



## Additional Guidance for Critical Financial Institutions during Safer at Home for Public Health Order 20-28

### Background:

Effective April 27, 2020, Governor Jared Polis issued [Executive Order D 2020 044](#) directing Colorado to enter Colorado's Safer at Home phase of the COVID-19 pandemic. The goal is to have most people stay at home as much as possible and avoid any unnecessary social interactions, while also allowing businesses that are hurting from extended closures to gradually reopen under restrictions and guidance to ensure as much safety as possible for both employees and consumers.

The Colorado Department of Public Health and Environment (CDPHE), based on the Governor's directive, has also issued [Public Health Order 20-28](#), which provides details of certain restrictions and safety guidance by broad industry type. CDPHE has developed the guidance and information from its Public Health Orders (PHO) by industry via the [Safer at Home webpage](#).

DORA recognizes that these orders, while detailed, do not necessarily reach the level of specificity many of our regulated professions desire. Additionally, we understand that businesses and professionals are being asked to absorb this new information from a wide variety of sources. In an effort to provide not only additional clarity on industry and business-specific safety measures, but also to synthesize information from many state of Colorado sources, we have compiled the following guidance based on questions we have received.

Updates to Safer at Home have been made since April; please check the [Safer at Home public health and executive orders](#) frequently. (Please note that because the [Protect Your Neighbor](#) phase and guidance initiated in June does not apply to our state chartered financial institutions, only Safer at Home guidance will be referenced.)

### **UPDATE AS OF JULY 16, 2020**

Gov. Polis has enacted a statewide mandatory mask wearing executive order, [D 2020 138](#) "Amending and Extending Executive Orders D 2020 039, D 2020 067, D 2020 092, and D 2020 110 Ordering Individuals in Colorado to Wear Non-Medical Face Covering."

Please become familiar with the guidelines associated with this order, as local variances on masks wearing are currently suspended. More information regarding the statewide mask mandate:

- [Mask Ordinance One Pager](#)
- [Mask Ordinance FAQ](#)

We will continue to share information and guidance on our [COVID-19 and State Chartered Financial Institutions](#) resource page.

### **What Safer at Home Means for You:**

#### **Status: Critical Business**

The following financial and professional institutions continue to be categorized as a Critical Business/Critical Service under PHO 20-28:

- Banks, credit unions, and other financial institutions
- Insurance and payroll
- Services related to financial markets
- Professional services, such as legal, title companies, or accounting services, real estate appraisals and transactions

Safer at Home PHO and guidance is applied *unless* you are in a county still under a Stay at Home Order or if you are in a county that has received a variance from CDPHE to apply some alternate restrictions (see our FAQ below for more information on determining whether to follow state or county orders).

### **Frequently Asked Questions**

1. **Question: When can our businesses actually reopen? The state says one thing but my county/city has released something different.**

Answer: State chartered financial institutions are considered Critical Businesses under the original Stay at Home order, and this continues into the Safer at Home phase. However, as they contemplate reopening branches they may have closed during the Stay at Home order, if their county has extended the Stay at Home phase to a later date, then that location falls under the county's guidelines, not Safer at Home.

Because local governments are allowed to implement stricter rules without state approval, as a general rule of thumb, the most restrictive terms of either the state or local orders apply. So if the city or county's order is more restrictive than the state order, follow the city or county order.

The exception is if your county has been granted a variance by the state, meaning that the local government has both submitted an application and been approved by the Colorado Department of Public Health and Environment which demonstrates that they are able to relax some restrictions. Please visit [this site for information](#) on which counties have approved variances and the "Local Governments" section of [this FAQ](#).

**2. Question: What if my county has requirements for sanitization and occupancy of a business that are different from the state's Public Health Order 20-28? Which requirements do I have to follow?**

Answer: Again, the general rule is that the most restrictive terms of either the state or the local orders is what applies first, since local governments are allowed to implement stricter rules without state approval. If the city or county's order is more restrictive than the state order, follow the city or county order.

The exception is if your county has been granted a variance by the state, meaning that the local government has both submitted an application and been approved by the Colorado Department of Public Health and Environment which demonstrates that they are able to relax some restrictions.

**3. Question: Are banks' and credit unions' branches deemed to be "Critical Retailers?"**

Answer: Banks and credit unions remain part of the same Critical Business category from Stay at Home to Safer at Home (Appendix F). Therefore, they are not included in Critical Retail.

Banks and credit unions; insurance, payroll, and accounting services and services related to financial markets are all designated in the critical business category ([see Appendix F of the PHO](#)) and any critical business that was open under the Stay at Home order will remain during the Safer at Home level with the same strict precautions (physical distancing, masks for all employees, more frequent cleanings, etc.) that is provided in the Safer at Home guidance.

Many banks and credit unions are continuing to operate under their plans implemented under the Stay at Home order, while others are

looking at the guidance to determine what makes the most sense for them regarding reopening any public areas (such as lobbies) of branches.

**4. Question: How and where can I obtain masks and gloves for my employees and customers?**

Answer: The Safer at Home [PHO 20-26](#) outlines mask wearing requirements for employees in Critical Businesses. Required by [Executive Order 039](#), workers in Critical Businesses that are not in healthcare professions are required to wear a non-medical mask covering their nose and mouth. Regarding medical grade PPE, CDPHE will be providing updates as more materials become available. Follow [these guidelines](#) for ensuring your non-medical mask covering is as safe as possible. **NOTE: On July 16, 2020, Gov. Polis enacted a statewide mandatory mask wearing executive order, [D 2020 138](#). Please become familiar with the guidelines associated with this order, as local variances on masks wearing are currently suspended.**

**5. Question: If a business is unable to find appropriate PPE, do they have to wait to open until they can?**

Answer: Businesses may open once they are in compliance with Safer at Home requirements (see [Safer at Home website FAQ](#)). Many banks and credit unions are continuing their practices under the Stay at Home order in lieu of re-opening their lobbies or other high contact customer areas. Lobbies of many banks and credit unions have been closed except by appointment only. Customers have been directed to drive-up facilities or electronic banking applications to conduct transactions.

**6. Question: Is it acceptable for employers to provide employees a stipend for purchasing their own masks?**

Answer: How employers choose to obtain supplies or reimburse employees for supplies that meet the public health order requirements is their decision provided that they are monitoring compliance with the PHO. For example, if an employee who they provided a stipend to buy a mask checks in without a mask, the employer is then responsible for supplying a face covering.

**7. Question: I don't believe it's safe to be called back into work yet. What are my options as an employee?**

Answer: We recognize that the decision to return to work amid the COVID-19 crisis is a very personal one. If you have spoken with your employer and are unable to reach a compromise on this issue, please [view this information](#) from the Department of Labor and Employment (CDLE).

**8. Question: Are businesses permitted to have employees self-check for fever?**

Answer: The requirements for health screenings for both essential and non-essential workplaces of all sizes is addressed in [section I of the PHO](#). Section I.1.g of the PHO mandates that all businesses: “implement symptom monitoring protocols, conduct daily temperature checks and monitor symptoms in employees at the worksite to the greatest extent possible, **or if not practicable, through employee self-assessment at home prior to coming to the worksite.**” Additional requirements are outlined in Section I.4 for businesses that will have more than 50 employees on-site at a time. [Best practices](#) for compliance for businesses of all sizes and [how to conduct a facility health screening](#) can be found on the Safer at Home website.

**9. Question: Do all businesses need to issue colored wristbands for employees?**

Answer: Different color wristbands are recommended to be used each day as a way to ensure that the employee hasn’t skipped the temperature and symptom screening check-in. It is not required for PHO compliance, but it is considered a “best practice.” Guidance regarding wristbands and an explanation of the use of the wristbands can be found in the video posted on the Safer at Home website’s [“How to conduct a facility health screening”](#) page.

**10. Question: Is it required for employers to disclose an individual’s health information to the state?**

Answer: There is no requirement in the Safer at Home order that requires an employer to disclose health information to the state. The Order states the employees should be referred to the CDPHE website for disclosing symptoms. It is the employee’s decision to disclose, not the Employer. Appendix A, I.A.3.

**11. Question: What is the expectation for disclosing an individual’s health information to employees when an employee tests positive?**

Answer: It is expected that employers follow HIPAA guidelines and its human resources policies regarding disclosures of employee’s health information. Information on keeping employees and customers safe are here: <https://covid19.colorado.gov/keep-employees-customers-safe>

**12. Question: Can a business owner rely on a certification from employees that they have cleaned work areas or does all cleaning need to be conducted by management?**

Answer: Cleaning procedures should follow state Safer at Home, CDC, CDPHE, and OSHA guidance. How management chooses to structure compliance policies and monitoring is its decision.

**13. Question: What is a business's liability regarding a safe-work environment for those employees?\***

Answer: Each business or business location may be structured differently, so employers should work with their legal counsel and insurance in advance to determine liability as part of their development of protocols that comply with the order.

**14. Question: Wearing a mask in a bank or credit union, historically, is not advisable. What guidance do you have for this?**

Answer: The Safer at Home [PHO 20-26](#) outlines mask wearing requirements for employees in critical businesses. **NOTE: On July 16, 2020, Gov. Polis enacted a statewide mandatory mask wearing executive order, [D 2020 138](#). Please become familiar with the guidelines associated with this order, as local variances on masks wearing are currently suspended and previous public health orders will be updated.**

Depending on the size and structure of the branch lobby, banks and credit unions can continue to direct customers to drive through facilities and mobile services and continue to structure a by-an-appointment only lobby environment that complies with the current public health order. Financial institutions may request that masks are lowered, or removed briefly, for identification purposes with appropriate social distancing.

---

Please periodically refer back to this FAQ and to the [Safer at Home](#) website for ongoing guidance.

\* Note that questions which are legal in nature, or questions that may be unique to each bank or credit union, should be considered by their boards and legal counsel as they may not be addressed in the guidance. For other Safer at Home questions regarding State Chartered Banks or Credit Unions that are not legal in nature, addressed in the [Safer at Home](#) site or this FAQ, banks may email their questions to [DORA\\_BankingWebsite@state.co.us](mailto:DORA_BankingWebsite@state.co.us) and credit unions may email their questions to [DORA\\_FinancialServices\\_Website@state.co.us](mailto:DORA_FinancialServices_Website@state.co.us).