COLORADO
Department of Public Health & Environment

March 18, 2020

AMENDED NOTICE OF PUBLIC HEALTH ORDER 20-22 CLOSING BARS, RESTAURANTS, THEATERS, GYMNASIUMS, CASINOS, NONESSENTIAL PERSONAL SERVICES FACILITIES,AND HORSE TRACK AND OFF-TRACK BETTING FACILITIES STATEWIDE

The Colorado Department of Public Health and Environment (CDPHE) is working to stop the spread of novel coronavirus 2019 (COVID-19). At this time I find it necessary to implement emergency measures to close down all bars, restaurants, theaters, gymnasiums and casinos in Colorado in an effort to protect and preserve the public health. This Order, originally issued on March 16, 2020, has been amended to close nonessential personal services facilities and racetrack and off-track pari-mutuel wagering facilities, exempt institutions of higher education in the services of meals, clarify that hotel dining services are not exempted other than in room dining services, add a definition of gymnasium, and extend the Order through April 30, 2020.

FINDINGS

1. COVID-19 was first detected in Wuhan, China in late 2019, and since then has spread to over 60 countries including the United States. There are 131 known presumptive positive cases of COVID-19 in Colorado as of March 16, 2020, and there is every expectation that more cases will be diagnosed.

2. COVID-19 is a respiratory illness caused by a novel coronavirus, and like other respiratory illnesses, is transmitted through person-to-person contact or by contact with surfaces contaminated with the virus. Persons infected with COVID-19 may become symptomatic anywhere from two to fourteen days after

exposure. Symptoms include fever, cough or shortness of breath or difficulty breathing.

3. Individuals with serious chronic health conditions and older adults are most at risk for becoming very ill with this disease.

3. On March 10, 2020, the Governor of Colorado declared a State of Emergency related to the presence of COVID-19 in the State. CDPHE has confirmed that COVID-19 continues to spread throughout the State of Colorado.

4. On March 13, 2020, the President of the United States declared a National Emergency due to COVID-19.

5. A significant number of Coloradans are at risk of serious health complications, including death, from COVID-19. Although most individuals who contract COVID-19 do not become seriously ill, persons with mild symptoms and asymptomatic persons with COVID-19 may place other vulnerable members of the public at significant risk. A large surge in the number of persons with serious infections can compromise the ability of the healthcare system to deliver necessary healthcare to the public. Colorado is experiencing a rapid increase in COVID-19 transmission that threatens the health of residents and risks overwhelming the healthcare system in the state of Colorado.

6. Pursuant to Colo. Rev. Stat. § 25-1.5-101(1)(a) and §25-1.5-102(1)(a)(I), this Public Health Order closes bars, restaurants, gyms, theaters, casinos, nonessential personal services facilities and horse track and off-track betting facilities to slow the spread of the COVID-19 virus. CDPHE has the duty to investigate and control the causes of epidemic or communicable diseases and conditions affecting public health and to establish, to close public places and forbid gatherings of people when necessary to protect the public health, and to establish, maintain and enforce isolation and quarantine, and, in pursuance

thereof and for this purpose only, to exercise such physical control over property and the persons of the people within this state as the department may find necessary for the protection of public health.

ORDER

I. Definitions. For purposes of this Order:

A. "**Bar**" means any indoor area that is operated and licensed under article 3 of title 44, primarily for the sale and service of alcohol beverages for on-premises consumption and where the service of food is secondary to the consumption of such alcohol beverages. C.R.S. Section 25-14-203(3).

B. **"Brew pub"** means a retail establishment that manufactures not more than one million eigh hundred sixty thousand gallons of malt liquor and fermented malt beverages on its licensed premises or licensed alternating proprietor licensed premises, combined, each calendar year. C.R.S. Section 44-3-103(5).

C. **"Casino"** means a licensed gaming establishment, which is any premises licensed pursuant to this Article 30 of Title 44 of the Colorado Revised Statutes for the conduct of gaming. C.R.S. Section 44-30-103(18).

D. "**Cigar-tobacco bar**" means a bar that, in the calendar year ending December 31, 2005, generated at least five percent or more of its total annual gross income or fifty thousand dollars in annual sales from the on-site sale of tobacco products and the rental of on-site humidors, not including any sales from vending machines. C.R.S. Section 25-14-203(4).

E. **"Distillery pub"** means a retail establishment:

(1) Whose primary purpose is selling and serving food and alcohol beverages for on-premises consumption; and

(2) That ferments and distills not more than forty-five thousand liters of spirituous liquor on its licensed premises each calendar year. C.R.S. Section 44-3-103(14).

F. "**Gymnasium**" means a building or room used for indoor sports or exercise, such as fitness, dance, exercise or group classes, exercise studios and centers, recreation centers, bowling alleys, pools, and other indoor athletic facilities.

G. "**Horse track**" means a licensed race track, which is any premises licensed pursuant to this Article 32 of Title 44 of the Colorado Revised Statutes for the conduct of racing. C.R.S. Sections 44-32-102(2)(a), (2)(b), (3), (8) & (24) C.R.S.

H. "**Restaurant**" means an establishment provided with special space, sanitary kitchen and dining room equipment, and persons to prepare, cook, and serve meals, where, in consideration of payment, meals, drinks, tobaccos, and candies are furnished to guests. For purposes of this order, "Restaurant" also includes any restaurant facilities located within a hotel, lodging and entertainment facility, resort hotel, or resort complex. C.R.S. Section 44-3-103(21), (29), (44), (45), (47).

I. "**Nonessential personal services**" means services and products that individuals choose to use that are not necessary to maintain the safety, sanitation, and essential operation of businesses or residences, such as hair or nail salons, spas, or tattoo or massage parlors.

J. "**Simulcast facility**" means a licensed in-state simulcast facility pursuant to this Article 32 of Title 44 of the Colorado Revised Statutes, also commonly referred to as an "off-track betting facility" or "OTB". Sections 44-32-102(11) & (21), C.R.S.

K. "**Tavern**" means an establishment serving alcohol beverages in which the principal business is the sale of alcohol beverages at retail for consumption on the premises and where sandwiches and

light snacks are available for consumption on the premises. C.R.S. Section 44-3-103(57).

L. **"Public accommodation"** for purposes of this Order is a private entity that owns, operates, leases, or leases to, a place of public accommodation. Places of public accommodation subject to this Order include bars, taverns, brew pubs, distillery pubs, restaurants, gymnasiums, theaters, nonessential personal services facilities, and casinos.

II. **A.** Effective March 17, 2020 at 8:00 AM, and continuing through April 30, 2020, the following places of public accommodation are closed to ingress, egress, use, and occupancy by members of the public:

1. Restaurants, food courts, cafes, coffeehouses, and other similar places of public accommodation offering food or beverage for on-premises consumption;
2. Bars, taverns, brew pubs, breweries, microbreweries, distillery pubs, wineries, tasting rooms, special licensees, clubs, and other places of public accommodation offering alcoholic beverages for on-premises consumption;
3. Cigar bars;
4. Gymnasiums;
5. Movie and performance theaters, opera houses, concert halls, and music halls; and
6. Casinos.

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 to use precautions in doing so to mitigate the potential transmission of COVID-19, including social distancing; however, no consumption of food or beverages is permitted onsite. 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.

B. Effective March 19, 2020 at 8:00 AM and continuing through April 30, 2020, the following places of public accommodation are closed to ingress, egress, use, and occupancy by members of the public:

1. Non-essential personal services facilities; and
2. Horse tracks and simulcast facilities, also known as off-track betting facilities.

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

1. 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 II;
2. Room service in hotels;
3. Health care facilities, residential care facilities, congregate care facilities, and juvenile justice facilities;
4. Crisis shelters or similar institutions;
5. Airport concessionaires;
6. Institutions of higher education offering dining hall services located in or adjacent to campus dormitories that are accessed through student, staff, faculty, or campus associated identification, as well as grab and go food services within these institutions, while exercising social distancing measures of at least six feet between individuals;

7. Fitness centers and nonessential personal services included in residential facilities, such as hotels, apartment or condominium complexes or similar housing arrangements, that are limited to use only by hotel guests or residents of the housing who are following social distancing requirements of at least 6 feet between individuals, and the hotel or property managers are performing frequent environmental cleaning; and

8. Any emergency facilities necessary for the response to these events.

The requirements in Section II.A of this Order took effect at 8:00 AM on March 17, 2020, and the requirements of Section II.B of this Order take effect at 8:00 AM on March 19, 2020, and all requirements remain in effect through April 30, 2020, unless otherwise extended in writing by the Executive Director.

CDPHE is tasked with protecting the health and welfare of the citizens of Colorado by investigating and controlling the causes of epidemic and communicable disease. This Order is necessary to control any potential transmission of disease to others. *See* sections 25-1.5-101(1)(a) and 25-1.5-102(1)(a)(I), C.R.S. Immediate issuance of this Order is necessary for the preservation of public health, safety, or welfare.

FAILURE TO COMPLY WITH THIS ORDER IS SUBJECT TO THE PENALTIES CONTAINED IN SECTIONS 25-1-114, C.R.S, INCLUDING A FINE OF UP TO ONE THOUSAND (1,000) DOLLARS AND IMPRISONMENT IN THE COUNTY JAIL FOR UP TO ONE YEAR.

_____ March 18, 2020

Jill Hunsaker Ryan, MPH
Executive Director

Date