OFFICE OF THE GOVERNOR
STATE OF MONTANA

STEVE BULLOCK
GOVERNOR

MIKE COONEY
LT. GOVERNOR

TO: Montanans; all officers and agencies of the State of Montana
FROM: Governor Steve Bullock
DATE: April 22, 2020
RE: Directive implementing Executive Orders 2-2020 and 3-2020 and providing guidance for the phased reopening of Montana and establishing conditions for Phase One

This Directive provides for the phased reopening of Montana. It establishes guidance applicable to all phases and provides direction for Phase One, including lifting the Stay at Home Directive and reopening non-essential businesses. It also provides local school boards the flexibility to make decisions about the remainder of the academic year.

Executive Orders 2-2020 and 3-2020 declare that a state of emergency exists in Montana due to the global outbreak of COVID-19 Novel Coronavirus.

For the duration of the emergency, § 10-3-104(2)(a), MCA, provides authority to the Governor to "suspend the provisions of any regulatory statute prescribing the procedures for conduct of state business or orders or rules of any state agency if the strict compliance with the provisions of any statute, order, or rule would in any way prevent, hinder, or delay necessary action in coping with the emergency or disaster." Further, the statute authorizes the Governor to "control ingress and egress to and from an incident or emergency or disaster area, the movement of persons within the area, and the occupancy of premises within the area." Section 10-3-104(2)(c), MCA.

In addition, Montana's public health laws authorize the Department of Public Health and Human Services (DPHHS or Department), acting under the Governor's direction, to "issue written orders for correction" of "conditions of public health importance," to "prevent and mitigate conditions of public health importance" through measures including "isolation and quarantine" and "abatement of public health nuisances." Section 50-1-202, MCA. The Department, under the Governor's direction, may take action to correct public health deficiencies in "buildings or facilities where persons assemble." Section 50-1-203, MCA. The Department, under the Governor's direction, is also authorized to impose quarantine and isolation measures to protect public health. Section 50-1-204, MCA. Montana law provides that these authorities will be utilized to respond to an "outbreak of disease," § 10-3-103(4), MCA, and to "limit the transmission of the communicable disease." *See, e.g.*, § 50-1-101(6), MCA.

On March 15, 2020, I issued a Directive closing non-residential public schools in Montana through March 27. On March 24, I extended non-residential public school closures through April 10 by Directive. The March 24 Directive also closed certain on-premises dining and beverage businesses while expanding and encouraging delivery, takeout, and drive-up options through April 10. On March 26, 2020, I issued a Directive providing that, to the maximum extent possible, all individuals stay at their home or place of residence unless engaging in certain essential activities or functions through April 10. This Directive also required the temporary closure of non-essential businesses, provided social distancing requirements, and limited non-essential travel. On March 30, I issued a Directive limiting evictions, foreclosures, and disconnections through April 10. On March 30, I also issued a Directive requiring a 14-day self-quarantine for individuals arriving in Montana for non-work-related

travel through April 10. On April 7, I extended these Directives through April 24. I also issued a Directive providing additional guidance related to evictions and providing a rent assistance program on April 13, effective through April 24. I have also issued other Directives that, unlike these, are effective for the duration of the state of emergency.

Montana's response to COVID-19 has been necessary to slow the spread of new infections. These efforts have been effective. To date, our health care system has not been overwhelmed and we continue to work to increase our testing capacity. Through the collective efforts of all Montanans to reduce the transmission of COVID-19, Montana now has one of the lowest per capita rates of infection in the United States. Accordingly, this Directive provides guidelines for a phased reopening of Montana.

I have developed this approach based on scientific evidence and data, and in consultation with public health experts, healthcare providers, business leaders, and emergency management professionals. This phased approach is based on up-to-date data and statewide preparedness. It mitigates the risk of resurgence. It protects the most vulnerable. It can be implemented on a statewide, tribal, or county-by-county basis. And it contains the ability to adjust phases based on local or regional conditions.

Local officials should coordinate on a regional basis and continue to assess the conditions in their jurisdictions. As with prior Directives, nothing in this Directive prohibits local public health authorities from adopting more restrictive approaches based on local need.

This is the first step in Montana's reopening. I stress, however, that individual responsibility—such as good hygiene and strict adherence to social distancing—remains Montana's best tool in the fight against new infections. This Directive is not an invitation to forget the lessons that Montana has learned in its fight against COVID-19 these past months. Rather, it is a framework to apply those lessons as we move toward a new normal. In so doing, we must continue to place a special emphasis on protecting those in Montana most vulnerable to complications from COVID-19. That crucial work demands a collective effort by all Montanans. By continuing to take these measures seriously, we protect our family, friends, and neighbors as Montana begins to emerge from its initial encounter with COVID-19.

In consultation with public health professionals, healthcare providers, business leaders, and emergency management professionals, I have determined that the phased reopening approach described in this Directive is necessary in coping with and responding to the emergency.

Therefore, in accordance with the authority vested in me under the Constitution, Article VI, Sections 4 and 13, and the laws of the State of Montana, Title 10, Chapter 3 and Title 50, Chapter 1, MCA, and other applicable provisions of the Constitution and Montana law, I hereby direct the following measures be in place in the State of Montana effective immediately, except where specified:

Stay at Home Directive to Expire

- As detailed in this Directive, the Stay at Home Directive is extended <u>for individuals</u> until Sunday, April 26 and <u>for non-essential businesses</u> until Monday, April 27, except as provided herein (*e.g.*, bar and restaurant closures extended to May 4).

- This Directive supersedes the Stay at Home Directive and any other gubernatorial Directive, to the extent there is any conflict.

Other Directives to Continue

- The March 30 Directive providing mandatory quarantine for certain travelers arriving in Montana from another state or country and all of its terms are extended through the end of the emergency, unless modified by subsequent Directive.

- The March 30 and April 13 Directives providing measures to limit foreclosures, evictions, and disconnections from service and all of their terms are extended through May 24, unless modified by subsequent Directive, except as follows:
  - For individuals who are members of a vulnerable population and who, pursuant to this Directive, remain sheltered at home, the protections of the March 30 and April 13 Directives will expire 30 days after the individual ceases to shelter at home or at the end of the emergency, whichever is sooner.
  - The rent assistance program remains in effect for the duration of the emergency.

- All Directives set to expire at the end of the emergency retain their effective date and terms except to the limited extent their provisions are in conflict with the terms of this Directive.

Progression Between Phases

- The approach to reopening Montana will occur in phases, beginning under this Directive with Phase One.

- 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 the ability for public health professionals to monitor new cases adequately and conduct contact tracing. Hospitals must maintain the ability to treat all patients safely, both COVID-19 patients and those with other health conditions. Montana must maintain its ability to screen and test all people with COVID-19 symptoms and maintain sufficient levels of personal protective equipment.

- Negative indicators in these areas may result in the need to re-implement certain restrictions or take other protective measures.

Guidance Applicable to All Phases

- Individuals should continue to practice good hygiene by adhering the following guidelines:
  - Wash your hands with soap and water or use hand sanitizer, especially after touching frequently used items or surfaces.
  - Avoid touching your face.
  - Sneeze or cough into a tissue, or the inside of your elbow.
  - Disinfect frequently used items and surfaces as much as possible.
  - 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).

- People who feel sick should stay at home.
  - Do not go to work or school.
  - Contact and follow the advice of your medical provider.
  - Follow local health department guidance on isolation and quarantine.

- Employers should:
  - Develop and implement appropriate policies, in accordance with federal, state, and local regulations and guidance, and informed by industry best practices, regarding:
    - Social distancing and protective equipment.
    - Temperature checks and/or symptom screening.
    - Testing, isolating, and contact tracing, in collaboration with public health authorities.
    - Sanitation.
    - Use and disinfection of common and high-traffic areas.
  - Monitor workforce for indicative symptoms. Do not allow people with symptoms of COVID-19 to work.
  - 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

- The Stay at Home Directive is extended for individuals until April 26. Effective Sunday, April 26:
  - All vulnerable individuals should continue to follow the stay at home guidance.
    - 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.
    - "Vulnerable Individuals" is 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.
  - All individuals, apart from members of a household, should:
    - When in public (*e.g.*, parks, outdoor recreation areas, shopping areas), maintain at least six feet of physical distance from others.
    - Avoid gathering in groups of more than 10 people in circumstances that do not readily allow for appropriate physical distancing.
    - Minimize non-essential travel and adhere to Montana guidelines regarding quarantine.

Phase One: Employers

- Except as otherwise specified in this Directive, the mandatory closure of non-essential businesses provided in the Stay at Home Directive is extended until April 27.
  - Following the expiration of the Stay at Home Directive, businesses are no longer designated essential or non-essential, except as otherwise provided in this Directive.

- Effective Monday, April 27, employers should:
  - Continue to encourage telework whenever possible and feasible with business operations.
    - 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.
  - Close common areas where personnel are likely to congregate and interact, or enforce strict social distancing protocols.

- Minimize non-essential business travel.
- Make special accommodations for members of a vulnerable population or those with vulnerable household members.

- Businesses that reopen must adhere to the reopening guidelines for Phase One provided in Appendix A, attached.

Phase One: Specific Types of Employers/Activities

- Effective Sunday, April 26:
  - Places of worship can become operational with reduced capacity and where strict physical distancing protocols can be maintained between non-household members.
    - Places of worship should avoid gathering in groups of more than 10 people in circumstances that do not readily allow for appropriate physical distancing.

- Effective Monday, April 27:
  - Main Street and retail businesses can become operational with reduced capacity and where strict physical distancing protocols can be maintained.
    - Businesses that reopen must adhere to the reopening guidelines for Phase One provided in Appendix A, attached.
  - Outdoor recreation can become operational if sites adhere to strict physical distancing between groups and exercise frequent sanitation protocols if public facilities are open.
    - Individuals and businesses engaged in outdoor recreation must adhere to the outdoor recreation guidelines for Phase One provided in Appendix A, attached.
  - Organized youth activities can consider becoming operational if physical distancing guidelines can be implemented.
    - Organized youth activities should avoid gathering in groups of more than 10 people in circumstances that do not readily allow for appropriate physical distancing.

- Effective Monday, May 4:
  - Restaurants, bars, breweries, distilleries, and casinos can become operational on or after May 4, 2020 under strict physical distancing and reduced capacity protocols in accordance with State guidelines.
    - These businesses will be required to close their doors and have all patrons out by 11:30 p.m. Breweries and distilleries shall follow existing laws on closing time.
    - The expansions for delivery and takeout services, as provided both in the March 24 and March 26 Directives, are extended through the end of the emergency.
    - In addition, restaurants, bars, breweries, distilleries, and casinos that reopen must adhere to the general and specific guidelines provided in Appendix A, attached.

- Effective immediately through the end of the emergency, unless modified by subsequent Directive:
  - Gyms, pools, and hot tubs remain closed.
  - Other places of assembly remain closed (*e.g.*, movie and performance theaters, concert halls, bowling alleys, bingo halls, and music halls).
  - Senior living or assisted living facilities must continue to prohibit visitors. Those who do interact with residents and patients must ensure strict protocols regarding hygiene and protection are followed.

        - This includes daily screening of staff for symptoms and preventing ill workers from working.
    - Child care facilities can remain operational but should follow state and local guidelines regarding operational levels and occupancy. The operational requirements in the April 1, 2020 Directive on child care remain in effect.

Local Control of School Closure Beginning May 7

- All non-residential public schools are closed through May 6 and will continue to be eligible for a waiver of pupil-instruction time and receive associated state funding through the funding mechanism described in prior Directives.

- Beginning May 7, all schools have the option to return to in-classroom teaching delivery, at the discretion of local school boards.
    - The intent of this provision is to allow local control over decisions about the provision of quality public education to students in Montana, while assuring that school districts will continue to receive full funding support from the state to provide learning.
    - The mechanism for a gubernatorial waiver of student-instruction time will expire.
    - However, nothing in this Directive prevents a local school board from declaring a local emergency as provided in § 20-9-806, MCA. Local boards and their districts that do so will continue to receive all state funding, including transportation funding.

- The State recognizes that if a school reopens for in-person instruction, reopening will require the district to make adjustments and create plans, policies, and procedures. Schools that plan to reopen should consult the school reopening guidelines provided in Appendix A, attached.

- In addition, if schools plan to reopen they should consider:
    - Implementing an alternative educational delivery model that includes a mix of in-person and remote learning.
    - Providing focused individual education, especially for at-risk students.
    - How to reconnect and meet the educational needs of students who fall behind in a remote learning environment.
    - The importance of maintaining the connection between students, teachers, and parents.
    - The important role that schools play in the health of students, families, and communities.
    - Graduation environments that can meet the social distancing requirements.

Directive Is Public Health Order and Enforceable By County Attorney

- This Directive, along with any prior Directive that implements and references the public health authorities of the Department of Public Health and Human Services (DPHHS) provided in Title 50, constitutes a "public health . . . order[]" within the meaning of § 50-1-103(2), MCA, and is enforceable by the Attorney General, DPHHS, a county attorney, or other local authorities under the direction of a county attorney.

Local Public Health Agencies to Assist in Administration of this Public Health Order

- Local public health agencies are directed to assist in the administration of this Directive, consistent with § 50-1-202(2)(a), MCA.

Less-Restrictive Local Ordinances Preempted

- This Directive is in effect statewide in Montana. In the interest of uniformity of laws and to prevent the spread of disease, all inconsistent emergency county health ordinances are preempted by this Directive, but only to the extent they are less restrictive.

Authorities: Sections 10-3-103, -104, -302, and -305, MCA; §§ 50-1-202, -203, and -204, MCA; 37 A.G. Op. 132 (1978); Executive Orders 2-2020 and 3-2020; Montana Constitution, Art. VI, Sections 4 and 13; and all other applicable provisions of state and federal law.

Limitations

- This Directive is effective immediately and expires at the end of the emergency, except where specified.
- This Directive shall be implemented consistent with applicable law and subject to the availability of appropriations.
- Nothing in this Directive shall be construed to limit, modify, or otherwise affect the authority granted by law to the Governor, any department, agency, political subdivision, officer, agent, or employee of the State of Montana except as expressly provided in this Directive or other Directives now in effect implementing Executive Orders 2-2020 and 3-2020.
- If any provision of this Directive 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 Directive, which can be given effect without the invalid provision or application. To achieve this purpose, the provisions of this Directive are declared to be severable.
- This Directive 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 State of Montana, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

School Reopening Considerations

CLEANING AND SANITATION

- Frequent disinfecting of door handles, desks and other common spaces.
- Require handwashing in regular intervals.
- Keep libraries, gyms, and playgrounds off limits unless they can be sanitized between groups.
- Provide hand sanitizer.

SICK POLICIES

- Implement temperature checks and / or symptom screening when practical.
- Require anyone (students or staff) with COVID-19 symptoms to stay home.

LIMIT CLASS SIZES

- Consider breaking larger classes into smaller groups.
- Students may alternate school days or attend for half days.

School Reopening Considerations Continued

MAINTAIN SOCIAL DISTANCE

- Consider use of face coverings by all staff and students
- Keep students with the same group and in the same classroom, with teachers rotating when practical.
- Consider students eating lunch in the classroom to help limit mixing of students.
- Cancel extracurricular activities.
- Prevent any non-school staff, including parents, from entering school buildings.
- Consider reducing bus loads to allow for one student per seat.

GRADUATION CEREMONIES

- Provide a live stream of graduation
- Consider limiting spectator attendance
- For larger schools, consider grouping graduates or providing multiple ceremonies
- Follow social distancing between families

School Reopening Considerations Continued

ACCOMODATIONS for students, teachers, and staff in an at-risk group:

- Schools that reopen will need to take into consideration that some teachers and staff will fall into the at-risk category because of their age or other health risks. These individuals should have additional accommodations including: teaching classes remotely, utilizing a larger classroom where social distancing can be maintained, or given an option not to return until the risks are reduced.
- Students who are high risk or who have family members who are high risk should not be penalized for failing to attend and should continue to receive remote support.
- Accommodations should also be extended to students and staff who are required to quarantine due to exposure or potential exposure.

CONFIRMED or **SUSPECTED** case of COVID-19

- Collaborate with public health to ensure each school has a plan for reporting, contact tracing and both short-term or extended closures in the case of a positive COVID case related to the school or community.
- Utilize CDC guidelines https://www.cdc.gov/coronavirus/2019-ncov/community/schools-childcare/guidance-for-schools.html

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.