

**ORDER OF THE LINCOLN COUNTY HEALTH OFFICER**  
**July 21, 2020**

WHEREAS, the Montana Department of Public Health and Human Services (DPHHS) and the Centers for Disease Control (CDC) recognize COVID-19 as a threat to the residents of Montana; and

WHEREAS, on March 12, 2020, the Governor of the State of Montana declared a statewide emergency due to COVID-19; and

WHEREAS, on April 22, 2020, the Governor of the State of Montana initiated Phase One of the Montana phased reopening plan; and

WHEREAS, on May 19, 2020, the Governor of the State of Montana, with Montana experiencing no significant person-to-person spread of COVID-19 throughout Phase One, issued a directive providing guidance establishing conditions for Phase Two, effective June 1, 2020; and

WHEREAS, in response to a sharp rise of state-wide active cases from 55 to over 1,000 in the previous month, on July 15, 2020, the Governor of the State of Montana issued a statewide mandatory mask order; and

WHEREAS, Lincoln County has experienced a sharp rise in the number of known positive cases of COVID-19 since the implementation of Phase Two of the Governor's reopening plan, with evidence of broader spread in the community since June 27, 2020; and

WHEREAS, the population of Lincoln County includes an elevated number (>3,000) of vulnerable individuals with moderate to severe asbestos-related pulmonary disease; and

WHEREAS, the Montana Department of Public Health and Human Services and the Centers for Disease control recommend the use of face coverings to help prevent the spread of COVID-19; and

WHEREAS, the inability to control the spread of COVID-19 endangers vulnerable Montanans, businesses who want to keep their doors open, schools hoping to reopen, and hospitals who need the capacity to treat both COVID-19 patients and all others needing medical care; and

WHEREAS, pursuant to Section 50-2-118 of the Montana Code Annotated, the local health officer, in carrying out the purpose of the public health system, shall take steps to limit contact between people in order to protect the public health from imminent

threats, including but not limited to ordering the closure of buildings or facilities where people congregate and cancelling events; and

NOW, THEREFORE, IT IS HEREBY ORDERED, pursuant to Title 50, Chapter 2, Part 1, and specifically Section 50-2-118 of the Montana Code Annotated, that the following measures shall be in place in Lincoln County, a political subdivision of the State of Montana, effective immediately:

1. Definitions:

- a. "Business" means any for-profit or non-profit entity which has employees or volunteers. The term "business" includes, but is not limited to, retail stores, grocery stores, food and beverage establishments, public lodging, personal care providers, medical providers, pharmacies, gyms, pools, fitness services, museums and theaters, indoor recreational or entertainment facilities, gas stations, repair and service providers, non-profit organizations, realty services, legal services, transportation services, and ride-sharing services.
- b. "Government office" means any office of any department, agency, or political subdivision of the State of Montana.
- c. "Face covering" means a fabric, paper, or disposable face covering that covers the nose and the mouth and which does not have an exhalation valve. The term "face covering" includes face shields.
- d. "Indoor space open to the public" means an indoor space, whether publicly or privately owned, where the public has access by right or invitation, express or implied, whether by payment of money or not. In addition, "indoor spaces open to the public" include, but are not limited to, lobbies, common areas, elevators, bathrooms, meeting rooms, or other places where people gather. The term includes all modes of public or commercial transportation. The term does not include private residences not open to the public.
- e. "Organized outdoor activity" means any gathering of 50 or more people for an activity or event organized or sponsored by a business or person, or that takes place on the property of a business or person. This includes, but is not limited to, outdoor theatrical or music performances, fairs, markets, festivals, parades, carnivals, rodeos, sporting or athletic events, beer gardens, weddings and receptions, or parties.
- f. "Sponsor" means any business or person who organizes or sponsors an organized outdoor activity, or who allows the activity to take place on their property.

2. Face Covering Requirement in Indoor Spaces Open to the Public.

- a. Except as provided in Section 4 of this Order, all businesses, government offices, or other persons responsible for indoor spaces open to the public shall require and take reasonable measures to ensure that all employees, contractors, volunteers, customers, or other members of the public wear a face covering that covers their mouth and nose at all times while entering or remaining in any indoor spaces open to the public.

- i. Face coverings shall be provided for all employees and volunteers.
- ii. All points of entry open to the public shall have a clearly visible sign posted stating: "Mask or face covering use required for ages five and older."

3. Face Covering Requirements for Certain Organized Outdoor Activities

- a. Except as provided in Section 4 of this Order, for any organized outdoor activity where social distancing is not possible or is not observed, sponsors shall require and take reasonable measures to ensure that all persons attending an organized outdoor activity wear a face covering that covers their mouth and nose at all times.
- b. This section applies only where the nature of the organized outdoor activity makes it impracticable for all attendees to maintain at least six feet of physical distance from each other, or any organized outdoor activity where attendees are not observing at least six feet of physical distance from others.
- c. At all outdoor gatherings of 50 or more people, whether or not it constitutes an organized outdoor activities, all individuals except those covered by section 4 of this Order are required to wear face coverings while in attendance where it is impracticable to maintain six feet of physical distance at all times, or whether attendees are not observing at least six feet of physical distance from others.

4. Exceptions.

- a. Businesses, government offices, other persons responsible for indoor spaces open to the public, and sponsors of organized outdoor activities are not required to ensure the following individuals wear face coverings:
  - i. Children under the age of five. All children between the ages of two and four, however, are strongly encouraged to wear a face covering in accordance with the provisions of this Order. Children under the age of two should not wear a face covering;
  - ii. Persons consuming food or drinks in an establishment that offers food or drinks for sale;
  - iii. Persons engaged in an activity that makes wearing a face covering impractical or unsafe, such as strenuous physical activity or swimming;
  - iv. Persons seeking to communicate with someone who is hearing impaired;
  - v. Persons giving a speech or engaging in an artistic, cultural, musical, or theatrical performance for an audience, provided the audience is separated by at least six feet of distance;
  - vi. Persons temporarily removing their face covering for identification purposes;
  - vii. Persons required to remove face coverings for the purpose of receiving medical evaluation, diagnosis, or treatment; or
  - viii. Persons who have a medical condition precluding the safe wearing of a face covering.

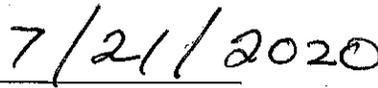
- b. Businesses, government offices, persons responsible for indoor spaces open to the public, and sponsors of organized outdoor activities should afford accommodations from the provisions of this Order to those who are entitled an accommodation under federal and state disability protection laws, including the Americans with Disabilities Act (ADA) and the Montana Human Rights Act, labor laws, or any other applicable law requiring accommodations in public accommodations.
  - c. Only those employees, volunteers, and contractors in public-facing workspaces are required to wear face coverings as specified in this Order.
- 5. Approval required for events of 50 or more people. Sponsors of events which will be attended by 50 or more people shall submit a written plan for adhering to masking and social distancing requirements at least 14 days prior to the scheduled date of the event. The Lincoln County Health Department will either approve or deny the plan in writing. Sponsors of events larger than 50 people scheduled to be held within 14 days after the effective date of this Order shall also submit a written compliance plan, but are exempt from the requirement that plans be submitted at least 14 days in advance. Events for which an acceptable and timely compliance plan are not submitted will not be permitted to take place.
- 6. Enforcement.
  - a. This Order constitutes a public health order within the meaning of §§ 50-1-103(2) and 50-2-118, MCA and is enforceable by the Attorney General, DPHHS, the county attorney, or other local authorities under the direction of the county attorney.
  - b. This Order is enforceable only against businesses and other persons who are responsible for indoor spaces open to the public, or sponsors of organized outdoor activities as defined in this Order.
  - c. Enforcement of this Order should be focused on education, providing warnings and education about the risk of transmission, while reserving the imposition of penalties, trespass enforcement, and other formal enforcement mechanisms for only the most egregious, repeat violations, that put the public at risk.
  - d. Businesses, other persons responsible for indoor spaces open to the public, and sponsors of gatherings or organized outdoor activities may deny entry, refuse service, or ask to leave any person, except those provided for in section 4 of this Order, who refuse to wear a face covering. If such a person refuses to wear a face covering and refuses to leave the premises, a peace officer may enforce the State's trespassing law and any other laws the person may violate.
  - e. Law enforcement is specifically requested to assist in enforcement of this Order where necessary, pursuant to § 50-2-120, M.C.A.
  - f. Businesses, other persons responsible for indoor spaces open to the public, and sponsors of gatherings or organized outdoor activities are entitled to reasonably rely in good faith on the representations of the employees, volunteers, contractors, customers, visitors, or members of the public regarding the applicability of the exceptions in section 4 of this Order. Reasonable, good faith reliance on such representations is an

affirmative and complete defense to any enforcement proceedings brought pursuant to this Order.

7. Applicability. To the limited extent any previous Orders are in direct conflict with the provisions of this Order, they are superseded. Otherwise, all prior Orders remain in full force and effect.
8. Limitations.
  - a. This Order is effective immediately and remains effective until the Health Officer revises or rescinds it.
  - b. This Order shall be implemented consistent with applicable law.
  - c. If any provision of the Order or its application to any person or circumstance is held invalid by any court of competent jurisdiction, this invalidity does not affect any other provision or application of this Order, which can be given effect without the invalid provision or application. To achieve this purpose, the provisions of this Order are declared to be severable.
9. Penalties. Penalties for violation of this Order may include, but are not limited to, the closure of any establishment found to be in violation and/or a misdemeanor penalty as provided in Section 50-2-124, M.C.A.



Brad Black, MD  
Lincoln County Health Officer



Date