Office of
The Governor

NO. 16 FY 20/21
DATE November 4, 2020

AN ORDER TO REVISE INDOOR GATHERING LIMITS, STRENGTHEN FACE COVERING REQUIREMENTS AND DELEGATE CERTAIN AUTHORITY

WHEREAS, I proclaimed a state of emergency on March 15, 2020 and renewed states of emergency on April 14, 2020, May 13, 2020, June 9, 2020, July 8, 2020, August 5, 2020, September 2, 2020, September 30, 2020, and October 29, 2020 to authorize the use of emergency powers in order to expand and expedite the State's response to the serious health and safety risks of the highly contagious COVID-19 virus; and

WHEREAS, Maine is currently experiencing a significant increase in COVID-19 cases, hospitalizations, and positivity rates, while data and case investigations are providing evidence of widespread community transmission; and

WHEREAS, I instituted indoor gathering limits in Executive Order 14 FY 19/20 and face covering requirements in Executive Order 49 FY 19/20, and have amended those Orders in response to changing circumstances, new information, emerging threats, and a desire to simply and clarify the application of the terms of those Orders; and

WHEREAS, the Maine Center for Disease Control (Maine CDC) now advises that additional amendments to indoor gathering limits and face covering requirements are necessary and appropriate in light of the upward trajectory in the State's cases, hospitalizations, and positivity rates; and

WHEREAS, a governor's emergency powers under 37-B M.R.S. Ch. 13 include the authorities to limit occupancy of premises within the State pursuant to § 742(1)(C)(8); to take whatever action is necessary to abate or mitigate the danger of this pandemic pursuant to § 742(1)(C)(12); to utilize all available resources of the State Government as reasonably necessary to cope with this pandemic pursuant to § 742(1)(C)(2); and to delegate any authority vested in the Governor under 37-B M.R.S. Ch. 13 pursuant to § 741(3)(H);

NOW, THEREFORE, I, Janet T. Mills, Governor of the State of Maine, pursuant to 37-B M.R.S. Ch. 13, including but not limited to the authorities cited in the Proclamations, Orders and statutory

provisions referenced above, do hereby Order as follows:

I. ORDER

A. PHYSICAL DISTANCING EXCEPTION TO FACE COVERING REQUIREMENTS REPEALED

1. **Requirement**. Face covering requirements, including those set forth in Executive Orders 49 FY 19/20, 2 FY 20/21, and 14 FY 20/21, apply in public settings regardless of the ability to maintain physical distance.

2. **Contrary language repealed.** Contrary language in Section V of Executive Order 49 FY 19/20 is hereby repealed.

B. "PUBLIC SETTINGS" TO BE BROADLY CONSTRUED

1. **"Public settings" defined**. The term "public settings" is to be broadly construed and includes:

   a. Indoor spaces that are accessible to the public, including but not limited to restaurants, grocery stores, retail stores, pharmacies, health care facilities, social clubs, auditoriums, theaters, stadiums, arenas, concert halls, convention centers, meeting halls, gymnasiums, rinks, fitness centers, houses of worship, transportation centers, indoor parking garages as well as other public accommodations;
   b. Outdoor spaces including but not limited to playgrounds, parking lots, sidewalks, athletic and sports venues, and other areas such as lines for take-out service where the public typically gathers in a smaller area;
   c. Public transportation such as a taxi, Uber, Lyft, ride-sharing or similar service; ferry, bus, or train; and any semi-enclosed transit stop or waiting area;
   d. Portions of municipal, county, state, and private buildings and grounds that are typically accessible to the public, including parking lots, walkways, lobbies, waiting areas, elevators, service desks, and related hallways. For the purpose of this section, government buildings and grounds include those privately owned and leased for government use; and
   e. Other locations that the Commissioner of the Department of Economic and Community Development (DECD) and the Commissioner of the Department of Health and Human Services (DHHS) identify as presenting a risk of transmission of the virus pursuant to Section III, below.

2. **Contrary language repealed**. Section V(A)(1) of Executive Order 49 FY 19/20 and section I(A)(1) of Executive order 14 FY 20/21 are hereby repealed.

C. NOTICE REQUIRED FOR INDOOR PUBLIC SETTINGS

1. **Requirement.** Owners and operators of indoor public settings shall, as soon as practicable, post plainly visible signs notifying entrants of the requirement to wear cloth face coverings, and may deny service or entry for non-compliance with the Governor's face covering requirements.

D. FIFTY-PERSON INDOOR GATHERING LIMIT

1. **Requirement.** The indoor gathering limit is returned to 50 persons, as provided for in Section I(A) of Executive Order 55 FY 19/20.

2. **Contrary language repealed.** Sections I(B)(1) & (2) of Executive Order 14 FY 20/21 are hereby repealed.

II. INTERPRETATION

This Order is subject to interpretative guidance from Maine CDC, DHHS, the Maine Department of Economic and Community Development (DECD), and the Maine Department of Education (DOE).

III. DELEGATION OF AUTHORITY

I hereby delegate authority to the Commissioners of DECD and DHHS, pursuant to 37-B M.R.S. §§ 741(3)(H) & 742(12), to issue activity-specific requirements designed to minimize the risk of transmission of the COVID-19 virus, as necessary and appropriate to implement this Order and the *Restarting Maine's Economy Plan,* identified and incorporated within Executive Order 49 FY 19/20. In issuing such additional requirements, the Commissioners of DECD and DHHS shall:

A. Consult the Director of Maine CDC, and other agency commissioners and administrators that the Commissioners of DECD and DHHS determine possess relevant expertise;

B. Consult with the Attorney General or his designee;

C. Consider the best available and most current information;

D. Prioritize the protection of public health, while giving consideration to the impact of the requirements on the daily lives of Maine people, Maine businesses, and the Maine economy; and

E. Conspicuously post such requirements on the DECD website.

All requirements issued pursuant to this section are subject to modification or rescission by the Governor. Requirements issued pursuant to this section shall be enforceable in the same manner as an Executive Order and are not "rules" within the meaning of 5 M.R.S. § 8002(9). To the extent applicable, the requirements of chapter 377-A and subchapters 2 & 2-A of chapter 375 of Title 5 the Maine Revised Statutes, are suspended with respect to the issuance of said requirements.

IV. ENFORCEMENT

This Order is subject to all available methods of enforcement. Any violation of requirements adopted pursuant to Section III of this Order is a violation of this Order.

V. EFFECTIVE DATE

This Order takes effect November 4, 2020 and shall remain in effect until repealed or amended.

Janet T. Mills
Governor