

## ORDER OF BIG HORN COUNTY LOCAL HEALTH OFFICER

### No. 2020-12

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

WHEREAS, Big Horn County attempted to reopen through a phased reduction of restrictions and, in fact, the number of cases has increased, by way of example, but not limitation, the number of persons in Big Horn County who have been diagnosed with COVID-19 has increased since the implementation of Order 11 on the 25<sup>th</sup> day of June 2020; and

NOW THEREFORE, IT IS ORDERED that:

- A. Order 11 is hereby revoked immediately upon the execution of this Order, Order 12.
- B. 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, provided, however if the restrictions in the 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 shall apply.
- C. To further contain the spread of COVID-19, if a person has had close contact with a person who has tested positive for COVID-19, or with a person for which there is a strong suspicion that the person has COVID-19, or if there is a strong suspicion that a person has COVID-19, such person, shall report, verbally or in writing, to Office of the Local Health Officer and shall quarantine under an Order of Quarantine issued by the Local Health Officer [hereinafter referred to as LHO] or the authorized representative of the LHO, the Big Horn County Public Health Nurse [hereinafter

PHN], or a Quarantine Agreement a template of which is attached hereto as Exhibit “A” and by this reference, made a part hereof.

- D. To further contain the spread of COVID-19, people who, in the sole opinion of the LHO or PHN are infected with COVID-19 shall be immediately isolated at a location and time deemed suitable by the LHO or the PHN. Such isolation may be made at the Order of the LHO or PHN or, at the sole discretion of the LHO or PHN pursuant to an Isolation Agreement a template hereof which is attached hereto as Exhibit “B” and by this reference incorporated herein as if set forth in full. The LHO or PHN may direct such person to be examined by a physician licensed in Montana of the LHO’s or PHN’s choosing. Such examination may be paid for by the Local Board of Health. Any person who refuses examination or treatment shall be isolated until such time as the LHO or PHN makes a judgment that releasing the person from isolation would not endanger others. The LHO or PHN shall investigate sources of the infection.

Any person ordered to quarantine or isolate must not leave the place of quarantine or isolation without written permission of the LHO or PHN. Provided said person may leave the place of quarantine or isolation in the event of a medical emergency, in which case said person must go directly from the place of quarantine or isolation to the nearest medical provider that is open.

- E. People in Big Horn County Montana **must** wear masks when they are outside their home. This requirement to wear a mask, 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 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.

- If so directed, **in writing**, by a healthcare provider licensed by the State of Montana who provides medical services to that person;
- While working, if so directed by their employer, **in writing**, because wearing a mask would endanger the individual's health and welfare;
- If so directed, by their licensed Montana health care provider, persons with a medical condition, mental health condition, or disability that prevents wearing a mask. This includes persons with a medical condition for whom wearing a mask could obstruct breathing or who are unconscious, incapacitated, or otherwise unable to remove a face covering without assistance. Except in emergent situations, such persons will need a written exemption from their health care provider, who must be licensed by the State of Montana. Persons exempted from wearing a face covering due to a medical condition who are employed in a job involving regular contact with others 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 wearing a mask would create a risk to the person related to their work, 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.
- 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.

- F. 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, 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. For purposes of this Clause, it is not relevant that the food or drink is packaged in a container of any sort, including but not limited to cans, bottles, and boxes.

- G. Employees at all businesses must have their temperature checked before starting work. If an employee's temperature is above one hundred degrees (100.0°) Fahrenheit that employee may not work for eight (8) hours (not including a one (1) hour meal break), at which time the employee's temperature must be rechecked before returning to work. If the employee's shift is longer than eight (8) hours (not including a one (1) hour meal break), the employee's temperature must be rechecked eight (8) hours after the first temperature check, and if that employee's temperature is above one hundred degrees (100.0°) Fahrenheit that employee may not work for eight (8) hours, at which time the employee's temperature must be rechecked before returning to work. A temperature log must be kept and be available at any time for review by the public health department.
- H. Barber shops, salons, and massage therapy businesses that have reopened under previous orders may remain open but must practice Social Distancing and follow strict sanitation guidelines. They must limit the number of clients to 50% of the maximum allowed occupancy, or the maximum allowed while still providing Social Distancing, whichever is less.
- I. Self-service food bars and dining counters remain closed. Dine-in restaurants, bars, and casinos that have been reopened under previous orders, are limited to operations at no greater than 50% occupancy, 50% seating capacity, or the maximum allowed while still providing Social Distancing, whichever is less. Such businesses must demonstrate the ability to enforce such capacity restrictions and to follow strict sanitation guidelines. People may not be allowed to sit at the bar or any tables abutting the bar. Gaming machines have to be restricted to six (6) feet apart (or if immovable, keep at least every other machine inactive). Groups of up to six (6) people can be seated together, if they all arrive and leave together. All patrons must vacate establishment at or before 12:30 a.m. local time.
- J. A bar, casino, or dine-in restaurant that has not reopened prior to the effective date of this Order, may, subject to Clause H hereof, reopen per the directives of the Governor of the State of Montana.

- K. Businesses that are allowed to be open must limit non-essential travel, encourage teleworking, close common areas where people would congregate, and attempt to make special accommodations for high-risk employees.
- L. Lodges, shuttle services, long-term rental units (such as VRBO, Home Away, and Airbnb), campgrounds, and parks may reopen, but must abide by strict sanitation guidelines, must require the wearing of masks by all employees, and all others at such facilities except while eating/drinking. Social Distancing requirements must be adhered to at all times.
- M. Gyms, theatres, and museums may reopen per the directives of the Governor of the State of Montana .
- N. People may congregate according to the Directive of the Governor of Montana dated May 19, 2020, which provided in part: “If you are planning an event with more than 50 people you should consult with your local public health office on a plan to implement adequate social distancing.” Directive May 19, 2020. To that end the LHO and PHN will accept plans to implement adequate Social Distancing. A template of a plan is attached hereto as Exhibit “C” and by this reference incorporated herein as if set forth in full. Comments or the lack thereof regarding any plan submitted shall not be construed to be an approval of a plan and it is the full and total responsibility of the organizer to ensure compliance with enhanced sanitation protocols and the law, including readily maintaining physical distancing throughout all aspects of the event. If appropriate physical distancing cannot be readily maintained throughout the entire event, the LHO or PHN may at their sole discretion decrease the size of the group or close / cancel the event in its entirety at any time prior to or during the event. When eating or drinking at such events, people must maintain Social Distancing and the maximum number of people allowed to sit at a table is six (6), unless all those seated at the table are members of the same household and tables must be appropriately spaced.
- O. 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.
- P. This Order is in conformance with the Directive of the Governor, which allows counties to adopt stricter standards.

- Q. Social Distancing or other terms of a similar import shall mean that there shall be a minimum distance of six (6) feet between persons. To the extent not defined herein, terms used herein, which are defined in Montana Code Annotated, shall have the meanings given in the Montana Code Annotated.
- R. The term mask(s) include any face covering which covers both the nose and the mouth of the wearer.
- S. 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.
- T. 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 the Big Horn County, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

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 1<sup>st</sup> day of July 2020 at 2:27 p.m.



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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 5 in favor, 0 opposed, and 0 abstaining and that a quorum was present on this 1<sup>st</sup> day of July, 2020.



George Real Bird III  
Chairman of Health Board