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Gallatin City-County Health Department

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EMERGENCY LOCAL HEALTH RULE RELATING TO COVID-19

EHR-2020-003

PHASED REOPENING: PHASE ONE

WHEREAS, a state of emergency exists in Montana due to the global outbreak of the COVID19 Novel Coronavirus;

WHEREAS, COVID-19 is a respiratory disease that can result in serious illness or death and can easily spread from person-to-person;

WHEREAS, the Centers for Disease Control and Prevention (CDC) identifies the potential public health threat posed by COVID-19 both globally and in the United States as "high" and has advised that person-to-person spread of the COVID-19 will continue to occur globally, including within the United States, Montana, and Gallatin County, Montana;

WHEREAS, the circumstances of this outbreak may exceed the capacity of the services, personnel, equipment, supplies and facilities of Gallatin County if proactive measures are not continued to mitigate and limit the spread of COVID-19 infections in the community;

WHEREAS, during the course of the pandemic, Montana Governor Steve Bullock has issued directives requiring the closure of non-essential businesses, providing social distancing requirements, and limiting non-essential travel;

WHEREAS, the Gallatin City-County Board of Health adopted emergency health rules similarly restricting the operation of certain businesses in Gallatin County due to the COVID-19 pandemic;

WHEREAS, on April 22, 2020, Governor Bullock issued a directive providing guidance and conditions for the phased reopening of businesses in Montana, beginning with Phase 1;

WHEREAS, the April 22nd Directive recognizes the importance of individual responsibility, through good hygiene and strict adherence to social distancing, to fight against new infections, and it emphasizes the continued need to protect those most vulnerable to complications from COVID-19;

WHEREAS, the April 22nd Directive allows for implementation of the phased reopening on a county-by county basis and directs local officials to "coordinate on a regional basis and continue to assess the conditions in their jurisdictions." Further, the Directive allows local public health authorities to adopt "more restrictive approaches based on local need";

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WHEREAS, the duration of each phase of reopening must be regularly evaluated by public health and emergency management professionals using the best available epidemiological data for the community. As explained in the Directive, factors that must be considered in moving from one phase to the next include the ability to: monitor new cases adequately and conduct appropriate contact tracing to prevent further spread; treat all patients safely, both COVID-19 patients and those with other health conditions; screen and test all people with COVID-19 symptoms; and maintain sufficient levels of personal protective equipment;

WHEREAS, the April 22nd Directive appropriately recognizes that negative indicators in the factors listed above “may result in the need to re-implement certain restrictions or take other protective measures;”

WHEREAS, pursuant to § 50-2-116(1)(f), MCA, the Gallatin City-County Board of Health (Board) has the duty to “identify, assess, prevent, and ameliorate conditions of public health . . . ”;

WHEREAS, § 50-1-101(2), MCA, defines a “condition of public health importance” as “a disease, injury, or other condition that is identifiable on an individual or community level and that can reasonably be expected to lead to adverse health effects in the community;”

WHEREAS, the Board also has the duty pursuant to § 50-2-116(1)(g), MCA, to “protect the public from the introduction and spread of communicable disease or other conditions of public health importance, through: (i) epidemiological tracking and investigation; (ii) screening and testing; (iii) isolation and quarantine measures; (iv) diagnosis, treatment, and case management; (v) abatement of public health nuisances; (vi) inspections; (vii) collecting and maintaining health information; (viii) education and training of health professionals; or (ix) other public health measures as allowed by law”;

WHEREAS, pursuant to § 50-2-118, MCA, a local health officer in carrying “out the purpose of the public health system . . . shall . . . (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 cancelling events,” 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”;

WHEREAS, this Emergency Health Rule adopts the guidance and conditions provided for the first phase of the phased reopening of businesses in the Governor’s April 22nd Directive and applies them to the reopening of businesses in Gallatin County; and

WHEREAS, this Emergency Health Rule also allows for the imposition of the criminal penalties provided at § 50-2-124, MCA, in addition to the civil remedies available under § 50-2-123, MCA;

WHEREAS, per Chapter 1, Section 5 of the Gallatin City-County Health Code, the Board may adopt an Emergency Local Health Rule when it finds the rule: (1) “must be adopted to deal with an emergency situation affecting the public, health, safety, or welfare;” (2) “the emergency cannot be averted or remedied by any other administrative act;” and (3) at least two-thirds of the Board votes to approve the rule;

WHEREAS, per Section 50-2-116, MCA, COVID-19 is a condition of public health importance that must be prevented and ameliorated through the guidance and conditions established herein for phased reopening, and to protect the public from the further introduction and spread of COVID-19 in the community; and

WHEREAS, consistent with the April 22nd Directive and its deference to local control, this Emergency Health Rule provides for the re-implementation of business restrictions and other protective measures in Gallatin County when determined necessary by the Board, in close consultation with public health and emergency management professionals, based upon factors relating to new case monitoring and contact tracing, safe patient treatment, COVID-19 screening and testing, and personal protective equipment levels.

NOW, THEREFORE, EFFECTIVE IMMEDIATELY, THE FOLLOWING EMERGENCY LOCAL HEALTH RULE IS ADOPTED:

Progression Between Phases

1. The approach to reopening Gallatin County will occur in phases, beginning under this Rule with Phase One.
2. The duration of each phase will be regularly evaluated in close consultation with public health and emergency management professionals. Factors considered in moving from one phase to the next include:
 - A. The ability for public health professionals to monitor new cases adequately and conduct contact tracing in order to prevent spread of the disease.
 - B. The ability of hospitals to treat all patients safely, both COVID-19 patients and those with other health conditions.
 - C. The ability to test all people with COVID-19 symptoms using appropriate diagnostic testing.
 - D. The maintenance of sufficient levels of personal protective equipment and the ability to maintain sufficient levels in the future.
3. Metrics used to monitor and assess epidemiological progress and risk, and to guide future decisions related to reopening other businesses, or closing businesses currently open, will include the:
 - A. Number of COVID-19 cases, hospitalizations, and deaths in Gallatin County and Montana;
 - B. Volume of diagnostic testing available and utilized and the percentage of tests that are positive;
 - C. Staffing capacity and workload demands to conduct case investigations and contact tracing in a thorough and effective manner;
 - D. Whether business owners and the public comply with public health rules and recommendations designed to limit spread of the disease;
 - E. Data indicating known sources (location) of new infections in the community; and
 - F. Wastewater sampling data measuring viral load in community wastewater treatment systems.

4. **Negative indicators in the metrics in ¶ 3 above may result in the amendment of this Rule to re-implement certain restrictions or take other protective measures.**

Guidance Applicable to All Phases

1. Individuals should continue to practice good hygiene by adhering to the following guidelines:
 - A. Wash your hands with soap and water or use hand sanitizer, especially after touching frequently used items or surfaces.
 - B. Avoid touching your face whenever possible.
 - C. Sneeze or cough into a tissue, or the inside of your elbow.
 - D. Disinfect frequently used items and surfaces as much as possible.
 - E. Strongly consider using non-medical face coverings while in public, especially in circumstances that do not readily allow for appropriate physical distancing (e.g., grocery/retail stores, pharmacies, public transportation).
2. People who feel sick should stay at home:
 - A. Do not go to work or school.
 - B. Contact and follow the advice of your medical provider.
 - C. Follow local health department guidance on isolation and quarantine.
3. Employers should:
 - A. Develop and implement appropriate policies, in accordance with federal, state, and local regulations and guidance, and informed by industry best practices, regarding:
 - i. Social distancing and protective equipment.
 - ii. Temperature checks and/or symptom screening.
 - iii. Working with public health officials in efforts to test, isolate, quarantine, and pursue contact tracing in order to slow spread of the disease.
 - iv. Sanitation.
 - v. Use and disinfection of common and high-traffic areas.
 - B. Monitor workforce for indicative symptoms. Do not allow people with symptoms of COVID-19 to work.
 - C. Collaborate with public health officials when implementing policies and procedures for workforce contact tracing following an employee's COVID-19 positive test result.

Phase One: Individuals

1. All vulnerable individuals should continue to follow the stay at home guidance in the Governor's March 26, 2020 Directive.
2. Members of households with vulnerable residents should be aware that by returning to work or other environments where distancing is not practical, they could carry the virus back home. Precautions should be taken to isolate from vulnerable residents.

3. "Vulnerable Individuals" are defined as people over 65 years of age, people with serious underlying health conditions, including high blood pressure, chronic lung disease, diabetes, obesity, or asthma, and people whose immune system is compromised such as by chemotherapy for cancer or other conditions requiring such therapy.
4. All individuals, apart from members of a household, should:
 - A. When in public (e.g., parks, outdoor recreation areas, shopping areas), maintain at least six feet of physical distance from others.
 - B. Avoid gathering in groups of more than 10 people in circumstances that do not readily allow for appropriate physical distancing.
 - C. Minimize non-essential travel and adhere to Montana guidelines regarding quarantine.

Phase One: Employers

1. Employers should:
 - A. Continue to encourage telework whenever possible and feasible with business operations.
 - i. When telework is not feasible, employers are encouraged to accommodate alternative work schedules such as shift work and staggered scheduling in order to adhere to social distancing guidelines.
 - B. Close common areas where personnel are likely to congregate and interact, or enforce strict social distancing protocols.
 - C. Minimize non-essential business travel.
 - D. Make special accommodations for members of a vulnerable population or those with vulnerable household members.
2. **All businesses and all government offices must adhere to the reopening guidelines for Phase One provided in Appendix A - Reopening Directive, attached, issued by Governor Bullock on April 22, 2020. Government offices include judicial proceedings and those offices providing services to the public.**

Phase One: Specific Types of Employers/Activities

Effective immediately:

1. Places of Worship can become operational with reduced capacity and where strict physical distancing can be maintained between non-household members.
 - A. Places of worship should avoid gathering in groups of more than 10 people in circumstances that do not readily allow for appropriate physical distancing
2. Main Street and Retail Businesses can become operational with reduced capacity and where strict physical distancing protocols can be maintained
 - A. "Main Street and Retail Businesses" mean those non-essential businesses that were closed under the Governor's March 26, 2020 Stay-at-Home Directive and exclude restaurants, bars, breweries, distilleries, casinos, gyms, public pools, spas, public hot springs, hot tubs, other places of assembly that must remain closed

- during Phase One (e.g., movie and performance theaters, concert halls, bowling alleys, bingo halls, and music halls), and senior living or assisted living facilities.
- B. Main Street and Retail Businesses that reopen must adhere to the reopening guidelines for Phase One provided in Appendix A, attached.
- i. **An owner, operator, or employee of a business who does not comply with the guidelines provided in Appendix A, attached, is in violation of this Emergency Health Rule.**
3. Outdoor Recreation can become operational if sites maintain strict physical distancing between groups and frequently sanitize open public facilities.
- A. “Outdoor Recreation” includes, but is not limited to, public and private campgrounds.
- B. Individuals and businesses engaged in outdoor recreation must adhere to the outdoor recreation guidelines for Phase One provided in Appendix A, attached.
- i. **An individual engaged in outdoor recreation, or an owner, operator, or employee of a business engaged in outdoor recreation, who does not comply with the guidelines provided in Appendix A, attached, is in violation of this Emergency Health Rule.**
4. Organized youth activities may become operational if physical distancing guidelines can be implemented.
- A. “Organized youth activities” include, but are not limited to, activities such as gymnastics, dance, vocation bible schools, softball, and baseball.
- B. Organized youth activities should avoid gathering in groups of more than 10 people in circumstances that do not provide appropriate physical distancing.
- i. **An owner, operator, or employee of a business or organization providing organized youth activities who does not comply with the guidelines provided in Appendix A, attached, is in violation of this Emergency Health Rule.**

Effective May 4, 2020:

1. Restaurants, bars, breweries, distilleries, and casinos can become operational provided that strict physical distancing is maintained and that the business not exceed the capacity permitted by Appendix A, attached.
- A. These businesses must close their doors and have all patrons out by 11:30 p.m. Breweries and distilleries shall follow existing laws on closing time.
- i. **A patron who does not leave a restaurant, bar, brewery, distillery, or casino by 11:30 p.m., or other closing time provided by law, is in violation of this Emergency Health Rule.**
- ii. **An owner, operator, or employee of a restaurant, bar, brewery, distillery, or casino who does not close the business and have no patrons within the business by 11:30 p.m., or other closing time provided by law, is in violation of this Emergency Health Rule.**
- B. The expansions for delivery and takeout services, as provided both in the Governor’s March 24 and March 26, 2020 Directives, are extended through the end of the state of emergency.

- C. Restaurants, bars, breweries, distilleries, and casinos that reopen must adhere to the general and specific guidelines provided in Appendix A, attached.
 - i. **An owner, operator, or employee of a restaurant, bar, brewery, distillery, or casino who does not comply with the guidelines provided in Appendix A, attached, is in violation of this Emergency Health Rule.**

Effective immediately through the end of the state of emergency, unless modified by subsequent rule:

1. Gyms, public pools, spas, public hot springs, and hot tubs must remain closed.
 - A. “Gyms” include, but are not limited to, yoga studios, fitness facilities and operations, and boutique fitness studios.
2. Other places of assembly must remain closed, which include, but are not limited to, movie and performance theaters, concert halls, bowling alleys, bingo halls, music halls, in-person auctions, indoor and outdoor rodeos, and recreational facilities, like trampoline parks, roller skating rinks, ice rinks, and drive-in movie theaters.
3. Senior living or assisted living facilities must continue to prohibit visitors. Those who do interact with residents and patients must follow strict protocols regarding hygiene and protection.
 - A. Such hygiene and protection includes daily screening of staff for symptoms and preventing ill workers from working.
4. Child care facilities and pre-schools can remain operational but must follow state and local guidelines regarding operational levels and occupancy, including the operational requirements in the Governor’s April 1, 2020 Directive on child care.
5. **An owner, operator, or employee of a business required to remain closed who reopens their business during Phase 1 is in violation of this Emergency Health Rule.**

Scope and Enforcement

1. Violations of this Rule shall be enforced pursuant to Sections 50-2-118, 50-2-123 and 50-2-124, MCA, which state:

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 representative shall:

...

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

50-2-123. Compliance order authorized. If a person refuses or neglects to comply with a written order of a state or local health officer within a reasonable time specified in the order, the state or local health officer may cause the order to be complied with and initiate an action to recover any expenses incurred from the person who refused or neglected to comply with the order. The action to recover expenses shall be brought in the name of the city or county.

50-2-124. Penalties for violations. (1) A person who does not comply with rules adopted by a local board is guilty of a misdemeanor. On conviction, the person shall be fined not less than \$10 or more than \$200.

(2) Except as provided in 50-2-123 and subsection (1) of this section, a person who violates the provisions of this chapter or rules adopted by the department under the provisions of this chapter is guilty of a misdemeanor. On conviction, the person shall be fined not less than \$10 or more than \$500 or be imprisoned for not more than 90 days, or both.

(3) Each day of violation constitutes a separate offense.

(4) Fines, except justice's court fines, must be paid to the county treasurer of the county in which the violation occurs.

2. This Rule expires ninety (90) days after the date set forth below.

3. If any provision of this Rule, in whole or in part, is found to be invalid by a court of competent jurisdiction, such decision will not affect the validity of the remaining provisions of this Rule.

DATED this 1st day of May, 2020.

Becky Franks
Becky Franks, Chair
Gallatin City-County Board of Health

ATTEST:

Eric Semerad
Eric Semerad, Clerk & Recorder



General Business Reopening Guidelines

PHASE ONE: ALL SETTINGS

- Health assessments must be conducted for all employees at the beginning of each shift.
- In establishments where customers wait in a line, non-household customers should remain physically distanced.
- Waiting areas where adequate physical distancing cannot be maintained must be closed.
 - Customers should be encouraged to call for a reservation or an appointment, or establishments should use an online wait listing application.
- Physical distancing of 6 feet must be maintained between non-congregate customers, this may require:
 - A reduction in capacity;
 - A reduction of seating in service and waiting areas;
 - Management of waiting areas and waiting lines; or
 - Systems that reduce the amount of contact time between customers and staff.



General Business Reopening Guidelines Continued

PHASE TWO: ALL SETTINGS

- Non-congregate group size has increased from 10 people to 50 people.
- All other provisions remain the same as Phase One for general business operations.

PHASE THREE: ALL SETTINGS

- Return to normal operations.

Restaurant / Bar / Brewery / Distillery / Casino Guidelines



ALL PHASES

- A specific cleaning plan must be implemented, and employees must be trained in proper sanitation practices. Materials will be available on the Montana Department of Public Health and Human Services (DPHHS) food and consumer services website.
- All surfaces occupied must be cleaned between customers, including tables, chairs, booths, and highchairs.
- Table items including, condiments, menus, napkins, and décor, should be removed from the table unless they can be adequately cleaned between customers.
- Menus must be cleaned between customers.
- Growlers and refillable or reusable containers must be cleaned prior to being refilled.
- Gaming machines must be adequately cleaned between customers.



Restaurant / Bar / Brewery / Distillery / Casino Guidelines Continued

PHASE ONE: RESTAURANTS

- Capacity must be limited to 50% of normal operating capacity to allow for adequate group spacing.
- Tables must be limited to six people per table.
- Establishments must provide for 6 feet of physical distancing between groups and or tables by:
 - Increasing table spacing, removing tables, or marking tables as closed;
 - Providing for a physical barrier between tables; or
 - Back-to-back booth seating provides adequate separation.
- In-house dining for quick service restaurants should remain closed, if all guidelines can't be met, including the cleaning of every table between customers.
- Sitting or standing at bars or counters is not allowed.
- In bars, drinks and food must be served to customers at a table.

Restaurant / Bar / Brewery / Distillery / Casino Guidelines Continued



PHASE ONE: RESTAURANTS CONTINUED

- Self-service buffets must be closed.
- Drink refills are not allowed.
- Self-service cups, straws and lids should be behind a counter and handed to customers
- Self-service condiments should be eliminated.
- Gaming machines that are operational must be separated by 7-foot center to center. Machines must be placed out of service if adequate spacing cannot be assured.



Restaurant / Bar / Brewery / Distillery / Casino Guidelines Continued

PHASE TWO: RESTAURANTS

- Capacity may be increased to 75% of normal operating capacity.
- Tables must be limited to 10 people per table.
- Establishments must continue provide for physical distancing between groups and or tables but may increase capacity.
- In-house dining for quick service restaurants should remain closed if all guidelines can't be met, including the cleaning of every table between customers.

PHASE THREE: RESTAURANTS

- Continue to practice social distancing when practical.
- Establishments should begin to resume normal occupancy while continuing to follow the guidelines for all facilities.



Outdoor Recreation Guidelines

PHASE ONE AND TWO: RECREATION GUIDELINES

- Public lands, fishing access sites, and parks are encouraged to continue to provide outdoor recreation opportunities for local and regional users provided that users can adhere to strict social distancing guidelines and facilities follow frequent sanitizing protocols. Areas that cannot practicably implement social distancing requirements or sanitation needs will remain closed. Limited campground offerings, group-use facilities and playgrounds, may be opened at the discretion of local and state managers. Local, state and federal officials are strongly encouraged to coordinate on all reopening decisions. Guides and outfitters may offer services consistent with any ongoing quarantine travel restrictions provided they adhere to social distancing guidelines and sanitation protocols. Visitors should check the status of any closures and restrictions before traveling.

PHASE THREE: RECREATION GUIDELINES

- Campground, group-use facilities, playgrounds and visitor centers are fully open.



Personal Care / Services Guidelines

PHASE ONE: PERSONAL CARE (SALONS, MASSAGE, BODY ART, ETC.)

- Operations that require close personal contact for an extended period result in exposing staff and customers to greater levels of risk. These situations require additional safety and health precautions.
- Screen customers prior to appointment for symptoms of fever, shortness of breath or a cough. Customers that have any of these symptoms must be rescheduled.
- Utilize a face mask for staff and for customers when practical.
- Stylist / artist / service-provider and customer would be a "station" that would be 6 feet away from other "stations".
- Provide for 6 feet of physical distancing between stations, this may require:
 - A reduction in capacity;
 - Increasing spacing, removing stations, or marking stations as closed;
 - Providing for a physical barrier between stations;
 - A reduction of seating in service and waiting areas; or
 - Systems that reduce the amount of contact time between customers and staff.



Personal Care / Services Guidelines Continued

PHASE TWO: PERSONAL CARE (SALONS, MASSAGE, BODY ART)

- Establishments should continue provide for physical distancing between stations.

PHASE THREE: PERSONAL CARE (SALONS, MASSAGE, BODY ART)

- Continue to practice physical distancing when practical.
- Establishments may resume normal occupancy while continuing to follow the guidelines for all facilities.

