessary for the individual or a family member of the individual.

b. Obtaining non-elective medical care and treatment and other similar vital services for an individual or a family member of the individual.

c. Going to and from an individual's workplace if such workplace and/or work is included in the definition of Essential Businesses and Operations as outlined in Section 3, below.

d. Going to and from the home of a family member.

e. Going to and from the home of another individual who, under the terms of a parenting plan or similar agreement, is entitled to visitation with or the care of a child.

f. Going to and from an individual's place of worship.

g. Engaging in outdoor activity, provided that individuals at all times and as much as reasonably possible maintain social distancing of six feet from one another and abide by a 10-person limitation on gathering size.

2. **Non-essential businesses and operations must temporarily cease operations.** In addition to those businesses directed to close or limit occupancy pursuant to previous executive orders, all businesses and operations in West Virginia, except Essential Businesses and Operations as defined below, are required to cease all activities within the state except for such minimum basic operations as are necessary to maintain the value of the business's inventory, preserve the condition of the business's physical plant and equipment, ensure security, process payroll and employee benefits, or related functions, and the minimum necessary activities to facilitate employees of the business being able to continue to work remotely from their residences. Businesses such as home-based businesses may continue to operate, so long as any employees or contractors of such businesses perform activities from their own residences. Further, small businesses that do not invite in the general public and which have five or less employees in the office may continue to operate, but must ensure that proper social distancing and hygiene practices are maintained.

3. **Essential businesses and operations shall continue to operate.** Essential Businesses and Operations, as described below, shall remain open, and individuals may leave their

residence to provide any services or to perform any work necessary to offer, provision, supply, operate, maintain, and/or repair Essential Businesses and Operations. The term "Essential Businesses and Operations" includes those industries and workers described in the U.S. Department of Homeland Security's Cybersecurity and Infrastructure Security Agency's March 19, 2020, *Memorandum on Identification of Essential Critical Infrastructure Workers During COVID-19 Response* and its "Guidance on the Essential Critical Infrastructure Workforce: Ensuring Community and National Resilience in COVID-19 Response" attached thereto (the "CISA Guidance"). In addition to those industries and workers identified in the CISA Guidance, the following industries, businesses, and/or workers employed in such industries and businesses are specifically included as Essential Businesses and Operations under this Order:

a. **Healthcare, public health operations, and health insurance companies.** Healthcare, public health operations, and healthcare insurance companies include without limitation hospitals, clinics, dental offices, pharmacies, public health entities, including those that compile, model, analyze, and communicate public health information, pharmaceutical, pharmacy, medical device and equipment, and biotechnology companies (including operations, research and development, manufacture, and supply chain), managed care organizations and related entities and attendant or related services, Medicaid providers, healthcare insurers, organizations collecting blood, platelets, plasma, and other necessary materials (including organizations hosting blood drives, provided that appropriate precautions are taken, including proper social distancing and hygiene measures during any such drive), obstetricians and gynecologists, eye care centers, including those that sell or provide glasses and contact lenses, home healthcare providers, mental health and substance use providers, other healthcare facilities and suppliers and providers of any related and/or ancillary healthcare services, and entities that transport and dispose of medical materials and remains. This includes manufacturers, technicians, logistics, and warehouse operators and distributors of medical equipment, personal protective equipment, medical gases, pharmaceuticals, blood and blood products, vaccines, testing materials, laboratory supplies, cleaning, sanitizing, disinfecting, or sterilization supplies, and tissue and

paper towel products. This category of industry shall be construed very broadly to avoid any impacts to the delivery of healthcare, broadly defined. Healthcare and public health operations does not include fitness and exercise gyms, spas, salons, barber shops, tattoo parlors, and similar facilities limited or closed under previous executive order.

b. **Grocery stores and pharmacies.** Grocery stores, pharmacies, farmers' markets, farm and produce stands, supermarkets, convenience stores, and other establishments engaged in the retail sale of groceries, canned food, dry goods, frozen foods, fresh fruits and vegetables, pet supplies, fresh meats, fish, and poultry, prepared food, alcoholic and non-alcoholic beverages, any other household consumer products (such as cleaning and personal care products), specifically including their supply chain and administrative support operations. This includes stores that sell groceries, medicine, including over-the-counter medication not requiring a medical prescription, and also those that sell other non-grocery products, and products necessary to maintaining the safety, sanitation, and essential operation of residences and Essential Businesses and Operations.

c. **Food, beverage, and agriculture.** Food and beverage manufacturing, production, processing, and cultivation, including farming, livestock, seed and feed stores, fishing, baking, and other production agriculture, including cultivation, marketing, production, and distribution of animals and goods for consumption, and businesses that provide food, shelter, and other necessities of life for animals, including animal shelters, rescues, shelters, kennels, and adoption facilities. Restaurants and other facilities that prepare and serve food and/or drinks, but only for consumption off-premises, through such means as take-away, delivery, or drive-through/drive in. Schools and other entities that typically provide food services to students or members of the public may continue to do so under this Order on the condition that the food is provided to students or members of the public on a pick-up or take-away basis only. Schools and other entities that provide food services under this exemption shall not permit the food to be eaten at the site where it is provided, or at any other gathering site due to the virus's propensity to physically impact surfaces and personal property.

d. **Essential governmental functions.** For purposes of this Order, all first responders, emergency management personnel, emergency dispatchers, legislators, judges, court personnel, jurors and grand jurors, law enforcement and corrections personnel, hazardous materials responders, child protection and child welfare personnel, housing and shelter personnel, military, and other governmental employees working for or to support Essential Businesses and Operations, and all state governmental employees deemed essential employees by their respective agency head, are categorically exempt from this Order. Essential government functions means all services provided by the State or any municipality, township, county, political subdivision, board, commission, or agency of government and needed to ensure the continuing operation of the government agencies or to provide for or support the health, safety, and welfare of the public, and including contractors performing such essential government functions. Each government body shall determine its essential government functions and identify employees and/or contractors necessary to the performance of those functions. This Order does not apply to the United States government. Nothing in this Order shall prohibit any individual from performing or accessing essential government functions.

e. **Human services organizations and childcare facilities and providers.** Human services operations includes without limitation long-term care facilities, day care centers, day care homes, group day care homes, residential settings and shelters for adults, seniors, children, and/or people with developmental disabilities, intellectual disabilities, substance use disorders, and/or mental illness, transitional facilities, home-based settings to provide services to individuals with physical, intellectual, and/or developmental disabilities, seniors, adults, and children, field offices that provide and help determine eligibility for basic needs including food, cash assistance, medical coverage, child care, vocational services, rehabilitation services, development centers, adoption agencies, businesses that provide food, shelter, and social services, and other necessities of life for economically disadvantaged individuals, individuals with physical, intellectual, and/or developmental disabilities, or otherwise needy individuals, and child care centers, day care centers, and those engaged in caretaking for children.

f. **Essential infrastructure.** Businesses, entities, or workers engaged in food production, distribution, fulfillment centers, storage facilities, preparation, and sale, construction (including without limitation construction required in response to this public health emergency, hospital construction, construction of long-term care facilities, public works construction, school construction, essential business construction, and housing construction), business management and maintenance, airport operations, operation, maintenance, and supply of utilities, including water, sewer, and gas, electrical (including power generation, distribution, and production of raw materials including without limitation coal and oil and natural gas), distribution centers, oil and biofuel refining, roads, highways, railroads, and public transportation, cyber and other security operations and services, flood control, solid waste and recycling collection and removal, and internet, video, and telecommunications systems (including the provision of global, national, and local infrastructure for computing services, business infrastructure, communications, and web-based services) and telecommunications workers. Essential infrastructure shall be construed broadly to avoid any impacts to essential infrastructure, broadly defined.

g. **Coal mining and coal-fired electric generation facilities.** Coal mining and coal-fired electric generation facilities, as well as all ancillary and support functions ranging from transportation, maintenance, equipment, and supply vendors.

h. **Manufacture, distribution, and supply chain for critical products and industries.** Manufacturing companies, distributors, and supply chain companies producing and supplying essential products and services in and for industries such as pharmaceutical, technology, biotechnology, healthcare, chemicals and sanitization, waste pickup and disposal, agriculture, food and beverage, transportation, energy, iron ore, steel and steel products, aluminum and aluminum products, petroleum, propane, and fuel, mining, construction, national defense, communications, as well as products used by other Essential Businesses and Operations including without limitation filters and filtration products and services.

i. **Transportation and travel related businesses and gas stations.** Travel related businesses facilitating access to or provision of essential activities or any Essential

Businesses and Operations, including without limitation, airlines, taxis, transportation network providers (such as Uber and Lyft), vehicle rental services, paratransit, and other private, public, and commercial transportation and logistics providers, travel or transport of agricultural products, foodstuffs, or related items, or other governmental travel needs, and gas stations and automobile dealers and other suppliers, auto repair, farm equipment, construction equipment, and related facilities and related facilities.

j. **Financial and insurance institutions.** Banks and banking services including without limitation ATM services, currency exchanges, consumer lenders, credit unions, appraisers, title companies, financial markets, trading and futures exchanges, payday lenders, affiliates of financial institutions, professional debt collectors and related creditor service workers, workers engaged in payment clearing and settlement, wholesale funding, and capital markets activities, entities that issue bonds, related financial institutions, institutions selling financial products, insurance companies, underwriters, agents, brokers, and related insurance claims and agency services.

k. **Hardware and supply stores.** Hardware and supply stores and businesses that sell construction, electrical, plumbing, and heating materials.

l. **Critical trades**. Building and construction tradesmen and tradeswomen, and other trades including without limitation plumbers, electricians, exterminators, filtration technicians, cleaning and janitorial staff for commercial and governmental properties, security staff, operating engineers, HVAC engineers, painting, moving, and relocation services, and other service providers who provide services that are necessary to maintain the safety, sanitation, and essential operation of residences, essential activities, and Essential Businesses and Operations.

m. **Mail, post, shipping, logistics, delivery, and pick-up services.** Post offices and other businesses that provide shipping and delivery services, and businesses that ship or deliver groceries, food, alcoholic and non-alcoholic beverages, goods, vehicles, or services to end users or through commercial channels.

n. **Religious entities.** Religious facilities, entities, and groups and religious gatherings, including weddings and funerals; provided that such gatherings should

still practice proper social distancing of six feet between persons to the greatest extent possible.

o. **Educational institutions.** Educational institutions including public and private pre-K-12 schools, colleges, and universities for purposes of facilitating distance learning, performing critical research, or performing essential functions including providing for the delivery or pick-up of food for school age children; provided that proper social distancing of six feet between persons is maintained to the greatest extent possible.

p. **Laundry services.** Laundromats, dry cleaners, industrial laundry services, and laundry service providers.

q. **Supplies to work from home.** Businesses that sell, manufacture, or supply products needed for people to work from home, including IT and telecommunications services and product companies.

r. **Supplies for Essential Businesses and Operations.** Businesses that sell, manufacture, or supply other Essential Businesses and Operations with the support of materials necessary to operate, including computers, audio and video electronics, household appliances, IT and telecommunications equipment, cybersecurity software or services, hardware, paint, flat glass, electrical, plumbing, and heating material, sanitary equipment, personal hygiene products, food, food additives, ingredients, and components, medical and orthopedic equipment, optics and photography equipment, diagnostics, food and beverages, chemicals, soaps and detergents, tent and other temporary structure suppliers, and firearm and ammunition suppliers and retailers.

s. **Home-based care and services.** Home-based care for adults, seniors, children, and/or people with developmental disabilities, intellectual disabilities, substance use disorders, and/or mental illness, including caregivers such as nannies who may travel to the child's home to provide care, and other in-home services including meal delivery.

t. **Residential facilities and shelters.** Residential facilities and shelters for adults, seniors, children, pets, and/or people with developmental disabilities, intellectual disabilities, substance use disorders, and/or mental illness.

u. **Professional services.** Professional services, such as legal services, accounting services, insurance services, real estate services (including appraisal and title services).

v. **Media and first amendment protected speech.** Newspapers, television, radio, and other media services.

w. **Hotels and motels.** Hotels and motels, to the extent used for lodging and delivery or carry-out food delivery.

x. **Funeral services.** Funeral, mortuary, cremation, burial, cemetery, and related services; provided that proper social distancing of six feet between persons is maintained to the greatest extent possible.

4. **Prohibited activities.** All places of public amusement, whether indoors or outdoors, including but not limited to locations with amusement rides, carnivals, zoos, museums, arcades, fairs, pool halls, bingo halls, malls (except where stores in a mall that have a direct outdoor entrance and exit that provide essential services and products under the terms of this Order), children's play centers, playgrounds, bowling alleys, movie and other theaters, concert and music halls, adult entertainment venues, racetracks, social clubs, and other similar businesses shall be closed.

5. **Avoid social gatherings.** All public and private gatherings of any number of people occurring outside a single household or living unit are prohibited, except for the limited purposes permitted by this Order. Any gathering of more than 10 people is prohibited unless exempted by this Order. Nothing in this Order prohibits the gathering of members of a household or residence.

6. **Intent of this Order.** The intent of this Order is to ensure that the maximum number of people self-isolate in their places of residence to the maximum extent feasible, while enabling essential services to continue, to slow the spread of COVID-19 to the greatest extent possible. When people need to leave their places of residence, whether to perform essential activities, or to otherwise facilitate authorized activities necessary for continuity of social and commercial life, they should at all times and as much as reasonably possible properly socially distance themselves from others. All provisions of this Order should be interpreted and implemented to effectuate this intent.

7. **Enforcement.** This Order may be enforced by State and local law enforcement and by state and local regulatory and/or licensing bodies to the extent possible under West Virginia law.
8. **Duration.** The provisions of this Order, and all previous executive orders relating to COVID-19, are effective until terminated by subsequent executive order.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of West Virginia to be affixed.

DONE at the Capitol in the City of Charleston, State of West Virginia, this Twenty-third day of March, in the year of our Lord, Two Thousand Twenty in the One Hundred Fifty-seventh year of the State.

GOVERNOR

By the Governor

SECRETARY OF STATE