



PUBLIC HEALTH EMERGENCY ORDER NO. 20-10
FOR
THE CITY OF LEWISTON
PHYSICAL DISTANCING AND FACE COVERINGS
November 20, 2020

WHEREAS, on March 11, 2020, the World Health Organization declared the worldwide outbreak of the 2019 novel coronavirus (COVID-19) a pandemic;

WHEREAS, on March 13, 2020, the President of the United States issued an emergency declaration for the country in response to the increasing number of COVID-19 cases within the U.S.;

WHEREAS, on March 13, 2020, Idaho Governor Brad Little declared a state of emergency for the State of Idaho in response to concerns that cases of COVID-19 were imminent in Idaho;

WHEREAS, on March 17, 2020, Mayor Michael Collins, with the approval of the City Council, through Resolution 2020-14, declared a local disaster emergency exists in the City of Lewiston due to the occurrence and imminent threat to public health and safety arising from the effects of COVID-19 and appointed the Lewiston City Manager as the Director of Civil Defense;

WHEREAS, on June 11, 2020, Governor Little entered, in conjunction with the Idaho Department of Health and Welfare Guidelines of the Director, guidelines titled "State of Idaho, Idaho Department of Health and Welfare Stay Healthy Guidelines," with an effective date of June 13, 2020, providing guidelines for reopening certain business and permitting certain activities in Stage 4 of the State's reopening plan ("Stay Health Guidelines - Stage Four");

WHEREAS, on October 27, 2020, Governor Little issued a statewide Stay Healthy Order returning the State of Idaho to Stage Three of the statewide reopening plan because of the increased spread of COVID-19 within the State of Idaho;

WHEREAS, on November 14, 2020, Governor Little issued a statewide Stay Healthy Order returning the State of Idaho to Stage Two of the statewide reopening plan because of the increased and rapid spread of COVID-19 within the State of Idaho;

WHEREAS, the risk of widespread community transmission throughout the City of Lewiston impacts the life and health of the public and imperils public health by the person-to-person spread of COVID-19;

WHEREAS, it is, therefore, necessary to reduce opportunities for the person-to-person transmission of COVID-19 to combat the spread of the disease;

WHEREAS, the Department of Health and Human Services Centers for Disease Control and Prevention (“CDC”) and the White House have recommended practices to prevent the rapid spread of COVID-19, which recommendations include that people wear face coverings in public settings, especially when other physical distancing measures are difficult to maintain;

WHEREAS, the Public Health—Idaho North Central District (“PH-INCD”) reports a significant increase in confirmed cases of COVID-19 in Nez Perce County on November 18, 2020 with 1,942 combined confirmed and probable cases and 27 deaths, 7-day average incidence rate of 1.2%, doubled from the beginning of the month and over 25 times the national average, and a cumulative incidence rate of 1 in 21, which could increase to 1 in 8 by year’s end at current rates, resulting in Nez Perce County being placed at Stage Two;

WHEREAS, there is a continuing and urgent need to protect all residents of the City of Lewiston from the risks related to the COVID-19 pandemic through the protection provided by wearing face coverings;

WHEREAS, the Lewiston City Council finds it necessary to implement a requirement to wear face coverings under certain circumstances to build on and strengthen the strategies of PH-INCD, the CDC, and the State of Idaho to protect the health, safety, and welfare of the citizens of Lewiston;

WHEREAS, the Idaho Constitution Article XII, § 2 authorizes cities to make and enforce local police, sanitary, and other regulations;

WHEREAS, pursuant to Idaho Code § 50-304, the City of Lewiston may pass all ordinances and make all regulations necessary to preserve the public health; prevent the introduction of contagious disease into the City; and make quarantine laws for that purpose and enforce the same within five (5) miles of the City;

WHEREAS, pursuant to Idaho Code § 50-811(1), the City Manager of the City of Lewiston possesses such powers as are vested in a mayor, as provided in Idaho Code § 50-606;

WHEREAS, pursuant to Idaho Code § 50-606, a mayor has jurisdiction as may be vested in him by ordinance for the enforcement of any health or quarantine ordinance and regulation thereof; and

WHEREAS, pursuant to Lewiston City Code § 12-20(a)(2), the Director of Civil Defense, upon a declaration of public health emergency, has the authority to issue public health orders to establish measures to be taken in order to prevent, avoid, detect, address or mitigate a public health emergency; and

WHEREAS, pursuant to Lewiston City Code § 12-20(a)(3), the Director of Civil Defense, upon a declaration of public health emergency, has the authority to issue a physical distancing order.

NOW, THEREFORE, I, Alan Nygaard, City Manager and Director of Civil Defense of the City of Lewiston, by virtue of the authority vested in me by Lewiston City Code § 12-20(a)(2) and (3), hereby order as follows:

1. **Definitions:** For purposes of this Order:
 - a. "Household Members" means people who: (a) reside in the same residence, regardless of familial relation; and (b) enter a residence to provide a caretaking function.
 - b. "Face Covering" means: (a) a cloth, paper, or disposable face covering that completely covers a person's mouth and nose; or (b) a clear, plastic face shield that covers a person's forehead, extends below the person's chin, and wraps around the sides of a person's face.
 - c. "Public Place" means any place open to all members of public without specific invitation, including, but not limited to, retail business establishments; restaurants; bars; government offices; medical, educational, arts, and recreational institutions; and public transportation, including public buses, taxi cabs, ridesharing vehicles; City of Lewiston parks; and other outdoor public spaces.
2. **Physical Distancing Required:** Every person in the City of Lewiston, when in a Public Place, shall maintain at least six (6)-foot physical distancing from non-Household Members, whenever possible.
3. **Face Coverings Required:** Every person in the City of Lewiston shall wear a Face Covering when in any indoor or outdoor Public Place where six (6)-foot physical distancing is not able to be maintained with non-Household Members, except as set forth herein.

- a. Exemptions: The requirement for wearing a Face Covering shall not apply to the following:
- i. Children under the age of five (5); provided that the City strongly recommends such children wear Face Coverings when in a Public Place where six (6)-foot social distancing cannot be maintained, with the assistance and close supervision of an adult.
 - ii. Persons with a medical condition, mental health condition, or disability that prevents wearing a Face Covering. Documentation demonstrating that one of these exceptions applies shall not be required.
 - iii. Persons who are Deaf/Hard of Hearing, or who are communicating with a person who is Deaf/Hard of Hearing, where the ability to see the mouth is essential for communication; provided, however, the City strongly recommends that such persons wear a clear face shield if doing so would not impede communication.
 - iv. Persons, including on-duty first responders, for whom wearing a Face Covering would create a risk to the person related to their work, as determined by local, state, or federal regulators or workplace safety guidelines.
 - v. Persons who are obtaining a service involving the nose, face, or head for which temporary removal of the Face Covering is necessary to perform the service.
 - vi. Persons who are eating or drinking at a restaurant or other establishment that offers food or beverage service, so long as the person is able to maintain a distance of six (6) feet away from non-Household Members.
 - vii. Persons who are incarcerated.
 - viii. Circumstances where local, state, or federal law prohibits wearing a Face Covering or requires the removal of a Face Covering.
 - ix. Circumstances where there is a need to confirm a person's identity.

4. **Notice of Order:** A copy of this Order shall be posted on or near the front door of Lewiston City Hall, on the City's website, and on the City's social media accounts. Additionally, a copy of this Order shall be e-mailed to all persons subscribed to the City's e-mail notification services and provided to the Lewiston City Council, the City Attorney, the Fire Chief, the Chief of Police, the Nez Perce Board of County Commissioners, the Nez Perce County Sheriff, the Nez Perce County Prosecutor, the Director of the Idaho Public Health North Central District, and all news media that have requested notification of such order.
5. **Enforcement and Penalty:** In accordance with Lewiston City Code § 12-20(a)(2) and (3) and § 12-20(f), violation of any provision of this Order is punishable by a civil monetary penalty, and each day a violation occurs shall be considered a separate offense. The civil monetary penalty for a violation of this Order shall be as follows: (a) first offense: Fifty Dollars (\$50), (b) second offense: One Hundred Fifty Dollars (\$150), (c) third offense: Two Hundred Fifty Dollars (\$250), (d) fourth offense: Three Hundred Fifty Dollars (\$350), and (e) every offense thereafter: Three Hundred Fifty Dollars (\$350).
6. **Appeal:** This Order may be appealed as provided in Lewiston City Code § 12-20(g).
7. **Governing Language:** If this Order is in conflict with any official action of any agency or official that has jurisdiction over the City of Lewiston, then the most protective and restrictive requirement shall govern, unless prohibited by an applicable State of Idaho or federal statute or rule.
8. **Severability:** To the extent any provision of this Order or its application to any person or business is held to be invalid, the remainder of this Order, including any application thereof, shall remain in full force and effect. To this end, provisions of this Order are severable.
9. **Duration of Order:** This Order shall take effect at 12:00 a.m. on November 21, 2020 and shall remain in effect until 11:59 p.m. on January 25, 2021, or until it is rescinded, superseded, or amended, or until the City of Lewiston Declaration of Local Disaster Emergency is terminated, whichever occurs first.

ISSUED this 20th day of November 2020.

DIRECTOR OF CIVIL DEFENSE



Alan Nygaard, City Manager, City of Lewiston