

Elkhart County Health Department
Public Health Order No. 05-2020

Face Covering Directive

FILED

NOV 18 2020

CLERK ELKHART
CIRCUIT COURT

The outbreak of a new coronavirus continues to cause the disease called COVID-19. COVID-19 is having a direct impact on the health and safety of Elkhart County residents. Elkhart County is experiencing record numbers of confirmed positive cases of COVID-19, higher positivity rates, and increased COVID-19 deaths. Elkhart County has recently seen an increased hospital census because of COVID-19 and has at times exceeded capacity and deferred new patients to facilities elsewhere. In order to protect public health, restrictions must be established to help curb the spread of COVID-19.

With this understanding, I hereby Order the following, effective November 19, 2020, at 12:01 AM:

A. Face Covering Directive

Every individual must properly wear a face covering over their nose and mouth when they are at:

1. an indoor area open to the public, including public transportation;
2. an outdoor public area where a distance of 6 feet from individuals outside of their household cannot be maintained; or
3. a private indoor or outdoor area where a distance of 6 feet from individuals outside of their household cannot be maintained;

unless an exemption outlined in Section B below applies or when in a private residence.

To ensure clarity, individuals in an area open to the public as identified in Section A.1 above must wear a face covering even if they believe they can maintain six feet of social distancing from others. Similarly, to avoid confusion, in addition to wearing a face covering, individuals must continue to follow the social distancing measures (e.g. maintaining six-foot separation) and sanitation measures required by the local, state, or federal government or their agencies. As such, as a result of this Order, individuals must wear a face covering when required by this order **and** follow all required social distancing measures and sanitation measures.

An adult should supervise use of face coverings by children aged 3 to 12 to avoid misuse. A face covering is a cloth, preferably with two layers of material, which fully covers the mouth and nose and is secured snugly against the sides of the face by straps, ear loops, or being wrapped around the lower face by means to prevent slipping. All face coverings worn by the general public, which are not disposed of after each use, should be washed each day it is used and made completely dry before the next use.

B. Exceptions to the Face Covering Directive

The Elkhart County Health Department recognizes that the following individuals are not required to wear a face covering as a result of this Order No. 05-2020:

1. any child aged two years or less (a face covering may cause such a child to suffocate);
2. any individual who has a signed note from their primary licensed physician advising that the individual has a medical condition, mental health condition, or disability which prevents them from wearing a face covering;
3. any individual who is deaf or hard of hearing, or communicating with a person who is deaf or hard of hearing, and needs to temporarily remove the face covering to use facial and mouth movements as a part of their communication;
4. any individual who is unconscious, incapacitated, or otherwise unable to remove the face covering without assistance;
5. any person while consuming food or drink, or is seated at a restaurant or other establishment to eat or drink;
6. any person who is in a swimming pool, lake, or similar body of water and who can maintain six (6) feet of social distancing from another person not in the same household;
7. any person obtaining a service which requires temporary removal of the face covering for security surveillance, screening, or a need for specific access to the face, such as while visiting a bank or while obtaining a health-related or personal care service involving the face, however the removal of the face covering must be temporary and limited only to the extent necessary to obtain the service;
8. any person, upon request, as part of a law enforcement investigatory stop or investigation or court-related proceeding;
9. any employee engaged in a work related activity where a face covering would serve to present or exacerbate a hazard to the person as determined by local, state, or federal workplace safety guidelines or regulators (e.g. Occupational Safety and Health Administration);
10. any person who is incarcerated, unless otherwise instructed by the incarcerating entity; and
11. any person while giving a speech for a broadcast or to an audience if the person can maintain six (6) feet of social distancing from all other persons and the area designated for the speaker is marked off to designate the speaking area, however the removal of the face covering must be temporary and limited only to the period of the speech.

C. Business and Employer Requirements

Every business and employer in Elkhart County must take the following steps to ensure that all employees and visitors of the entity comply with this Order:

1. All employers in Elkhart County must amend their COVID-19 Response Plan, first established per the mandate included in Section 4 of Executive Order 20-26 and still required

by Section 4.a of Executive Order 20-48, to require all employees and visitors to wear face coverings in accordance with this Order.

2. All businesses must post the English and Spanish version of the Order No. 05-2020 sign, which is the same as the Order No. 01-2020 sign (PDF copy will be available at <http://www.elkhartcountyhealth.org/>) at each available entrance to their building.
3. All business must continue to follow the additional requirements of any local, state, or federal government or their respective agencies.

D. Educational Institutions

All educational institutions serving any K-12 level grades that have submitted a COVID-19 reopening plan that has been reviewed by the Elkhart County Health Department without objection will be considered in compliance with the face covering directives set forth in this Order if they comply with the face covering requirements set forth in their COVID-19 reopening plan. This Section D does not modify the requirement for the general public to maintain a face covering in accordance with this Order while attending extracurricular activities.

E. Intent and Enforcement

The intent of this Order is to mandate that all people in Elkhart County, whether engaged in work activities, social activities, or everyday activities, wear a face covering, as outlined herein, to prevent the spread of COVID-19. This Order is necessary to slow the spread of COVID-19 throughout Elkhart County and protect public health.

To ensure compliance with this Order, the Elkhart County Health Department, or its designated agents, may conduct inspections of businesses and entities. The Elkhart County Health Department, or its designated agents, may initiate enforcement actions, in accordance with the incremental steps set forth below, against businesses or entities failing to comply with the directives set forth in this Order.

Upon identifying a violation, the enforcement representative will follow the following incremental enforcement steps:

1. issue a written warning outlining the type of noncompliance and providing action steps to come into compliance;
2. if noncompliance persists following the written warning, issue a citation of noncompliance and order the business to take action steps to obtain compliance;
3. if a business entity continues noncompliance despite the compliance order, the Health Officer may pursue either or both of the following courses of action:
 - a. issue an order to close the business entity;
 - b. refer the matter to legal counsel to enforce the citation and order in a circuit or superior court under Indiana Code § 16-20-1-26, with such penalties including, but not limited to, suspension or revocation of a license; appropriate remedial actions; vacation of a property; inspections; penalties up to \$2,500.00 per violation, with each noncompliant action constituting a separate and distinct violation; entering a judgment; and imposing court costs and fees.

F. Additional Necessary Protective Measures

Use of a face covering as mandated by this Order does not replace the need for all Elkhart County employers, residents, and visitors to take additional necessary protective measures to protect against the spread of COVID-19. To keep Elkhart County working, activities open, and ourselves healthy, everyone should maintain the following basic protective measures:

1. Wash your hands frequently during the day for 20 seconds with soap and water. If this is not available, use hand sanitizer with at least 60% alcohol.
2. Maintain a minimum of 6 feet of distance between yourself and individuals outside of your household.
3. Avoid touching your eyes, nose, and mouth with unwashed hands.
4. Stay home and isolate yourself from other members of your household if you are sick.
5. Avoid being around sick people.
6. Clean frequently touched surfaces often.
7. Sneeze and cough in the inside of your elbow or in a tissue.

G. Scope and Duration

As of 11:59 PM on November 18, 2020, Public Health Order No. 01-2020 is hereby rescinded by the Elkhart County Local Health Officer. This Order goes into effect at 12:01 AM on November 19, 2020. This Order will remain in effect until rescinded by the Elkhart County Local Health Officer. Prior to rescinding this Order, the Health Officer intends to examine factors relevant to the COVID-19 impact on Elkhart County. If any provision of this Order, 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 Order, which can be given effect without the invalid provision or application. To achieve this purpose, the provisions of this Order are hereby declared severable.

Signed and issued November 18, 2020, in Elkhart County, Indiana.

Lydia Mertz, MD

Dr. Lydia Mertz, Elkhart County
Local Health Officer