

# Public Health Order Compliance Monitoring

Use the acronym “S.P.R.E.A.D” to remember Public Health Order (PHO) requirements. *Please note that these requirements are not comprehensive and requirements in the State PHO and Executive Order should be evaluated on a case-by-case basis.*

**S**ix feet apart is the distance that patrons from different parties shall be spaced

**P**ersonal protective equipment, i.e. **a face covering**, shall always be worn by employees and by patrons while in the facility, except when at their party’s designated table in a restaurant

**R**egularly **disinfect and clean** commonly touched surfaces, including tables and chairs between patrons.

**E**very facility shall have a **person in charge** to monitor and enforce COVID-19 public health order requirements, including the Face Covering Order and mandated Face Covering Poster issued by DDPHE.

**A**lcohol service can only happen if prepared food is available as an option for purchase by the customers.

**D**ining **indoor capacity** shall not exceed 50% or 50 patrons, whichever is fewer, per room... Dining at a bar that is being used to prepare drinks is allowed – so long as guests are seated at least 6 feet away from the in-use service spaces behind the bar as well as any seated tables or bar stools.

**Discussion should occur with the person in charge about any issues identified so that contributing factors can be taken into consideration.**

## Tiers of Compliance

Tier 1	
In Compliance	
Facility is	<ul style="list-style-type: none"> <li>In full compliance with the order</li> </ul>
<b>Action</b>	<ul style="list-style-type: none"> <li>Order is left with the person in charge; checked box stating they are currently in compliance</li> <li>Investigator may be back to check for continued compliance and/or respond to complaints</li> </ul>
Tier 2	
Out of Compliance (Warning)	
Facility has	<ul style="list-style-type: none"> <li><b>Bars and Restaurants:</b> Less than 10% of indoor guests are not wearing face coverings when not seated at their designated table, including those waiting in line to enter facility. Efforts of the facility to address distancing and face coverings are taken into consideration.</li> </ul>

	<ul style="list-style-type: none"> <li>• Any <b>single</b> employee is not wearing a face covering or multiple employees not properly wearing face covering where required (i.e. covering mouth and nose);</li> <li>• Parties are within 6 feet of one another with no alternate mechanism to facilitate distancing;</li> <li>• <b>Other retail facilities:</b> <i>Less than 10%</i> of guests not wearing face coverings</li> <li>• No DDPHE signage indicating a face covering is required when entering the facility by July 28, 2020 is posted on all public entrances.</li> </ul>
<b>Action</b>	<ul style="list-style-type: none"> <li>• Order is left with the person in charge regarding out of compliance items.</li> <li>• Issues should be addressed immediately if possible.</li> <li>• DDPHE will return to check for compliance.</li> <li>• If not in compliance on return, summons may be issued.</li> </ul>
<b>Tier 3</b>	<b>Out of Compliance--Summons Issued</b>
Facility has	<ul style="list-style-type: none"> <li>• <b>Bars and Restaurants:</b> 10% or more of indoor guests are not wearing face coverings when not seated at their designated table, including those waiting in line to enter facility. Efforts of the facility to address distancing and face coverings are taken into consideration;</li> <li>• More than one employee not wearing a face covering;</li> <li>• Restaurant exceeds 50% of indoor capacity or 50 people, whichever is fewer, per room;</li> <li>• Alcohol sales occur after 11pm</li> <li>• <b>Other retail facilities:</b> 10% or more of guests not wearing face coverings based on PHO</li> <li>• Facility exceeds allowed PHO capacity by less than 20%</li> <li>• Patrons are mingling outside of their party/not sitting at their table</li> <li>• Patrons are dining at bar where drink service is taking place without required distancing</li> </ul>
<b>Action</b>	<ul style="list-style-type: none"> <li>• Correct issues immediately if possible</li> <li>• If refusal to comply, a closure may occur.</li> <li>• Order is left with the person in charge regarding out of compliance items.</li> <li>• Summons may be issued.</li> <li>• DDPHE will reinspect to verify compliance.</li> <li>• If not in compliance on return, business may be closed and placarded in addition to another summons for violating the PHO.</li> </ul>
<b>Tier 4</b>	<b>Out of Compliance (summons and Closure)</b>
Facility has	<ul style="list-style-type: none"> <li>• 3 or more issues from Tier 3 occur at the time of the visit (i.e. significant noncompliance observed);</li> </ul>

	<ul style="list-style-type: none"> <li>• Bar is not operating as a restaurant (i.e. there are no tables set for service, individuals are mingling, no food service available.</li> <li>• Return visit from Tier 2 and issues have not been corrected.</li> <li>• Approved capacity is exceeded by 20% or more</li> </ul>
<b>Action</b>	<ul style="list-style-type: none"> <li>• Facility must correct issues during visit. If not possible, such as no chairs and tables are available to create seating, no onsite food service, etc., facility shall close until a written mitigation plan is submitted and approved by DDPHE.</li> <li>• Order left with the person in charge regarding out of compliance items.</li> <li>• Summons is issued to the person in charge.</li> <li>• Closure placard is placed on main point of entry in a conspicuous place.</li> <li>• Manager is provided guidance to submit a <b>written mitigation plan</b> and remain closed until it is submitted to and approved by DDPHE.</li> </ul>

### Mitigation Plan Requirements for Re-Opening:

- If a business is closed based on non-compliance with the above requirements, the business must submit a mitigation plan to be reviewed by the department in order to re-open. The department will review the mitigation plan and provide written approval to re-open when plan is approved. These plans are reviewed in the order that they are received. A mitigation plan may be denied by the department or the business may be asked to address deficiencies in the mitigation plan and re-submit to the department.
- If a written mitigation plan is needed for the business to reopen, it should include, but is not limited to, the following:
  - a. How the facility will address all out of compliance issues;
  - b. How the facility will comply with the PHO moving forward and monitor any new versions of the PHO to ensure they follow all changes that affect their business;
  - c. Identification of a person in charge on duty at all times that will monitor their compliance with the PHO;
  - d. A layout/drawing of their floor plan and relevant seating/customer management features to ensure they remain in compliance with the PHO;
  - e. A written policy for face covering for all employees;
  - f. Facility's capacity limit and how management plans to monitor to ensure compliance, including entrance and exit monitoring if needed.
  - g. A picture of the required DDPHE face covering poster on all public entrances of their facility.
  - h. Documentation that each employee has been trained on and agrees to abide by the businesses policies.
- If a business is closed two times, a show cause may be initiated against the businesses license; however, a show cause may be initiated after one instance of egregious non-compliance depending on the severity of the circumstances.