

## ORDER OF BIG HORN COUNTY LOCAL HEALTH OFFICER

### No. 2021-2

WHEREAS, the Montana Department of Public Health and Human Services (DPHHS) recognizes COVID-19 as a threat to the residents of Montana; and

WHEREAS, response plans and protocols have been activated to prepare for cases of COVID-19 in Big Horn County, Montana; and

WHEREAS, the Montana DPHHS, local health departments, allied health and medical departments, and local jurisdictions have activated response plans and protocols to prepare for the arrival of the virus in Montana; and

WHEREAS, proactively implementing mitigation measures to slow the spread of the virus is in the best interests of the State of Montana, Big Horn County and its people, as set forth in the Board of Big Horn County Commissioners' Emergency Proclamation Resolution No 2020-7, A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF BIG HORN COUNTY, MONTANA PROCLAIMING AN EMERGENCY RESULTING FROM THE IMMINENT THREAT OF A DISASTER CAUSING IMMEDIATE PERIL TO LIFE OR PROPERTY THAT TIMELY ACTION CAN AVERT OR MINIMIZE; and

WHEREAS Administrative Rule of Montana 37.114.102 LOCAL BOARD RULES provides:

1. A local board of health may adopt rules for the control of communicable diseases, if such rules are as stringent as, and do not conflict with, the requirements of this chapter.

WHEREAS, the Local Board of Health has adopted QUARANTINE AND ISOLATION MEASURES; and

WHEREAS, Montana Code Annotated § 50-2-118 provides:

**50-2-118. Powers and duties of local health officers.** In order to carry out the purpose of the public health system, in collaboration with federal, state, and local partners, local health officers or their authorized representatives shall:

- (1) make inspections for conditions of public health importance and issue written orders for compliance or for correction, destruction, or removal of the condition;
- (2) 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 canceling events;
- (3) report communicable diseases to the department as required by rule;

(4) establish and maintain quarantine and isolation measures as adopted by the local board of health; and

(5) pursue action with the appropriate court if this chapter or rules adopted by the local board or department under this chapter are violated.;

and

WHEREAS, based upon the foregoing, the Local Health Officer should institute her authority to close buildings and facilities to prevent the spread of COVID-19 to Big Horn County, Montana and take steps to limit contact between people; and

WHEREAS Orders of the Big Horn County Local Health Officer [hereinafter Orders shall be referred to as Order \_\_\_\_\_ with the appropriate number]; and

WHEREAS Order 2021-1 provided that “this Order may be revised, updated, amended, changed, or revoked in whole or in part at any time”; and

WHEREAS, the people of Big Horn County have made great efforts in getting vaccinated; and

WHEREAS, Big Horn County has experienced a reduction of reported cases of COVID-19;

NOW THEREFORE, IT IS ORDERED that:

- A. Revocation of Order 2021-1** Order 2021-1 is hereby revoked immediately upon the execution of this Order, Order 2021-2.
- B. Gubernatorial Executive Orders and Directives** All persons shall, in addition with this Order, comply with the requirements of all other Executive Orders and Directives issued by the Governor of the State of Montana, beginning with Governor’s Directive Implementing Executive Order 2-21, and those issued thereafter, provided, however if any restrictions in the Executive Orders or Directives issued by the Governor of the State of Montana are less restrictive than the restrictions in this Order, then the restrictions in this Order which are more restrictive shall apply and if the restrictions in the Executive Orders or Directives issued by the Governor of the State of Montana are more restrictive than any restrictions in this Order, then the restrictions in the Executive Orders or Directives issued by the Governor of the State of Montana which are more restrictive shall apply. In other words, if there is a conflict between the Executive Orders and Directives of the Governor and this Order over a specific matter the most restrictive of the documents will apply to that specific matter.

- C. Wearing of Masks and Social Distancing** People in Big Horn County Montana **must** wear masks and maintain social distancing when they are outside their home unless they are with members of the same household or arrive together at a destination. These requirements to wear a mask and maintain social distancing, shall apply to each instance set forth in this Order as if in each clause particularly mentioned.

People need not wear a mask:

- When outdoors in areas where it is unlikely that they will come within six (6) feet of persons who are not members of the same household.
- When they are engaged in outdoor work or recreation such as swimming, walking, hiking, bicycling, or running, whether alone or with household members, when they are able to maintain a distance of at least six feet from others.
- If such person is the age two years or under. These very young children must not wear a face covering because of the risk of suffocation. It is recommended that whenever feasible children should be left in the care of an appropriate person and only one (1) family member should be out in public.
- While working, if so directed by their employer, **in writing**, because wearing a mask would endanger the individual's health and welfare; as determined by local, state, or federal regulators or workplace safety guidelines. Employers must provide, **in writing**, to such persons an explanation of how else the individual may safely mitigate the virus. Persons exempted from wearing a face covering due to working conditions should wear a non-restrictive alternative, such as a face shield with a drape on the bottom edge, as long as their working condition permits it.
- If directed, **in writing**, by a healthcare provider licensed by the State of Montana who regularly provides medical services to that person. The writing shall not be required in emergent situations. Persons exempted from wearing a face covering due to a medical condition should wear a non-restrictive alternative, such as a face shield with a drape on the bottom edge, as long as their condition permits it.
- When communicating with a person who is hearing impaired a person may lower their mask while talking, when the ability to see the mouth is essential for communication.
- When they are obtaining a service involving the nose or face for which temporary removal of the face covering is necessary to perform the service.

- When incarcerated, people will be directed by their detention officer on how to mitigate the virus if masks cannot be worn in that facility.

**D. Food and Beverage Workers to Wear Masks** Without limiting the generality of the foregoing, employees and vendors of, and all suppliers of goods or services to, all establishments, profit or non-profit, that deal with food or drink for public usage and/or consumption, including but not limited to, hospitals, senior citizen group residences, group homes, restaurants, licensed mobile food vendors, permitted temporary food operations, farmers' markets, senior citizen centers, convenience stores, bars, casinos, and grocery stores, while pursuing their employment, must wear face coverings, such as face masks, unless they can guarantee that they will not come within six (6) feet of a patron of the establishment. All patrons must be offered a mask at the door by the establishment, and verbally encouraged to wear said mask/face covering, except while eating/drinking.

**E. Self-Service Food Bars, Counters, And Buffets** Self-Service Food Bars, Counters, and Buffets may re-open, provided:

- They must provide for use, at a safe distance from the food, a bottle of hand sanitizer with a pump dispenser that each customer must use each time they take food from the Self-Service Food Bars, Counters, or Buffets. At the beginning of all Self-Service Food Bars, Counters, or Buffets, a sign shall be posted directing the consumer to the use the sanitizer.
- They must provide for use, a face mask that customers continue to wear as they move through the line and prior to seating at a dining table.
- They provide a special garbage container, conveniently located for customers who chose to do so, to remove and dispose of the face mask.

**F. Power of Local Health Officer** Nothing in this Order shall be deemed to limit the power of the LHO under Federal or State Law, including but not limited to, those powers found under Title 50 of the Montana Code Annotated or Title 37 of the Administrative Rules of the State of Montana.

**G. Definitions**

- Social Distancing or other terms of a similar import shall mean that there shall be a minimum distance of six (6) feet between persons.

- The term mask(s) include any face covering which covers both the nose and the mouth of the wearer.
- To the extent not defined herein, terms used herein, which are defined in Montana Code Annotated, or a current Gubernatorial Directive or Executive Order shall have the meanings given in the Montana Code Annotated in such documents. If there is a disagreement in the definitions among the Montana Code and those given in any current Gubernatorial Directive or Executive Order; Montana Code Annotated shall take precedence.

**H. Private Entities or Persons Can be More Restrictive** Nothing contained herein shall be construed from prohibiting any person or entity furnishing goods or services or organizing an event from implementing stricter standards, by way of example, but not limitation, the person or entity furnishing the goods or services or organizing the event may require everyone to whom the goods or services are being furnished or who is attending the event to wear a mask and maintain social distancing.

**I. Captions** The captions herein are included for convenience of reference only and shall be ignored in the construction or interpretation hereof.

**J. Americans with Disabilities Act (ADA) and the Montana Human Rights Act, labor laws, or any other applicable law requiring accommodations in public accommodations** 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 Directive 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.

**K. No Additional Rights Created** This Order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against Big Horn County, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

**L. Dissemination of Health Information** Any dissemination of health status of an individual shall be governed by appropriate Federal and State laws, including but not limited to the Health

Insurance Portability and Accountability Act of 1966 and any amendments made thereto. Any recipient of the health status from a person authorized to make such dissemination shall also be governed by such appropriate Federal and State laws and shall not make further dissemination unless such dissemination is allowed by the appropriate Federal and State laws.

Without limiting the generality of the foregoing, the following applies:

Uses and disclosures to avert a serious threat to health or safety.

(1) Permitted disclosures. A member of the Public Health Department, consistent with applicable law and standards of ethical conduct, may use or disclose protected health information as defined in the Title 45 CFR § 160.103, if the member, in good faith, believes the use or disclosure: (A) Is necessary to prevent or lessen a serious and imminent threat to the health or safety of a person or the public; and (B) Is to a person or persons reasonably able to prevent or lessen the threat, including the target of the threat which includes, but is not limited to, personnel of a school district who is entitled to receive such information under the Government Health Care Information Act [Montana Code Annotated Title, 50, Chapter 16, Part 6] pursuant to the Guidelines published by the State of Montana in its September Montana Outbreak Response Protocols: K-12;

Presumption of good faith belief. A member of the Public Health Department that uses or discloses protected health information pursuant to this section is presumed to have acted in good faith with regard to a belief described in this section, if the belief is based upon the member's actual knowledge or in reliance on a credible representation by a person with apparent knowledge or authority.

IT IS HEREBY FURTHER ORDERED that this Order may be revised, updated, amended, changed, or revoked in whole or in part at any time.

IT IS HEREBY FURTHER ORDERED that this Order shall be effective immediately upon signing and until further notice.

Members of the public are urged to encourage and assist one another in complying with this Order.

Penalties for violation of this Order are set forth in Montana Code Annotated §50-2-124.

To the extent this Order is more restrictive, this Order supplements any Orders or Directives of the State of Montana or the United States Government regarding the COVID-19 virus.

Done and Dated at Hardin, MT this 19<sup>th</sup> day of March, 2021 at 9:25 a.m.



Carolyn Greimann, M.D.  
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**SEE MONTANA CODE ANNOTATED TITLE 50 CHAPTER 2 PART 1 and ADMINISTRATIVE RULES OF MONTANA 37.114.102**

**ACTION OF BIG HORN COUNTY HEALTH BOARD**

I hereby certify that this **ORDER OF BIG HORN COUNTY LOCAL HEALTH OFFICER** was duly approved by the Big Horn County Health Board to further implement public health laws with a vote of 4 in favor, 1 opposed, and 0 abstaining and that a quorum was present on this 19<sup>th</sup> day of March, 2021.



Larry Vandersloot  
Chairman of Health Board