



**Butte-Silver Bow Board of Health  
Emergency Rules and Regulations  
in Response to the COVID-19 Pandemic  
March 23, 2021**

SARS-CoV-2, the virus that causes COVID-19, is an easily transmissible, potentially fatal respiratory illness that spreads from person to person in the air through droplets from infected individuals. It is transmissible even by asymptomatic individuals who do not know they are infected. As a result, COVID-19 presents Butte-Silver Bow with a once-in-a-lifetime pandemic. More than 28 million Americans have been infected, and more than 500,000 have died. An estimated 99,040 Montanans have been found positive for COVID-19, with 1,922 active cases and 1,346 fatalities. In Butte-Silver Bow, 3,677 individuals have been confirmed positive with COVID-19, with 88 cases remaining active and 80 fatalities. The spread of COVID-19 endangers our vulnerable neighbors, businesses, long-term care and assisted living facilities, and hospitals that need the capacity to treat both COVID-19 patients and all others needing medical care.

To curtail the spread of the COVID-19 pandemic in Butte-Silver Bow, and to protect the health and economic well-being of all residents, it is necessary to implement protective measures to reduce spread of the disease. The U.S. Centers for Disease Control and Prevention provides guidance for community mitigation intended to help slow the spread of COVID-19 and helps communities tailor strategies for target populations. These regulations are drafted after consultation with public health experts, healthcare providers, and emergency management professionals. The Butte-Silver Bow Board of Health has determined that, in order to protect public health and human safety, it is essential to establish these restrictions in support of the Butte-Silver Bow Health Department's mission to protect and improve the health of Butte-Silver Bow residents.

Slowing the spread of COVID-19 locally relies on the Butte-Silver Bow Health Department's ability to contain disease through case isolation, contact tracing, and quarantine of close contacts to cases. Further, community-wide mitigation strategies are a vital complement to testing and surveillance when developing a comprehensive approach to prevention and response to a virus that causes significant morbidity and mortality.

**Primary Criteria**

Two criteria reviewed weekly by Butte-Silver Bow Health Department staff are:



- Positive cases per 100,000 population – the Harvard Global Health Institute indicates health jurisdictions should strive for 25 positive cases per 100,000, or lower:

Daily New Case Incidence		
Color Code	*Benchmark	**Metric
Green	< 1	7 day average of daily new cases per 100,000 population
Yellow	1-10	7 day average of daily new cases per 100,000 population
Red	>10	7 day average of daily new cases per 100,000 population
*Benchmark must be met for 2 weeks.		
**Case incidence metric based on a weekly (Saturday-Friday) summary of local cases data provided by the state.		

- Test positivity rate – the U.S. Centers for Medicare & Medicaid Services indicates health jurisdictions should strive for 10 percent or lower:

Test Positivity Rate		
Color Code	*Benchmark	**Metric
Green	< 5%	Percentage of positive tests
Yellow	5-10%	Percentage of positive tests
Red	> 10%	Percentage of positive tests
*Benchmark must be met for 2 weeks in a row.		
**Test Positivity Rate metric based on a summary of local testing data provided by the Centers for Medicare and Medicaid Services (CMS).		



**Other Criteria**

• **HEALTH DEPARTMENT CAPACITY**

- **Ability to manage work relate to COVID-19 pandemic without additional staffing.**

These criteria are informed by tracking the number of staff dedicated to the ongoing COVID-19 response. These data are then compared to the established benchmarks and the corresponding color coding is applied, as follows:

**Case Management (Case Quarantine, Isolation, and Contact Tracing)**

Color Code	Benchmark*	Metric
Green	No additional staffing	Adequate staffing for COVID-19 response
Yellow	Use of per diem staffing	Adequate staffing for COVID-19 response
Red	Use of state resources	Adequate staffing for COVID-19 response

\*Benchmark must be met for 2 weeks in a row. Baseline = 4 public health nurses in Communicable Disease, Immunization and Chronic Disease programs.

**Compliance and Enforcement**

Color Code	Benchmark*	Metric
Green	No additional staffing	Adequate staffing for COVID-19 response
Yellow	Use of per diem staffing for support	Adequate staffing for COVID-19 response
Red	Assistance from state	Adequate staffing for COVID-19 response

\*Benchmark must be met for 2 weeks in a row. Baseline = 4 registered sanitarians from Environmental Health Division.

**Operations Division and Community Health Division Staffing**

Color Code	Benchmark*	Metric
Green	No additional staffing	Adequate staffing for COVID-19 response
Yellow	Use of per diem staffing	Adequate staffing for COVID-19 response
Red	Assistance from state	Adequate staffing for COVID-19 response

\*Benchmark must be met for 2 weeks in a row. Baseline = 5 Operations Division/Community Health Division staff.



Total COVID-19 Response Staffing		
Color Code	Benchmark*	Metric
Green	No additional staffing	Total COVID=19 Response Staffing
Yellow	Use of per diem staffing	Total COVID=19 Response Staffing
Red	Use of Montana Tech staffing and/or assistance from state	Total COVID=19 Response Staffing
*Benchmark must be met for 2 weeks in a row. Baseline = 13 (4 public health nurses, 4 registered sanitarians, 6 Operations/Community Health Division staff.		

- **HEALTHCARE SYSTEM CAPACITY**

- **Ability of St. James Healthcare to treat all patients safely, those with COVID-19 and those with other ailments, without additional staffing.** These criteria are informed through direct consultation with St. James Healthcare officials. Under these criteria, St. James specifically evaluates ICU capacity, sufficient staffing resources, and the availability of personal protective equipment. Dashboard color coding is dictated through consultation and professional judgment. The Butte-Silver Bow Health Department is also tracking capacity at the region's critical access hospitals in Beaverhead, Madison, Deer Lodge, Powell and Granite counties. Six CAH's are located in five counties; one CAH has ICU and ventilator capacity.

Bed Use and Capacity by St. James Healthcare		
Color Code	Benchmark*	Metric
Green	Fewer than 70% of beds occupied	St. James has bed use capacity
Yellow	70% to 90% of beds occupied	St. James has bed use capacity
Red	More than 90% of beds occupied	St. James has bed use capacity
*Benchmark must be met 2 weeks in a row. Baseline = fewer than 70% of beds occupied.		



**ICU Use and Capacity by St. James Healthcare**

Color Code	Benchmark*	Metric
Green	Fewer than 11 ICU beds occupied	St. James has ICU bed capacity
Yellow	11 ICU beds occupied	St. James has ICU bed capacity
Red	Patients are being refused or diverted	St. James has ICU bed capacity
*Benchmark must be met 2 weeks in a row. Baseline = fewer than 11 ICU beds occupied.		

**Ventilator Use and Capacity by St. James Healthcare\*\*\***

Color Code	Benchmark*	Metric
Green	Fewer than 21 vents being used	Healthcare system has capacity
Yellow	21 vents being used	Healthcare system has capacity
Red	Patients are being refused or diverted	Healthcare system has capacity
*Benchmark must be met 2 weeks in a row. Baseline = fewer than 21 vents being used.		

\*\*\*St. James' daily operations involve managing 11 ventilators. In the event of a significant surge, this type of capability could expand to 31 respiratory support systems.



**Bed Use and Capacity at Region's Critical Access Hospitals**

Color Code	*Benchmark	**Metric
Green	6 regional CAH's have bed use capacity	Regional CAH's have bed use capacity
Yellow	5 regional CAH's have bed use capacity	Regional CAH's have bed use capacity
Red	4 or fewer regional CAH's have bed use capacity	Regional CAH's have bed use capacity

\*Benchmark must be met 2 weeks in a row.  
\*\*Data retrieved weekly from DPHHS website.

**ICU and Ventilator Use and Capacity at Region's Critical Access Hospitals**

Color Code	*Benchmark	**Metric
Green	2 regional CAH's have ICU/vent use and capacity	Regional CAH's have ICU/vent use and capacity
Yellow	1 regional CAH has ICU/vent use and capacity	Regional CAH's have ICU/vent use and capacity
Red	Neither CAH has ICU/vent use and capacity	Regional CAH's have ICU/vent use and capacity

\*Benchmark must be met 2 weeks in a row. \*\*Data retrieved weekly from DPHHS website.

• **TESTING CAPACITY**

- **Sufficient staff and supplies to screen and test all local residents with COVID-19 symptoms, those identified as close contacts to positive cases, and front-line healthcare workers and first responders.** These criteria are informed through direct consultation between Butte-Silver Bow Health Department public health nurses, Southwest Montana Community Health Center, and the Montana Department of Public Health and Human Services. Under these criteria, the Butte-Silver Bow Health Department and Southwest Montana Community Health Center evaluate the availability of adequate testing kits, associated sampling supplies, and staffing necessary to perform adequate local testing.
- **Ability to get local test results in timely manner (within 2 days or less).** These criteria are informed by Southwest Montana Community Health Center and Butte-Silver Bow Health Department public health nurses. Under these criteria, Butte-Silver Bow Health Department nurses identify whether or not test results are provided to the Health Department within 48 hours of testing.



- **CASE INVESTIGATION**

- **No significant increase in confirmed COVID-19 cases.** These criteria are informed by tracking local case incidence and the local test positivity rate. These data are then compared to the established benchmarks and the corresponding color coding is applied, as follows:

Weekly New Case Incidence		
Color Code	*Benchmark	**Metric
Green	< 7	# new cases in last 7 days
Yellow	7-70	# new cases in last 7 days
Red	> 70	# new cases in last 7 days

\*Benchmark must be met for 2 weeks in a row.  
\*\* Case incidence metric based on a weekly (Saturday-Friday) summary of local cases data provided by the state.

- **Type of disease exposure.** These criteria are informed by Butte-Silver Bow public health nurses and contact tracing team members, tracing the type of disease exposure for each local confirmed case. The relevant exposure data are then compared to the established benchmarks and the corresponding color coding is applied as follows:

Type of Disease Exposure		
Color Code	*Benchmark	**Metric
Green	>33%	Majority of weekly cases are contact to one known case exposure
Yellow	>33%	Majority of weekly cases are related to cluster exposure
Red	>33%	Majority of weekly cases are unknown exposure

\*Benchmark must be met for 2 weeks in a row.  
\*\*Type of disease exposure metric based on a summary of local case investigation data provided by butte-Silver Bow Health Department public health nurses and case investigation team.



- **DISEASE SURVEILLANCE**

- **Evidence of SARS-CoV-2 virus in wastewater.** These criteria are informed by wastewater surveillance/testing for SARS-CoV-2, the virus that causes COVID-19, within the Butte-Silver Bow Metro Sewer system. Wastewater testing is conducted by Biobot and evaluation of the test results is coordinated between the Butte-Silver Bow Health Department and the Butte-Silver Bow Public Works Department. Wastewater testing results are compared to local confirmed and active case data providing public health officials with additional tools for 1) early detection of rising local infections; 2) monitoring overall community infection trends; and 3) confirmation of low infection rates as correlated with local diagnostic testing results. Dashboard color coding is based on professional judgment as dictated through consultation with applicable partners.

- **COMMUNITY COMPLIANCE**

- Total number of actionable complaints related to non-compliance with orders and directives. These criteria are informed by the Butte-Silver Bow Health Department Environmental Health Division, tracking the number of weekly complaints regarding compliance with applicable COVID-19 regulatory directives and orders. The number of weekly complaints is then compared to the established benchmarks and the corresponding color coding is applied, as follows:

Number of Weekly Actionable Complaints for Non-Compliance with Orders and Directives		
Color Code	*Benchmark	**Metric
Green	0-10	Complaints/Week
Yellow	10-20	Complaints/Week
Red	> 20	Complaints/Week

\*Benchmark must be met for 2 weeks in a row.  
\*\*Weekly complaint metric based on a summary of local complaint data provided by the Butte-Silver Bow Health Department Environmental Health Division.



## Rules and Regulations

### I. Definitions

As used in these Rules and Regulations, the following terms have the following meanings:

- “Business” means any for-profit or non-profit entity that has employees or volunteers. The term “business” includes, but is not limited to, retail stores, grocery stores, food and beverage establishments, public lodging, personal care providers, medical providers, pharmacies, gyms, pools, fitness services, museums and theaters, indoor recreational or entertainment facilities, gas stations, repair and service providers, non-profit organizations, realty services, legal services, transportation services, and ride-sharing services.
- “Capacity” means the number of people allowed in a building as determined by the fire marshal.
- “Event” and “gathering” mean planned or spontaneous groupings of people, indoors or outdoors, with people participating or in attendance. This includes, but is not limited to, a community event or gathering, government event or gathering, concert, festival, conference, parade, wedding or sporting event.
- “Government office” means any office or assembly of any branch, department, agency or political subdivision of the State of Montana.
- “Face covering” means a fabric, paper or disposable face covering with multiple layers that covers the nose and mouth and which does not have an exhaling valve.
- “Indoor space open to the public” means any indoor space, whether publicly or privately owned, where the public has access by right or invitation express or implied, whether by payment of money or not. In addition, “indoor spaces open to the public” include, but are not limited to, lobbies, common areas, elevators, bathrooms, meeting rooms, or other spaces where people gather. The term includes all modes of public or commercial transportation. The term does not include private residences unopen to the public.
- “Organized outdoor activity” means any gathering of 25 or more people for an activity or event organized or sponsored by a business or person, or that takes place on the property of a business or person. This includes, but is not limited to, outdoor theatrical or music performances, fairs, markets, festivals, parades, carnivals, rodeos, sporting or athletic events, beer gardens, weddings and receptions, or parties.
- “Reasonable measures” means actions that are reasonable under the circumstances to promote the objective of the face covering requirement.
- “Schools” means any public or private K-12 school.
- “Sponsor” means any business or person who organizes or sponsors an organized outdoor activity, or who allows the activity to take place on their property.

### **II. Face Covering Requirement – RESCINDED – Face coverings are not required. Businesses and organizations are free to establish their own business requirements.**

- a. Face Covering Requirement in Indoor Spaces Open to the Public
  - i. Except as provided in Section C of the Face Covering Requirement, all businesses, government offices, schools or other indoor spaces open to the public shall require and take reasonable measures to ensure that all employees,



contractors, volunteers, customers, staff, students or other member of the public wear a face covering that covers their mouth and nose at all times while entering or remaining in any indoor spaces open to the public.

1. Face coverings shall be provided for all employees and volunteers.
  2. All points of entry open to the public shall have a clearly visible sign posted stating: "Mask or face covering use required for ages five and older" or similar directive language.
- b. Face Covering Requirements for Certain Organized Outdoor Activities
- i. Except as provided in Section C of the Face Covering Requirement, for any organized outdoor activities where social distancing is not possible or is not observed, sponsors shall require and take reasonable measures to ensure that all people attending an organized outdoor activity wear a face covering that covers their mouth and nose at all times.
  - ii. This section applies only where the nature of the organized outdoor activity makes it impractical for all attendees to maintain at least six feet of physical distance from each other, or any organized outdoor activity where attendees are not observing at least six feet of physical distance from others.
- c. Exceptions
- i. Businesses, government offices, other indoor space open to the public and organized outdoor activities are not required to ensure the following individuals wear face coverings:
    1. Children under the age of five. All children between the ages of two and four, however, are strongly encouraged to wear a face covering in accordance with the provisions of these Rules and Regulations. Children under the age of two should not wear a face covering.
    2. People consuming food or drinks in an establishment that offers food or drinks.
    3. People engaged in an activity that makes wearing a face covering impractical or unsafe, such as strenuous physical exercise or swimming. However, spectators observing an outdoor activity, where a separation from the activity of at least 6 feet is maintained, are considered a separate outdoor activity subject to these Rules and Regulations.
    4. People seeking to communicate with someone who is hearing impaired.
    5. People giving a speech or engaging in an artistic, cultural, musical or theatrical performance for an audience, provided the audience is separated from performers by at least 6 feet of distance.
    6. People temporarily removing their face covering for identification purposes.
    7. People required to remove coverings for the purpose of receiving medical evaluation, diagnosis or treatment.
  - ii. Businesses, government offices, indoor spaces open to the public, and organized outdoor activities should afford accommodations from the provisions of these Rules and Regulations to those who are entitled an accommodation under federal and state disability protection laws, including the Americans with Disabilities Act (ADA) and the Montana Human Rights Act, labor laws, or any other applicable law requiring accommodations in public accommodations. This could involve serving those requesting accommodations, curb-side or via delivery.



- iii. Only those employees, volunteers and contractors in public-facing workspaces are required to wear face coverings as specified in these Rules and Regulations.

**III. Event Restrictions – RESCINDED – Events have no capacity limits. Health Department staff is available to event planners, public and private, to ensure safety of events.**

- a. Events and gatherings in Butte-Silver Bow are limited to no more than 250 people, and events and gatherings from 25 and 250 people must adhere to the following:
  - i. Submit to the Butte-Silver Bow Health Department a detailed plan outlining protective measures and environmental controls to reduce the risk of disease transmission at least 30 days prior to the event or gathering.
  - ii. Maintain strict physical distancing of 6 feet between individuals or between groups of family members.
  - iii. Follow guidance provided by the Butte-Silver Bow Health Department regarding event planning and ensure the plan is adhered to at the time of the event or gathering.
  - iv. Youth activities, defined as both community-based and school-sanctioned, are subject to this order. Youth activities include all youth participants, coaches, trainers and officials necessary for the youth activity.
  - v. Schools are exempt from the 250-person limit; schools are asked to continue to work with the Butte-Silver Bow Health Department on large activities, particularly athletic events at which the number of spectators should be discussed.

**IV. Location-Specific Restrictions – RESCINDED – Assessment, distancing and sign requirements are rescinded**

- a. All businesses, government offices and locations with indoor space open to the public shall:
  - i. Conduct a health assessment of employees and personnel at the beginning of each shift.
    - 1. Anyone with symptoms of COVID-10 must be sent home. These include cough, difficulty breathing, fever, chills, repeated shaking with chills, body aches, headache, sore throat and new loss of taste or smell.
  - ii. Require physical distancing of at least 6 feet between individuals and non-family groups in gatherings of any size.
  - iii. When mask restrictions are in effect, all points of entry open to the public shall have a clearly visible sign posted stating, “Mask or face covering use required for ages five and older” or similar directive language. Signs are available at: <https://covid19.mt.gov/Masks-And-Face-Coverings>.
- b. Capacity – RESCINDED – Capacity is 100%, closure time is 2 a.m.
  - i. Gyms, restaurants, bars, breweries, distilleries and casinos shall operate at 50 percent capacity and close at 12:30 a.m. Primary criteria to review these measures include:
    - 1. Cases per 100,000 population
    - 2. Test positivity rate
  - ii. Tables in bars, breweries, distilleries and casinos must be limited to six people per table; tables in restaurants must be limited to eight people per table.



- iii. Dining establishments must provide for 6 feet of physical distancing between groups and tables by;
  1. Increasing table spacing, removing tables, or marking tables as closed
  2. Providing for a physical barrier between tables (back-to-back booth seating provides adequate separation.)
  3. Breweries and distilleries shall follow existing laws on closing time.

**Goal: Decrease COVID-19 incidence to 25 cases/100,000 population (new case 7-day average) for two consecutive weeks\***

**Goal: Decrease COVID-19 positive rate to 10% for two consecutive weeks\*\***

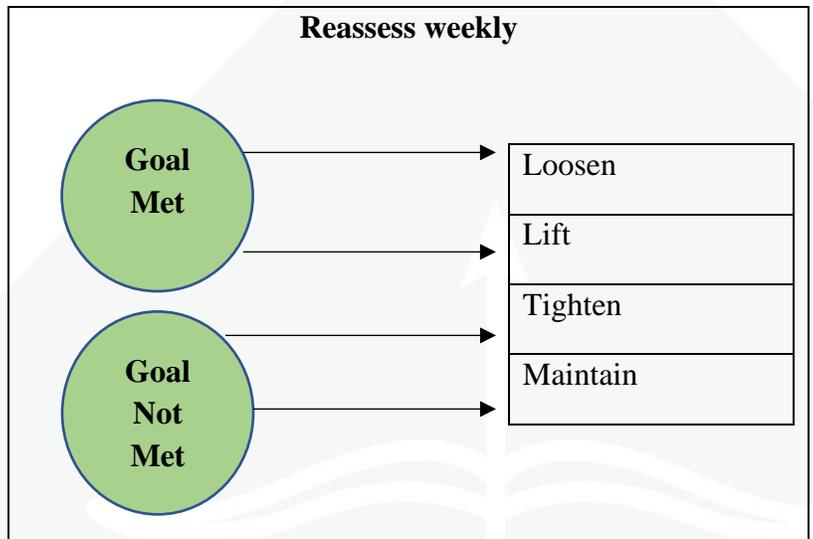
Purpose:

- Prevent uncontrollable spread
- Keep schools/campuses open
- Maintain hospital access
- Protect high-risk populations
- Protect essential services

**Restrictions**

- Business capacity limited to 50%
- Group size reduced to 25
- Alcohol service stops at 10 p.m.
- Voluntary stay-at-home

**Reassess weekly**



\*Incidence rate “red zone” is > than 25 (Harvard Global Health Institute)

\*\*Positivity rate “red zone” is > than 10% (U.S. Centers for Medicare & Medicaid Services)



**Goal Not Met**

- I. Continuation of restrictions

**Decline in Metric Performance**

- II. Should cases per 100,000 population increase by 50 percent, to 38 cases per 100,000 for one week or more, establishment closure times would return to 10 p.m.

**Goal Met for Two Weeks**

- III. Move to:
  - a. Continuation of face covering mandate
  - b. 75 percent capacity in establishments
  - c. 12:30 a.m. closure time
  - d. Health Department approval of events with more than 50 people

**Goal Met for Three Weeks or More**

- IV. Move to:
  - a. Discontinuation of restrictions

**Enforcement – The need to enforce compliance on the aforementioned restrictions is no longer needed.**

- V. Compliance with Mask and Location-Specific Restrictions Rules and Regulations
  - a. Receive a complaint
    - i. Complaint is received by telephone, email, call center, social media or via the state portal.
    - ii. Complaint is logged and assigned to a code enforcement officer.
      1. Documentation includes:
        - a. Complainant name unless anonymous
        - b. Business name and address
        - c. Time
        - d. Specifics of complaint (who, what, when, where, etc.)
    - iii. Educational call is placed to business owner or manager
      1. Evaluate current process for compliance
      2. Provide resources, technical assistance with compliance
      3. Document the interaction – who, what, when, where, etc.
    - iv. Investigate the validity of the complaint
      1. Multiple complaints may be used as evidence of non-compliance
      2. Site visit may be conducted to observe compliance
  - b. Work with business
    - i. Request written plan be submitted for review and approval
      1. Business should assist in drafting and signing final plan
    - ii. Review plan for compliance with these Rules and Regulations
    - iii. Work with operator to adjust the plan for continued compliance
    - iv. Conduct follow-up investigations to ensure business is in compliance with plan
      1. Conduct unannounced and announced inspections
    - v. Document progress/compliance



- c. Order for corrective action
    - i. Ensure administrative record is complete from steps a and b.
    - ii. Write health order for corrective action.
      - 1. Print administrative record
      - 2. Send administrative record and draft order for corrective action to health officer for review
      - 3. Deliver health order for corrective action.
        - a. Email
        - b. In person with assistance from law enforcement if necessary
      - 4. An order for corrective action may include additional and more restrictive requirements consistent with these regulations until compliance is achieved.
    - iii. Follow up with owner to determine compliance status and good faith efforts to comply.
      - 1. Phone, email, in person
  - d. County Attorney's Office
    - i. Print an updated administrative record.
    - ii. Send copy of administrative record, order for corrective action, and request for follow-up to County Attorney's Office.
      - 1. Work with County Attorney's Office to review sufficiency of documentation.
    - iii. County Attorney will file appropriate action with the court.
      - 1. Action would force business to comply with plan or close the business until agreement is reached to comply.
- VI. Compliance with Event Restrictions
- a. Order to Restrict Events and Gatherings
    - i. Butte-Silver Bow Health Department is notified of an event that is scheduled.
      - 1. Identify if a plan has been submitted.
      - 2. Contact organizer and provide guidance on the need to submit an event plan for review and approval.
    - ii. If event plan is not received and event is still scheduled, then refer to county attorney for an injunction.
    - iii. If event is scheduled but it becomes apparent the organizers cannot/will not actively manage the event, as required by their approved plan, then refer to county attorney for an injunction.
      - 1. Must have documented evidence of intent to not comply with plan/health order.
    - iv. If event is happening and did not follow plan, then gather evidence, request law enforcement investigation and submit to county attorney.

#### **Effect on Previous Health Officer Orders**

Adoption of these Board of Health Rules and Regulations repeal and replace the Feb. 4, 2021 Board of Health rule:

<https://www.co.silverbow.mt.us/DocumentCenter/View/20272/COVID-19-Board-of-Health-Rule-February-4-2021>



# THE CITY-COUNTY OF Butte-Silver Bow

Health Department  
25 W. Front St., Butte, MT 59701  
Ph: 406-497-5020 Fax: 406-497-5095  
<http://co.silverbow.mt.us/135/Health>

## Authority

The adoption and enforcement of these Rules and Regulations are authorized by MCA 50-2-101 through 50-2-130, Administrative Rules of Montana Chapter 114 "Communicable Disease Control" of the Montana Department of Public Health and Human Services, and all other applicable provisions of state and federal law.



THE CITY-COUNTY OF  
Butte-Silver Bow

Health Department  
25 W. Front St., Butte, MT 59701  
Ph: 406-497-5020 Fax: 406-497-5095  
<http://co.silverbow.mt.us/135/Health>

**Signature**

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*Ivy Fredrickson, Chair  
Butte-Silver Bow Board of Health*

\_\_\_\_\_  
*Date*

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*Karen Sullivan, Health Officer  
Butte-Silver Bow*

\_\_\_\_\_  
*Date*