



LINCOLN-LANCASTER COUNTY HEALTH DEPARTMENT Directed Health Measures 2021-17

WHEREAS, pursuant to NEB. REV. STAT. § 71-501, NEB. REV. STAT. § 71-1630(4)(d)(iii), and Chapter 8.18 of the Lincoln Municipal Code, and Lancaster County Resolution No. R-07-0035, the Director of the Lincoln-Lancaster County Health Department (“Director”) may exercise her authority to order Directed Health Measures necessary to prevent or minimize the spread of communicable disease. The objectives of this order are to reduce morbidity and mortality; minimize disease transmission; protect health care personnel, and preserve health care system functioning; and,

WHEREAS, The Novel Coronavirus (“COVID-19”) has impacted and continues to dramatically impact the citizens of Lincoln and Lancaster County, Nebraska; and,

WHEREAS, Patricia D. Lopez has been appointed and confirmed as the Health Director of the Lincoln-Lancaster County Health Department (“LLCHD”); and,

WHEREAS, Pursuant to NEB. REV. STAT. § 71-501, the LLCHD is authorized to promulgate rules and regulations concerning contagious, infectious, and malignant diseases in Lincoln and Lancaster County; and,

WHEREAS, Pursuant to NEB. REV. STAT. § 71-1630(4)(d)(iii), the Health Director is authorized to investigate the existence of any contagious or infectious disease and adopt measures to arrest the progress of the disease; and,

WHEREAS, Pursuant to Lincoln Municipal Code § 8.18.140 and Lancaster County Resolution No. R-07-0035, the Health Director may order the closure of, or restrict access to, any business, office, healthcare facility, school, or government agency or department for the purpose of controlling the spread of disease or for any activity related to controlling the spread of disease, and the Health Director may adopt any other control measures which are consistent with applicable guidelines of a public sector partner, emergency management agency, and any other applicable laws and regulations; and,

WHEREAS, having reviewed information from the U.S. Department of Health and Human Services Centers for Disease Control and Prevention (“CDC”), local public health departments, treating health care providers and health care facilities, and other public health, security, and law enforcement authorities; having consulted with medical and communicable disease control personnel of the LLCHD; and having considered directives and guidelines issued by the CDC and other public health authorities, the Health Director finds as follows:

1. Information from the World Health Organization, the CDC, the LLCHD, local public health departments throughout Nebraska, and members of the Lincoln and Lancaster County medical community indicates that citizens of Lincoln and Lancaster County have been and will continue to be exposed due to community transmission of COVID-19.
2. Exposure to COVID-19 presents a risk of death or serious long-term disabilities; the exposure is wide-spread and poses a significant risk of harm (including death) to people in the general population; there is a particular subset of the population that is more vulnerable to the threat and thus at increased risk; and the threat is from a novel infectious disease.
3. Directed Health Measures (“DHM”) exist to effectively prevent, limit, and slow the spread of COVID-19 amongst the citizens of Lincoln and Lancaster County and implementation will continue to curtail unnecessary in-person interaction, which is the main means of transmission of COVID-19.
4. The continued enforcement of DHM is necessary due to the threat posed to members of the public if people gather in large numbers, in close proximity to each other, and in enclosed spaces, thereby increasing the danger to public health.
5. The manner in which the spread of COVID-19 cases in Lincoln and Lancaster County has occurred poses unacceptable risks to the health and welfare of the citizens of Lincoln and Lancaster County and continued DHMs are necessary to continue to prevent or limit the transmission of COVID-19.
6. Not having effective DHM targeted at current circumstances would significantly jeopardize the ability to prevent or limit the transmission of COVID-19 or pose unacceptable risks to members of the Lincoln and Lancaster County community.
7. Maintaining practices to mitigate the spread of COVID-19 including, but not limited to, maintaining six (6) feet of physical distancing between individuals and/or parties of eight (8) or fewer, and wearing face coverings which cover the mouth and nose, are necessary to continue slowing the spread of COVID-19.
8. Director Dr. Robert R. Redfield of the CDC, as well as the Lancaster County Medical Society Board, have concluded the wearing of face coverings by every individual while in public is one of the best methods to slow and stop the spread of COVID-19.
9. The American Academy of Pediatrics has determined education is fundamental to child and adolescent development and well-being and strongly advocates that all policy considerations for the school year should start with a goal of having students physically present in school, and to be able to open schools safely, it is vitally important that communities take all necessary measures to limit the spread of

COVID-19.

10. Nebraska's Chief Medical Officer, Dr. Gary Anthonie, has previously indicated the State of Nebraska has seen increases in hospitalizations related to COVID-19 which had the potential of stressing the state's healthcare workforce and facilities.
11. Hospital capacity, as defined by both available inpatient beds and adequate staffing, within Lincoln and Lancaster County remains limited.
12. The following DHM have been identified as effective against public health threats by the CDC and other similar public health authorities to effectively prevent, limit, or slow the spread of COVID-19.

THEREFORE, the following Directed Health Measures ("DHM") supersedes previous Lincoln-Lancaster County Health Department Directed Health Measures 2020-16, and are hereby ordered for the City of Lincoln and Lancaster County, Nebraska, effective on January 22, 2021, at 12:01 a.m. and continuing until February 21, 2021, at 11:59 p.m. unless renewed, extended, or terminated by subsequent order; however, this Order will remain in effect no longer than necessary to ensure that COVID-19 no longer poses a public health threat, and all persons are ordered to comply:

- 1) Gatherings are hereby prohibited.

A Gathering, except as otherwise set forth herein, is defined as any event or convening that brings together the greater of: more than ten (10) patrons, customers, attendees, participants, or other invitees ("Patrons"), excluding staff; or, more individuals than 50% of the rated occupancy allowed (not to exceed 10,000 people), as determined by the City of Lincoln Building and Safety Department, in a single room or single space at the same time, including but not limited to, auditoriums, stadiums, arenas, large event conference rooms, meeting halls, theaters, libraries, or any other confined indoor space; or 75% of the rated occupancy allowed (not to exceed 10,000 people) by the City of Lincoln Building and Safety Department in any confined outdoor space.

The prohibitions on Gatherings does not apply to normal operations at private and public educational institutions or school districts during any in-person education, airports, bus and train stations, health care facilities and services (as defined in the Health Care Facility Licensure Act NEB. REV. STAT. §§ 71-401 to 71-475), other mental health and/or substance use treatment day programs which are not required to be licensed (such as Day Rehabilitation or Day Treatment), shopping malls and centers, or other spaces where ten (10) or more persons may be in transit. It also does not include typical office environments, factories, or retail or grocery stores

where large numbers of people are present, but it is typically unusual for them to be within six (6) feet of one another. It also does not include events at which members of the media may need to be present, courts of law, public utilities, state, county, and city operations, election offices and polling places on election day, logistics/distribution centers, family residences, or religious services. It also does not include businesses that are subject to capacity restrictions as described in paragraphs (2) – (6).

Any indoor or outdoor venue with a rated occupancy of five hundred (500) individuals or more, as determined by the City of Lincoln Building and Safety Department, holding any convening of Patrons, regardless of the number, in the venue (“Event”) shall submit an Event Application Plan to the LLCHD. No Event shall take place until the LLCHD has approved the Event Application Plan.

At any convening the organizer shall ensure there will be a minimum distance of six (6) feet between all Patrons or between individual groups of Patrons; and in no case shall there be any one individual group larger than eight (8) Patrons allowed at any time.

Any organization (public or private) conducting any extracurricular activities for school aged children in grades K-12 (“K-12 children”), including but not limited to rehearsals, recitals, activities, practices, games, or competitions, ("Activity") shall submit a LLCHD approved K-12 Activity Plan prior to any Activity taking place. The Activity Plan shall include the organization specifying an adult Organizer (or Organizers), including but not limited to a coach, leader, or sponsor, to account for compliance by K-12 children and spectators with these DHMs during any Activity.

Every Organizer of an Activity shall:

- A. Require all individuals present during the Activity, including spectators, to wear a face covering over their mouth and nose at all times. Face coverings may be removed by Activity participants only if approved in the LLCHD Activity Plan, and when they are actively engaged in the Activity and not at rest;
- B. Limit each Activity participant to have no more than two (2) spectators present, unless otherwise approved by LLCHD as part of the Activity Plan, at any Activity;
- C. Ensure there will be a minimum distance of six (6) feet between all spectators or groups of spectators, and no more than eight (8) spectators are in any single group during an Activity; and,

- D. Require all Activity participants to immediately inform the Organizer if the participant has received a lab confirmed diagnosis of COVID-19.

Any Organizer of an Activity that becomes aware of two (2) or more positive cases of COVID-19 within the last seven (7) days amongst its participants shall immediately notify and cooperate with the LLCHD.

Any owner of a venue hosting a K-12 child Activity, including but not limited to school and club sponsored events, shall:

- A. Name a specific individual who will be present during and account for compliance with these DHMs during an Activity;
- B. Require all individuals present during the Activity, including spectators, to wear a face covering over their mouth and nose at all times. Face coverings may be removed by Activity participants only if approved in the LLCHD Activity Plan, and when they are actively engaged in the Activity and not at rest;
- C. Limit each Activity participant to have no more than two (2) spectators present, unless otherwise approved by LLCHD as part of the Activity Plan, at any Activity;
- D. Ensure there will be a minimum distance of six (6) feet between all spectators or groups of spectators, and no more than eight (8) spectators are in any single group during an Activity; and,
- E. Not allow sales of concessions during any Activity.

- 2) Food, liquor, beer, and wine sales at licensed restaurants, bars, taverns, private clubs, or other type of business regardless of name or characterization (“Establishments”) are restricted to no more than 50% of the rated maximum occupancy as established by the City of Lincoln Building and Safety Department, while maintaining six (6) feet of separation between groups of Patrons. In addition, if the Establishment has outdoor dining, the outdoor space shall be restricted to no more Patrons than the rated maximum occupancy for the outdoor dining area while maintaining six (6) feet of separation between groups of Patrons. Outdoor dining shall be in addition to indoor dining. In lieu of six (6) feet of separation, a solid barrier that will sufficiently prevent droplet spread between groups of Patrons may be utilized.

Owners of Establishments shall ensure in all indoor and outdoor areas:

- A. Patrons/parties are seated at individual tables only and, that Patrons/parties are a minimum of six (6) feet apart from other Patrons/parties, with no more than eight (8) individuals per party; and,
- B. Patrons remain seated in their seats unless ordering food and/or beverages, are engaged in the play of arcade games, billiards, or other entertainment devices, or are utilizing restrooms; and,
- C. Any Establishment with arcade games, billiards, or other entertainment devices (“Game”) shall ensure there will be no more than eight (8) Patrons congregating at any one (1) time around a single Game, ensure Patrons participating in any Game shall wear a face covering over their mouth and nose, and shall perform heightened cleaning and disinfection of the high touch surfaces, including but not limited to controllers, buttons, pool sticks, cues, and balls, at regular intervals; and,
- D. Establishment Employees shall wear a face covering over their mouth and nose and abide by all other Requirements contained in Appendix 1 - Requirements and Guidance for Restaurant In-Room Dining.

Carryout, drive-through, and delivery are permitted. Lines for drive-through and carry-out in the above-referenced Establishments shall have an environment where Patrons and staff can maintain six (6) feet of separation between all individuals.

This section does not apply to food service in health care facilities.

Operators of any type of vehicle or conveyance which is permitted by Nebraska law to otherwise allow consumption of alcohol while on city streets, county roads, or state highways, including but not limited to limousines, special party buses, or pedal-pub vehicles, may operate at 50% of normal capacity. Operators shall maintain a list of all passengers for twenty-one (21) days after passage and provide that list to the LLCHD immediately upon request.

- 3) Barber Shops, Barbers, Cosmetology Establishments, Cosmetologists and Estheticians, Body Art Facilities, and Massage Therapists shall abide by the restriction against gatherings and ensure a minimum distance of six (6) feet shall be maintained between all workstations or areas occupied by Patrons. Employees and Patrons shall wear face protection that covers the mouth and nose at any time Patrons are present in the Establishment and shall abide by all other Requirements contained in Appendix 2 - Requirements and Guidance for Barber Shops, Cosmetology Establishments, Body Art Facilities, and Massage Therapists.

4) Childcare (whether in-home or facilities) shall operate under the following conditions:

A. Childcare shall be carried out in groups according to the State of Nebraska Department of Health and Human Services Directed Health Measure 2020—LLHD-019.

B. If more than one (1) group of children is cared for at one (1) facility, each group shall be in a separate room which is separated by either physical walls or sufficient airspace. Each subdivided area may contain one (1) group of children. To the extent possible, groups shall not mix with each other.

C. To the extent possible, childcare providers shall remain solely with the same group of children daily. If childcare providers always wear facial coverings that cover their nose and mouth, they may work with different groups of children.

D. Childcare Facilities shall abide by all other Requirements contained in Appendix 3 - Requirements and Guidance for Child Care Facilities.

5) Gyms, fitness centers/clubs, health clubs, health spas, martial arts studios, and gymnastics gyms (“Facility”) will be limited to the greater of ten (10) people (excluding staff) or 50% of rated occupancy as established by the City of Lincoln Building and Safety Department. Indoor team (defined as two (2) or more Patrons) Contact or Limited-Contact Sports (as classified by the Nebraska Department of Health and Human Services Statewide Sports Reopening Guidelines updated June 19, 2020) (“Sporting Activity”) are allowed; however, the Facility shall:

A. Require all individuals present during the Sporting Activity, including spectators, to wear a face covering over their mouth and nose at all times. Face coverings may be removed by Participants when they are actively engaged in the Sporting Activity and not at rest;

B. Limit each Sporting Activity Participant to have no more than four (4) spectators present at any sporting activity;

C. Ensure there will be a minimum distance of six (6) feet between all spectators or groups of spectators, and no more than eight (8) spectators are in any single group during a Sporting Activity;

D. Require all Sporting Activity Participants to immediately inform the Facility if the Participant has received a lab confirmed diagnosis of COVID-19.

- E. Any Facility allowing a Sporting Activity that becomes aware of two (2) or more positive cases of COVID-19 within the last seven (7) days amongst its Sporting Activity Participants shall immediately notify and cooperate with the LLCHD.
- F. Any Facility referred to in this paragraph shall ensure a minimum distance of six (6) feet be maintained between all Patrons at all times unless engaged in a Sporting Activity.
- 6) Individual's conducting door-to-door sales shall have a current Peddler Permit as described in Lincoln Municipal Code Chapter 5.36; wear face coverings over their mouth and nose at all times while engaged in door-to-door sales; and, abide by any notice posted at an individual's residence that solicitations are not allowed.
- 7) This DHM acknowledges and neither supersedes nor takes place of the State of Nebraska Department of Health and Human Services Directed Health Measure 2020—LLHD-019 as it relates to exempting religious services, including weddings and funerals, from the requirements otherwise in place for those events. Therefore, any requirements related to religious services, including weddings or funerals, are governed by the Nebraska Department of Health and Human Services Directed Health Measure 2020—LLHD-019.
- 8) Self-service food ("Buffets") is allowed; Operators of Buffets shall provide hand sanitizer for Patrons to use prior to using utensils; and the changing of utensils at least every thirty (30) minutes.
- 9) All individuals shall wear face coverings over their mouth and nose while present in any areas open to the public in the Hall of Justice located at 575 South 10th Street, Lincoln, Nebraska, except nothing in this DHM shall require the use of a face covering by any person for whom doing so would be contrary to their health because of a medical condition.
- 10) Any individual or entity which owns or operates any premises other than a residence, including but not limited to private and public educational institutions or school districts, shall require all individuals age five (5) and older to wear a face covering over their mouth and nose while indoors unless the individual is able to and maintains at least six (6) feet of separation at all times and is not in the same room or workspace from anyone else who is not their household member, except face coverings will not be required if the individual:
- Is engaged in federal, state, or county government services in the location those services are provided;
 - Is seated at a bar or restaurant to eat or drink, or while immediately consuming food or beverages;
 - Is engaged in exercise, is not at rest, and six (6) feet of separation from others can be maintained;

- Is engaged in an occupation preventing the wearing of a face covering;
 - Is obtaining a service or purchasing goods or services that requires the temporary removal of the face covering during the service or the purchase;
 - Is giving a speech, lecture, or broadcast to an audience so long as six (6) feet of distancing from other individuals is maintained and only while said speech, lecture, or broadcast is being delivered; or,
 - Cannot otherwise wear a face covering because of a medical condition, a mental health condition, or a disability that prevents the wearing of a face covering.
- 11) Any individual who has been confirmed as having COVID-19 by a laboratory test, or who is determined to be exposed to an individual diagnosed with having COVID-19 by a laboratory test, shall cooperate with the LLCHD Communicable Disease Division contact tracing and abide by all instructions provided, including but not limited to isolation or quarantine as contemplated by Lincoln Municipal Code 8.18 and Lancaster County Resolution No. R-07-0035.
- 12) No person or entity subject to this DHM shall modify, change, delete, or add to its name, legal status, or categorization herein for the purpose of circumventing this DHM.
- 13) This DHM shall not apply to courts of law, meetings or sessions of the Nebraska Legislature; public utilities or essential federal, state, county, and city operations; congregate living settings; group homes and residential drug and/or mental health treatment facilities; shelters; airport travel; election offices; polling places on an election day; or to residences and dwelling units. However, these excepted settings shall, to the extent possible, observe physical distancing practices by providing for the maintaining of at least six (6) feet of separation between individuals and all other applicable local, state, and federal guidelines for disease prevention and disinfection of surfaces.

In the event of noncompliance with the terms of this DHM, staff from the LLCHD will aid the Health Director in inspection and enforcement. If compliance cannot be had in this manner, law enforcement will aid the Health Director in inspection and enforcement.

Failure to comply with this DHM will result in legal action for enforcement by civil and/or criminal remedies.

Pursuant to LMC § 8.18.170, any person who is found to have violated any provision of this DHM within the City of Lincoln shall be guilty of a City Misdemeanor and may be subjected to a fine of no more than five hundred dollars (\$500), or imprisonment in the county jail for a period not to exceed six (6) months, or both such fine and imprisonment. Each day that a violation of this DHM continues is punishable as a separate and distinct offense.

Any person who is found to have violated any provision of NEB. REV. STAT. § 23-174 and/or NEB. REV. STAT. § 71-506 in Lancaster County except within the limits of any incorporated city or village, and except within the unincorporated area where a city or village has been granted zoning

jurisdiction and is exercising such jurisdiction, may be guilty of a Class III misdemeanor and may be subjected to up to three (3) months imprisonment, up to a five hundred dollar (\$500) fine, or both, and/or may be guilty of a Class V misdemeanor and subject to up to a one hundred dollar (\$100) fine. Each day such violation continues after notice of violation has been given to the offender may be considered a separate offense.

In addition to any penalty sought or obtained under this DHM or other applicable law, the City or County Attorney may institute injunctive or other appropriate civil proceedings necessary to obtain compliance or to abate any nuisance resulting from violations of this DHM. Anyone subject to this DHM shall consult the Nebraska Revised Statutes, Lancaster County Resolution No. R-07-0035, or the Lincoln Municipal Code to determine their right to seek administrative and/or judicial review.

For the Lincoln-Lancaster County Health Department:

/s/ Patricia D. Lopez
Patricia D. Lopez, RN, MSN
Director

1/20/2021
Date