

REISSUED PUBLIC HEALTH EMERGENCY ORDER No. 20-13b

**BUSINESSES; INDIVIDUALS, FACE COVERINGS;
AIRPORT; BARS; BICYCLE BARS; and PUBLIC MEETINGS**

January 21, 2021

WHEREAS, on March 11, 2020, the World Health Organization declared the worldwide outbreak of COVID-19 (coronavirus) a pandemic, and on March 13, 2020, the President of the United States issued an emergency declaration for the country in response to the increasing number of COVID-19 cases within the U.S.; and

WHEREAS, on March 13, 2020, Idaho Governor Brad Little signed a declaration of emergency for the State of Idaho in response to concerns that cases of COVID-19 are imminent in Idaho; and

WHEREAS, on March 16, 2020, the Mayor of the city of Boise City ("Boise City"), Lauren McLean, declared a local disaster emergency, as per the Disaster Preparedness Act (Title 46, Chapter 10 of the Idaho Code), in Boise City due to the threat that COVID-19 poses to the health and welfare of the residents of Boise City, and on March 17, 2020, the Boise City Council ratified and extended the Declaration of Emergency; and

WHEREAS, on March 17, 2020, and repealed and replaced in full on April 7, 2020, the Council for Boise City adopted an ordinance enacting a new Chapter 15 to Title 1, setting forth the authority, purpose, and intent of emergency powers to address the threat of COVID-19; and

WHEREAS, beginning on March 25, 2020, Governor Little, by way of the Idaho Department of Health and Welfare Order of the Director, issued multiple state-wide orders, all with the purpose of protecting the health, safety, and welfare of the citizens of Idaho; and

WHEREAS, on June 11, 2020, Governor Little entered, in conjunction with the Idaho Department of Health and Welfare Guidelines of the Director, guidelines titled, State of Idaho, Idaho Department of Health and Welfare Stay Healthy Guidelines, with an effective date of June 13, 2020, providing guidelines for reopening certain businesses and permitting certain activities in Stage Four of the State's reopening plan ("Stay Healthy Guidelines - Stage Four"); and

WHEREAS, on October 20, 2020, CDH reissued an order "Order of the District Board of Health Central District Health, State of Idaho" ("CDH Order: Restriction") which requires face coverings in all public places in Ada County when others are present and physical distancing of six (6) feet cannot be maintained; declares all bars and nightclubs remain closed by order of quarantine until such time as CDH designates Ada County as category 2 (Yellow) for schools; allows visits to long-term care facilities subject to guidelines, and restricts social gatherings to no more than ten people; and

WHEREAS, on October 26, 2020, Governor Little, by way of the Idaho Department of Health and Welfare Order of the Director, issued a new Order rescinding the Stay Healthy Guidelines of June 13, 2020, and moving the state back to Stage Three of Reopening, ("Stay Healthy Order- Stage Three") with modifications to the original orders issued in March; and

WHEREAS, on November 13, 2020, Governor Little, by way of the Idaho Department of Health and Welfare Order of the Director, issued a new Order rescinding the October 26 Stay Healthy Order – Stage Three, and moving the state back to Stage Two of Reopening with modifications to the original orders issued in March; and

WHEREAS, on November 17, 2020, CDH issued a public health advisory “Public Health Advisory for Central District Health’s Jurisdiction: Ada, Boise, Elmore, and Valley Counties” (“CDH Public Health Advisory”) strongly recommending the use of face coverings, working from home, minimizing non-essential travel, suspending visits to congregate living facilities, and avoiding social gatherings; and

WHEREAS, Governor Little on December 10, 2020, warned Idahoans about the potential of activating Crisis Standards of Care in hospitals if we are unable to reverse the trend in rising COVID-19 cases; and

WHEREAS, on December 30, 2020, Governor Little, by way of the Idaho Department of Health and Welfare Order of the Director, issued a new modified Order (“Stage Two Modified Order”), based upon scientific evidence showing it was necessary to slow virus transmission in order to protect Idaho’s vulnerable population, and to prevent the healthcare system from being overwhelmed.

WHEREAS, as of January 7, 2021, test results at both Boise City wastewater treatment facilities show 395,048.73 units per liter, indicating the continuously high-level presence of SARS-CoV-2 virus in City wastewater; and

WHEREAS, as of January 13, 2021, CDH reported a total of confirmed cases of COVID-19 in Ada County as 34,814, most recently reporting 234 confirmed cases on January 5, 2021, 179 confirmed cases on January 6, 2021, 274 confirmed cases on January 7, 2021, 240 confirmed cases on January 8, 2021, and 164 confirmed cases on January 9, 2021, indicating a continued danger of community spread; and

WHEREAS, the risk of community spread throughout Boise City impacts the life and health of the public and imperils public health by the person-to-person spread of COVID-19, it is, therefore, necessary to reduce opportunities for the person-to-person transmission of COVID-19 to combat the spread of the disease; and

WHEREAS, both the Department of Health and Human Services Centers for Disease Control and Prevention (“CDC”) and the White House have recommended practices to prevent the rapid spread of COVID-19. The recommendations include that people wear cloth face coverings in public settings in addition to maintaining other social distancing measures; and

WHEREAS, CDC’s Considerations for Wearing a Mask advises that a mask is not a substitute for social distancing, and masks should be worn in addition to staying at least six (6) feet apart; and

WHEREAS, there is a continuing and urgent need to protect all residents, employees, and visitors in Boise City from the risks relating to the COVID-19 pandemic through the protection provided by wearing facial coverings; and

REISSUED PUBLIC HEALTH EMERGENCY ORDER No. 20-13b

WHEREAS, there is an increasingly urgent need to reduce hospitalizations for COVID-19 in order to prevent critical healthcare shortages and the activation of Crisis Standards of Care in Boise and Idaho; and

WHEREAS, additional measures and further enforcement are necessary to protect the health, safety, and welfare of the citizens of Boise City by mitigating any negative repercussions of reopening the community due to Boise City's large population, size, and scope of Boise City services offered, and its status as the State of Idaho's business and transportation hub; and

WHEREAS, bicycle bars are a service business unique to Boise City and neither CDH nor the State Stay Healthy Guidelines provide guidance for safe and sanitary operation of such unique businesses; and

WHEREAS, based on the prudent and efficient measures taken by CDH in its CDH Order: Restriction, the Mayor hereby incorporates by reference the requirements of the CDH Order: Restriction, and the Stage Two Modified Order; and

WHEREAS, on November 19, 2020, the Mayor of the City of Boise, Lauren McLean issued Public Health Emergency Order 20-13; Businesses; Individuals; Airport; Bars; Bicycle Bars; and Public Meetings, effective November 23, 2020. On December 18, 2020, the Mayor of the City of Boise, Lauren McLean issued Reissued Public Health Emergency Order 20-13a, effective December 23, 2020. This Reissued Public Health Emergency Order 20-13b; Businesses; Individuals; Airport; Bars; Bicycle Bars; and Public Meetings shall be issued to extend the provisions outlined in the original Emergency Order 20-13 and the Reissued Public Health Emergency Order 20-13a.

NOW, THEREFORE, I, Lauren McLean, Mayor of Boise City, Idaho, by virtue of the authority vested in me by Boise City Code Sections 1-15-05, 1-15-08, and 3-1A-1, Idaho Code Title 50, Chapters 3 and 6, and Article XII, Section 2 of the Idaho Constitution, to protect the public hereby issue this Reissued Public Health Emergency Order 20-13b; Businesses; Individuals; Face Coverings; Airport; Bars, Bicycle Bars; and Public Meetings ("Reissued Emergency Order 20-13b"):

Section 1. Stage Two Modified Order – Incorporated Herein. The Stage Two Modified Order is hereby incorporated in its entirety in this Reissued Public Health Emergency Order 20-13b except as otherwise specifically set forth herein.

Section 2. CDH Order: Restriction. The CDH Order: Restriction is hereby incorporated in its entirety into this Reissued Public Health Emergency Order 20-13b, except as otherwise specifically set forth herein.

Section 3. Businesses - Required Compliance. All businesses that are eligible to remain open pursuant to the Stage Two Modified Order and the CDH Order: Restriction must comply with all physical distancing and sanitation recommendations and requirements as provided in the Stage Two Modified Order, CDH Order: Restriction, and Section 4 of this Reissued Emergency Order 20-13b. Additionally, all businesses that are eligible to remain open pursuant to the Stage Two Modified Order, CDH Order: Restriction, and this Reissued Emergency Order 20-13b must comply with all relevant business protocol recommendations and requirements for Stage Two business reopening as

provided for by Central District Health ("CDH") and as found at <https://rebound.idaho.gov/>.

Section 4. Individuals - Social Distancing, Face Coverings, and Sanitation Requirements- Required Compliance. To the extent individuals are outside of their residence, individuals must comply with the Stage Two Modified Order and the CDH Order: Restriction, in addition to the following:

- A. Individuals shall maintain at least six (6) feet minimum physical distancing from non-household members, whenever possible.
- B. Every person is required to wear a face covering that completely covers the person's nose and mouth when the person is in a public place.
 - a. DEFINITIONS:
 - i. For purposes of this Public Health Emergency Order, "public place" shall mean any place open to all members of the public without specific invitation, including but not necessarily limited to retail business establishments, government offices, medical, educational, arts and recreational institutions, and public transportation, including taxi cabs and ridesharing vehicles, outdoor public areas, including but not limited to public parks, trails, streets, sidewalks, lines for entry, exit or service.
 - ii. For the purposes of this order, "face covering" includes but is not limited to paper or disposable masks, cloth masks, religious face coverings, scarves, neck gaiters, or bandannas. Any mask that incorporates a valve or vent or contains openings, holes, or visible gaps is non-compliant.
 - b. EXEMPTIONS:
 - i. Children under the age of two (2).
 - ii. Persons with medical conditions, mental health conditions, or disability that prevent them from wearing a face covering. A person is not required to provide documentation demonstrating that the person cannot tolerate wearing a face covering.
 - iii. Persons who are deaf and hard of hearing, or communicating with a person who is deaf and hard of hearing, where the ability to see the mouth is essential for communication.
 - iv. Persons, including on-duty first responders, for whom wearing a face covering would create a risk to the person related to their work, as determined by local, state, or federal regulators or workplace safety guidelines.
 - v. Persons who are obtaining a service involving the nose, face, or head for which temporary removal of the face covering is necessary to perform the service.
 - vi. Persons who are eating or drinking at a restaurant or other establishment that offers food or beverage service, so long as they engage in physical distancing.
 - vii. Persons actively engaged in athletic competition, training, or practice when wearing a face covering is not feasible.
- C. Individuals should:
 - i. Wash hands with soap and water for at least twenty (20) seconds as frequently as possible or use hand sanitizer;

- ii. Cover coughs or sneezes (into the sleeve or elbow, not hands);
- iii. Regularly clean high-touch surfaces; not shake hands; and
- iv. Stay home if sick.

Section 5. Airport Public Area Access. Access to the public areas of the Boise Airport terminal is restricted to individuals who can demonstrate they fall within one of the following categories:

- A. Ticketed airline passengers;
- B. An individual accompanying a ticketed airline passenger, provided the passenger needs assistance with arrival or departure;
- C. Individuals whose employment requires access to public areas;
- D. Individuals who have been authorized by airport officials or have a business need to access the public areas;
- E. Individuals in vehicles who are at the passenger pick-up and drop-off locations waiting for or dropping off ticketed passengers; and
- F. Individuals in rental vehicles at the airport pick up or drop off rental car locations.

Section 6. Public Meetings. All meetings of Boise City commissions, committees, and boards are suspended except as provided in this Section 6. The following commissions, committees, and boards shall meet in accordance with the requirements of Idaho Code Section 74-203(5):

- A. Boise City Council (B.C.C. Title 1, Chapter 6);
- B. Planning and Zoning Commission (B.C.C. Title 2, Chapter 4);
- C. Design Review Committee (B.C.C. Title 11, Chapter 2);
- D. Historic Preservation Commission (B.C.C. Title 11, Chapter 2); and
- E. Other commissions, committees, and boards as deemed necessary in the Mayor and Department Director's discretion or as otherwise legally required.

Section 7. Bars and Bicycle Bars. All bars, as defined by Boise City Code Section 5-11-6, including nightclubs, shall remain closed until they are permitted to open according to the criteria and requirements set forth in the CDH Order: Restriction. All non-motorized commercial touring services (i.e., bicycle bars) as defined in Boise City Code Section 3-13B-2, located within the Boise City limits shall remain closed to members, guests, patrons, customers, and the general public.

Section 8. Penalty and Enforcement. Individuals and businesses within Boise City are urged to voluntarily comply with this Reissued Emergency Order No. 20-13b. In accordance with Boise City Code Section 1-15-10, any person who knowingly violates the provisions of this Reissued Emergency Order No. 20-13b shall be guilty of a misdemeanor, punishable by fine, REISSUED PUBLIC HEALTH EMERGENCY ORDER No. 20-13b

imprisonment, or both. The City Clerk's Office has determined that any business licensed by the City of Boise that operates in violation of Reissued Emergency Order No. 20-13b, Stage Two Modified Order; CDH Order: Restriction, or any other State law and/ or Municipal ordinance may represent a clear and immediate threat to the health, safety, or welfare of the public and may be subject to immediate business license suspension or revocation pursuant to Boise City Code Section 3-1A-19.

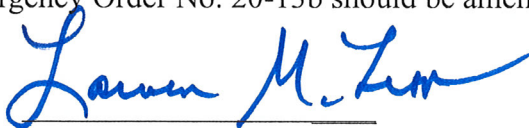
Section 9. Governing Language. To the extent this Reissued Emergency Order No. 20-13b is more stringent than the 1) Stage Two Modified Order, or 2) the CDH Order: Restriction, the language of this Reissued Emergency Order No. 20-13b shall govern.

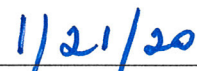
Section 10. Costs. No person shall be entitled to recover from Boise City any costs incurred or profits lost, as may be attributed to the enactment of this Reissued Emergency Order No. 20-13b.

Section 11. Severability. To the extent any provision of this Reissued Emergency Order No. 20-13b or its application to any person or business is held to be invalid, the remainder of this Reissued Emergency Order No. 20-13b, including any application thereof, shall remain in full force and effect. To this end, provisions of this Reissued Emergency Order No. 20-13b are severable.

Section 12. Other Public Health Emergency Orders. This Reissued Emergency Order 20-13b supersedes all previous City of Boise Public Health Emergency Orders.

Section 13. Effective Date. This Reissued Emergency Order No. 20-13b shall take effect at 12:01 a.m. on January 22, 2021, and remain in full force and effect pursuant to the provisions of Boise City Code Section 1-15-6 (E) unless it is terminated, modified, or extended at an earlier date. In anticipation of the Governor, or CDH Director issuing future Stay Healthy Guidelines or Orders, the Mayor, in consultation with CDH and local healthcare providers, will monitor the state of Boise City pursuant to the gating criteria outlined at <https://rebound.idaho.gov/>, specifically the syndromic, epidemiologic, and healthcare indicators to determine whether this Reissued Emergency Order No. 20-13b should be amended, modified or terminated.


Lauren McLean, Mayor


Dated