

EMERGENCY ORDER #3
EFFECTIVE MONDAY, MARCH 23, 2020 AT 5:00 pm
OF THE NANTUCKET SELECT BOARD
AND DIRECTOR OF HEALTH AND HUMAN SERVICES ON BEHALF
OF THE BOARD OF HEALTH
DIRECTING ALL INDIVIDUALS LIVING IN THE TOWN & COUNTY OF
NANTUCKET TO STAY AT THEIR PLACE OF RESIDENCE
EXCEPT THAT THEY MAY LEAVE TO
PROVIDE OR RECEIVE CERTAIN ESSENTIAL SERVICES OR
ENGAGE IN CERTAIN ESSENTIAL ACTIVITIES AND WORK FOR
ESSENTIAL BUSINESSES AND GOVERNMENTAL SERVICES;
DIRECTING ALL BUSINESSES AND GOVERNMENTAL AGENCIES TO
CEASE NON-ESSENTIAL OPERATIONS AT PHYSICAL LOCATIONS IN
NANTUCKET; PROHIBITING ALL NON-ESSENTIAL GATHERINGS
OF ANY NUMBER OF INDIVIDUALS; AND ORDERING CESSATION OF
ALL NON-ESSENTIAL TRAVEL

Please read this Order carefully. Violation of or failure to comply with this Order is punishable by a fine of up to One Thousand Dollars pursuant to Massachusetts General Laws Chapter 111, Section 122.

UNDER THE AUTHORITY OF MASSACHUSETTS GENERAL LAWS CHAPTER 111, §§95 THROUGH 105, THE NANTUCKET SELECT BOARD AND THE NANTUCKET BOARD OF HEALTH, ACTING THROUGH THE HEALTH AND HUMAN SERVICES DIRECTOR, ORDERS:

1. 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 maximum extent possible. When people need to leave their places of residence, whether to obtain or perform vital services, or to otherwise facilitate authorized activities necessary for continuity of social and commercial life, they should at all times as reasonably possible comply with Social Distancing Requirements as defined in Section 7 below. All provisions of this Order should be interpreted to effectuate this intent. Failure to comply with any of the provisions of this Order constitutes an imminent threat to public health.
2. All individuals currently living within the Town and County of Nantucket (“Town”) are ordered to stay at their place of residence. To the extent individuals are using shared or outdoor spaces, they must at all times as reasonably possible maintain social distancing of at least six feet from any other person when they are outside their residence. All persons may leave their residences only for Essential Activities, Essential Governmental Functions, or to operate Essential Businesses, all as defined in Section 7. All businesses with a facility in the Town, except Essential Businesses as defined below in Section 7, are required to cease all activities at facilities located within the Town except Minimum Basic

Operations, as defined in Section 7. For clarity, businesses may also continue operations consisting exclusively of employees or contractors performing activities at their own residences (i.e., working from home). All Essential Businesses are strongly encouraged to remain open. To the greatest extent feasible, Essential Businesses shall comply with Social Distancing Requirements as defined in Section 7 below, including, but not limited to, when any customers are standing in line.

3. All public and private gatherings of any number of people occurring outside a household or living unit are prohibited, except for the limited purposes as expressly permitted in Section 7. Nothing in this Order prohibits the gathering of members of a household or living unit.
4. All travel on the island, including, but not limited to, travel on foot, bicycle, scooter, motorcycle, automobile, public transit, except Essential Travel and Essential Activities as defined below in Section 7, is prohibited. People must use public transit only for purposes of performing Essential Activities or to travel to and from work to operate Essential Businesses or maintain Essential Governmental Functions. People riding on public transit must comply with Social Distancing Requirements as defined in Section 7 below, to the greatest extent feasible. This Order allows travel into or out of the Town to perform Essential Activities, operate Essential Businesses, or maintain Essential Governmental Functions.
5. This Order is issued based on evidence of increasing occurrence of COVID-19 within the Commonwealth of Massachusetts and elsewhere in the Country, scientific evidence and best practices regarding the most effective approaches to slow the transmission of communicable diseases generally and COVID-19 specifically, and evidence that the age, condition, and health of a significant portion of the population of the Town places it at risk for serious health complications, including death, from COVID-19. Due to the outbreak of the COVID-19 virus in the general public, which is now a pandemic according to the World Health Organization, there is a public health emergency throughout the Town. Making the problem worse, some individuals who contract the COVID-19 virus have no symptoms or have mild symptoms, which means they may not be aware they carry the virus. Because even people without symptoms can transmit the disease, and because evidence shows the disease is easily spread, gatherings can result in preventable transmission of the virus. The scientific evidence shows that at this stage of the emergency, it is essential to slow virus transmission as much as possible to protect the most vulnerable and to prevent the health care system from being overwhelmed. One proven way to slow the transmission is to limit interactions among people to the greatest extent practicable. Importantly, the island has limited medical care options and availability, including but not limited to the number of hospitals and other healthcare operations, the number of beds available generally and in intensive care units, as well an extremely limited number of ventilators. Additionally, the Town acknowledges that the size of the island population is driven by seasonal residents and visitors; during the winter months, including early spring, the food supply, services industry, public safety personnel, general governmental staff, and more, are at minimum levels. By reducing the spread of the COVID-19 virus, this Order helps preserve critical and limited healthcare capacity in the Town.

6. This Order incorporates by reference, the March 10, 2020 Declaration of Emergency issued by Governor Baker, and the Declaration of Emergency issued by the Nantucket Select Board on March 18, 2020, and, further, formally acknowledges that several states and municipalities have issued stay-at-home orders to address the rapid transmission of COVID-19 by those who do not yet show symptoms, but are carrying the virus, and those that have been identified as presumptive positive or confirmed positive for the virus.

7. Definitions and Exemptions.

- a. For purposes of this Order, individuals may leave their residence only to perform any of the following “Essential Activities.” People at high risk of severe illness from COVID-19 according to the U.S. Centers for Disease Control and Prevention (“CDC”) and people who are sick are urged to stay in their residence to the extent possible except as necessary to seek medical care.
 - i. To engage in activities or perform tasks essential to their health and safety, or to the health and safety of their family or household members (including, but not limited to, pets), such as, by way of example only and without limitation, obtaining medical supplies or medication, visiting a health care professional, or obtaining supplies they need to work from home.
 - ii. To obtain necessary services or supplies for themselves and their family or household members, or to deliver those services or supplies to others, such as, by way of example only and without limitation, canned food, dry goods, fresh fruits and vegetables, pet supply, fresh meats, fish, and poultry, and any other household consumer products, and products necessary to maintain the safety, sanitation, and essential operation of residences.
 - iii. To engage in outdoor activity, provided the individuals comply with Social Distancing Requirements as defined in this Section, such as, by way of example and without limitation, walking, hiking, bicycling, surfing, or running.
 - iv. To perform work providing essential products and services at an Essential Business or to otherwise carry out activities specifically permitted in this Order, including Minimum Basic Operations.
 - v. To care for a family member or pet in another household.
- b. For purposes of this Order, individuals may leave their residence to work for or obtain services at any “Healthcare Operations”, including but not limited to hospitals, clinics, dentists, pharmacies, pharmaceutical and biotechnology companies, other healthcare facilities, healthcare suppliers, home healthcare services providers, mental health providers, marijuana dispensary or any related and/or ancillary healthcare services. “Healthcare Operations” also includes veterinary care and all healthcare services provided to animals. This exemption shall be construed broadly to avoid any impacts to the delivery of healthcare, broadly defined. “Healthcare Operations” expressly excludes fitness and exercise gyms, yoga studios, and similar facilities.

- c. For purposes of this Order, individuals may leave their residence to provide any services or perform any work necessary to the operations and maintenance of “Essential Infrastructure,” including, but not limited to, public works construction, airport operations, water, sewer, gas, electrical, roads and highways, public transportation, collection and proper disposal of solid waste, internet, and telecommunications systems, provided that they carry out those services or that work in compliance with Social Distancing Requirements as defined this Section, to the extent possible.
- d. For purposes of this Order, all first responders, emergency management personnel, emergency dispatchers, court personnel, and law enforcement personnel, and others who need to perform Essential Services are categorically exempt from this Order in connection with the provision of such services. Further, nothing in this Order shall prohibit any individual from performing or accessing “Essential Governmental Functions,” as determined by the governmental entity performing those functions. Each governmental unit in the Town shall identify and designate appropriate employees or contractors to continue providing and carrying out any Essential Governmental Functions. All Essential Governmental Functions shall be performed in compliance with Social Distancing Requirements as defined in this Section, to the extent possible.
- e. For the purposes of this Order, covered businesses include any for-profit, non-profit, or educational entities, regardless of the nature of the service, the function they perform, or its corporate or entity structure.
- f. For the purposes of this Order, “Essential Businesses” means:
 - i. Healthcare Operations and Essential Infrastructure;
 - ii. Grocery stores, farm and produce stands, supermarkets, food banks, convenience stores, and other establishments engaged in the retail sale of canned food, dry goods, fresh fruits and vegetables, pet supply, fresh meats, fish, and poultry, and any other household consumer products (such as cleaning and personal care products). This includes stores that sell groceries and also sell other non-grocery products, and products necessary to maintaining the safety, sanitation, and essential operation of residences;
 - iii. Food cultivation, including farming, livestock, and fishing;
 - iv. Businesses that provide food, shelter, and social services, and other necessities of life for economically disadvantaged or otherwise needy individuals;
 - v. Hotels, motels and leasing of residences ONLY for the purpose of providing shelter and lodging to people in accord with contractual agreements already in effect for people on the island as of the effective date of this order, or, in the event that temporary residences are needed for persons on the island whose residences are quarantined, to house non-

- residents providing essential government or health care services, or as overflow from healthcare operations as may be needed;¹
- vi. Newspapers, television, radio, and other media services;
 - vii. Gas stations and auto-supply, auto-repair, and related facilities;
 - viii. Banks and related financial institutions;
 - ix. Hardware stores;
 - x. Plumbers, electricians, exterminators, and other service providers who provide services that are necessary to maintaining the safety, sanitation, and essential operation of residences, Essential Activities, and Essential Businesses;
 - xi. Businesses providing mailing and shipping services, including post office boxes;
 - xii. Educational institutions—including public and private K-12 schools, colleges, and universities—for purposes of facilitating distance learning or performing essential functions, provided that social distancing of six-feet per person is maintained to the greatest extent possible;
 - xiii. Laundromats, drycleaners, and laundry service providers;
 - xiv. Restaurants and other facilities that prepare and serve food, but only for delivery or carry out. Schools and other entities that typically provide free 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 and 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;
 - xv. Businesses that supply products needed for people to work from home;
 - xvi. Businesses that supply other essential businesses with the support or supplies necessary to operate;
 - xvii. Businesses that ship or deliver groceries, food, goods or services directly to residences
 - xviii. Airlines, ferries, taxis, and other public and private transportation providers providing transportation services necessary for Essential Activities and other purposes expressly authorized in this Order;
 - xix. Home-based care for seniors, adults, or children;
 - xx. Residential facilities and shelters for seniors, adults, and children;
 - xxi. Professional services, such as legal or accounting services, when necessary to assist in compliance with legally mandated activities
 - xxii. Childcare facilities providing services that enable employees exempted in this Order to work as permitted and approved pursuant to the March 18, 2020 Executive Order Temporarily Closing All Child Care Programs and Authorizing the Temporary Creation and Operation of Emergency Child Care Programs.

¹ **This section shall take effect on Wednesday, March 25, 2020 at 5:00 p.m.**, or such later date determined by the Town after consultation with appropriate state and federal entities. Until the effective date of this provision, it shall have the force of a strong recommendation to anyone considering coming to the Town.

- g. For the purposes of this Order, “Minimum Basic Operations” include the following, provided, however, that employees shall comply with Social Distancing Requirements as defined this Section, to the maximum extent possible, while carrying out such operations:
 - i. The minimum necessary activities to maintain the value of the business’s inventory, ensure security, process payroll and employee benefits, or for related functions.
 - ii. The minimum necessary activities to facilitate employees of the business being able to continue to work remotely from their residences.

- h. For the purposes of this Order, “Essential Travel” includes travel for any of the following purposes. Individuals engaged in any Essential Travel must comply with all Social Distancing Requirements as defined in this Section.
 - i. Any travel related to the provision of or access to Essential Activities, Essential Governmental Functions, Essential Businesses, or Minimum Basic Operations.
 - ii. Travel to care for elderly, minors, dependents, persons with disabilities, or other vulnerable persons.
 - iii. Travel to or from educational institutions for purposes of receiving materials for distance learning, for receiving meals, and any other related services.
 - iv. Travel required by law enforcement or court order.
 - v. Travel required for non-residents to return to their place of full-time residence outside the Town. Non-residents on the island as of the date of this Order are encouraged to consider returning to their full time residences or to other areas where more plentiful hospitalization services are available. All persons leaving the island under this paragraph are strongly encouraged to verify that transportation to their place of full-time residence remains available and functional prior to commencing such travel.
 - vi. Travel to return from outside Nantucket to a place of already-established full-time residence in the Town; residents shall include, but not be limited to the following: a person on the street or voter’s lists; a person that has registered their car at their Town address; a person who has listed their Town address as their primary address for purposes of taxation; and similar indicators of residency, a person who has traveled from their residence on the island within the last 30 days previous to this order and has documentation thereof, including, for example, a ferry or plane ticket receipt, or a person who leaves the island following the issuance of this Order for the purpose of providing Essential Governmental Functions or Essential Business, and has documentation thereof, such as a ferry or plane ticket receipt.²

² **This section shall take effect on Wednesday, March 25, 2020 at 5:00 p.m.** or such later date determined by the Town after consultation with appropriate state and federal entities. Until the effective date of this provision, it shall have the force of a strong recommendation to anyone considering coming to the Town.

- vii. Provided, further, that during the pendency of this order, any person travelling to the island for any of the purposes authorized hereunder shall be subject to the following additional requirements:
 - 1. Persons arriving on Nantucket by plane or boat may be asked to take their temperature, answer questions about where they have travelled, and to respond to any other precautionary questions of a similar nature considered appropriate by the CDC;
 - 2. No person shall knowingly travel to Nantucket during the period of this order after testing positive for COVID-19 unless they are also able to demonstrate that they have recovered therefrom through proof of two negative tests or otherwise in a manner meeting then-current CDC requirements;
 - 3. No person shall knowingly travel to Nantucket after being exposed to a person with COVID-19 unless they have been in quarantine for no less than 14 days since the knowing exposure and can provide evidence thereof;
 - 4. Any person travelling to Nantucket for purposes other than those that are emergency in nature under this order, shall self-isolate for no less than 14 days at their place of residence, ensuring that they are vigilant about social-distancing, even in their place of residence, until the self-isolation period ends;
 - 5. Any person travelling to Nantucket to provide healthcare services shall be exempt from paragraph 3 of this section, but shall exercise due care in accord with applicable CDC protocols to implement social distancing as described hereunder, other than during the treatment of patients or conduct of research.

- i. For purposes of this Order, “Social Distancing Requirements” includes maintaining at least six-foot social distancing from other individuals, washing hands with soap and water for at least twenty seconds as frequently as possible or using hand sanitizer, covering coughs or sneezes (into the sleeve or elbow, not hands), regularly cleaning high-touch surfaces, and not shaking hands.

8. The Select Board and the Board of Health requests that the Chief of Police ensure compliance with and enforcement of this Order, and, further, that said Chief seeks the assistance of the Governor, State Representative and State Senator, and Attorney General to assist with enforcement, including, and, should the same prove necessary, the State Police or National Guard. The violation of any provision of this Order constitutes an imminent threat to public health.

9. Sections 1-12 of this Order, other than as set forth in Section 10, below, shall become effective at 5:00 p.m. on Monday, March 23, 2020 and will continue to be in effect through Sunday, April 6, 2020 , the remainder of the period schools are closed pursuant to the Governor’s March 15, 2020 Executive Order, with an expectation that unless there are significant factual changes concerning the spread of COVID-19 and the treatment thereof in general, and the facts specifically applicable to medical care and treatment capacity on the island, this Stay-at-Home Order may be extended by vote of the Select Board and Director of

Health and Human Services. To allow for planning by, and sufficient notice to, all residents and voters of the Town, of any possible extension, the Select Board and Director of Health and Human Services shall discuss any developments and the then-applicable facts at its April 1, 2020, scheduled Board Meeting, and at any meeting thereafter as such board deems appropriate. Notice of any approved extension shall be communicated to the public as provided in Section 11. Residents are encouraged to access the Town website frequently for updates.

10. The provisions of Section 7(f)(v) and 7(h)(vi) of this Order relative to travel to the island shall take effect at 5:00 p.m., Wednesday, March 25, 2020, or at such later time as the Town deems appropriate following consultation with state and federal level government entities as to implementation; if the effective date of such sections is delayed, notice of such delay, and then of the effective date of such sections, shall be made in the manner set forth in Section 11; provided, however, that until the provisions of Section 7(f)(v) and 7(h)(vi) takes effect in accord with the provisions of this paragraph, they shall be treated as a strong recommendation.

11. Copies of this Order and any other notices required by this Order shall promptly be: (1) made available at the Town Administration Building; (2) posted on the Town Website; and (3) provided to any member of the public requesting a copy of this Order; further, shall, as soon as reasonably possible following adoption of the same, be provided to the Boston Globe, Boston Herald, Cape Cod Times, Nantucket Inquirer and Mirror, and the Associated Press.

12. If any provision of this Order or the application thereof to any person or circumstance is held to be invalid, the remainder of the Order, including the application of such part or provision to other persons or circumstances, shall not be affected and shall continue in full force and effect. To this end, the provisions of this Order are severable.

IT IS SO ORDERED:

Nantucket Select Board, by its Chair

Nantucket Board of Health, by the Director of Health
and Human Services

March 22, 2020