

PUBLIC HEALTH ORDER REQUIRING FACE COVERINGS FOR ALL INDIVIDUALS 2 YEARS OF AGE AND OLDER IN ALL PUBLIC INDOOR SPACES

Pursuant to C.R.S §§ 25-1-506, 508, and 509, the Tri-County Health Department (“TCHD”) issues this Public Health Order Requiring Face Coverings For All Individuals 2 Years Of Age And Older In All Public Indoor Spaces in Adams County and Arapahoe County.

TCHD is working to stop the spread of SARS-CoV-2 virus (“COVID-19”). To support this effort and to address the growing crisis in hospital capacity, the Tri-County Board of Health finds it necessary to implement mitigation measures to require all individuals 2 years of age and older to wear Face Coverings while within any public indoor space in Adams and Arapahoe Counties. The intent of this Order shall be to control and reduce the spread of COVID-19, to prevent unnecessary deaths and serious illness, to prevent the rationing of health care, and to maintain consistent health care capacity.

FINDINGS

Whereas, TCHD has public health jurisdiction over Adams and Arapahoe Counties. In furtherance of its jurisdiction, TCHD has the power and duty to investigate and control the causes of epidemic or communicable diseases and conditions affecting the public health within its jurisdiction, as well as the power and duty to close schools and public places and to prohibit gatherings of people when necessary to protect public health, and to establish, maintain, and enforce isolation and quarantine, and in pursuance thereof, to exercise physical control over property and over persons within TCHD’s jurisdiction as it may find necessary for the protection of public health; and

Whereas, COVID-19 is a respiratory illness that spreads easily between people through respiratory or aerosolized droplets that people expel when they breathe, talk, cough, or sneeze. Persons can be infected with COVID-19 and be asymptomatic yet still contagious, including vaccinated persons; and

Whereas, the continued increased spread of COVID-19 is evidenced in the data showing, as of November 22, 2021 the 7-day cumulative incidence rate for Adams County was 345.7/100,000 which represents an increase of 10.8 times the 7-day cumulative incidence rate of 32.1/100,000 for Adams County on July 1, 2021. For Arapahoe County, as of November 22, 2021 the 7-day cumulative incidence rate was 302.7/100,000 which represents an increase of 9.1 times the 7-day cumulative incidence rate of 33.2/100,000 for Arapahoe County on July 1, 2021.

Whereas, deaths due to COVID-19 continue to be a significant outcome of infection, cumulative deaths of COVID-19 cases for Adams County as of November 22, 2021 total 959 and 983 for Arapahoe County.

Whereas, the Colorado Department of Public Health and Environment (“CDPHE”) first detected the Delta variant of the COVID-19 virus in Colorado during the week of April 18, 2021; and as of

the week of October 31, 2021, the Delta variant constitutes 99.64% of all COVID-19 tests sampled in Colorado, is approximately twice as contagious as previous variants of COVID-19, and may cause more severe illness particularly in unvaccinated persons; and

Whereas, unvaccinated persons remain the greatest concern for continued COVID-19 spread and disease burden, and fully vaccinated persons with Delta variant breakthrough infections can spread the virus to others; and

Whereas, COVID-19 vaccines continue to provide the greatest protection against infection, hospitalizations, and deaths in Adams and Arapahoe Counties. Currently, unvaccinated individuals are 4.0 times more likely to be infected with COVID-19 than fully vaccinated individuals. Unvaccinated individuals who test positive for COVID-19 are 5.8 times more likely to be hospitalized due to COVID-19 as compared to fully vaccinated individuals. Unvaccinated individuals who test positive for COVID-19 are 6.3 times more likely to die due to COVID-19 as compared to fully vaccinated individuals.

Whereas, there is a heightened risk of disease spread as evidenced in data showing, as of November 22, 2021, a 7-day incidence rate (cases/100,000 population) of 345.7 in Adams County and 302.7 in Arapahoe County, defined as “High Community Transmission” by the U.S. Centers for Disease Control and Prevention (“CDC”); and

Whereas, to reduce the risk of individuals becoming infected with the Delta variant and possibly spreading it to others, the CDC recommends all individuals, including fully-vaccinated individuals, to wear Face Coverings in public indoor spaces in areas of substantial or high transmission; and

Whereas, despite the CDC recommendation and a recent [Public Health Advisory](#) from TCHD, other metro area health departments, and CDPHE recommending mask wearing in public indoor spaces, mask use by residents in Adams and Arapahoe Counties remains under 60%, substantially lower than in neighboring counties which have implemented mask mandates; and

Whereas, Colorado has a growing crisis in hospital capacity, particularly in staffed ICU beds and as of November 17, 2021, there were 1,526 individuals hospitalized with COVID-19, more than 80% of the number of individuals hospitalized during the peak of the pandemic when 1,847 individuals were hospitalized as of December 1, 2020. As of November 17, 2021, there were only 69 staffed Intensive Care Unit (“ICU”) beds available statewide; and

Whereas, the number of individuals requiring hospital level of care for COVID-19 is increasing. As of November 18, 2021, 204 individuals in Adams County and 219 individuals in Arapahoe County were hospitalized for COVID-19; and

Whereas, on October 31, 2021, in response to increasing hospital admissions and hospital staffing shortages that threaten the availability and accessibility of hospital level of care, the CDPHE and Governor Jared Polis issued Orders activating crisis standards of care across the state of Colorado; and

Whereas, the shortage of staffed ICU beds is not only caused by increasing rates of COVID-19, resulting in increasing rates of individuals experiencing severe illness requiring hospital level of care, but also increasing numbers of individuals requiring hospitalization for conditions for which care has been deferred and individuals experiencing conditions that typically require hospitalization like heart attacks and car accidents; and

Whereas, the growing crisis in hospital capacity has been exacerbated by the declining numbers of hospital workers, particularly nursing staff, attributed to burnout after 20-months of extremely challenging pandemic-related work; and

Whereas, limited hospital capacity and the implementation of crisis standards of care have the potential to negatively impact access to and quality of hospital care for individuals experiencing any type of medical condition requiring hospital level of care statewide; and

Whereas, projections by the Colorado School of Public Health Modeling Team show a 50% chance of hospital demand exceeding hospital capacity over the next 7-weeks if the current trajectory of disease spread continues; and

Whereas, vaccination is the most effective way to prevent transmission of COVID-19, to limit COVID-19 hospitalizations and deaths and to prevent the health care system from becoming overwhelmed; however, increased rates of vaccination and greater use of booster vaccines will not immediately reduce the transmission of COVID; and

Whereas, scientific evidence shows that the wearing of Face Coverings by individuals is safe and assists in reducing virus transmission more immediately by reducing the spread of respiratory droplets; and

Whereas, Face Covering requirements in all public indoor spaces is intended to reduce the spread of COVID-19 and, in turn, reduce the number of individuals experiencing severe illness requiring hospitalization and help to prevent the need for rationing of health care.

ORDER

Pursuant to the authority granted to the TCHD Board of Health in C.R.S. §§ 25-1-506(3)(b) and 25-1-508(5)(g), as well as TCHD's Executive Director in C.R.S. §25-1-509, consistent with the CDPHE and CDC guidance, and at the authorization and direction of the TCHD Board of Health, the following is ordered:

- 1. Face Coverings Required for all Individuals 2 Years of Age and Older.** Individuals 2 years of age or older, regardless of vaccination status, must wear a **Face Covering** while entering or within any **Public Indoor Space**, unless exempt pursuant to Section 3 of this Order or actively engaged in an activity described in Section 4 of this Order.
- 2. Definitions.**

- a. **Fully Vaccinated Facility** means a **Public Indoor Space** in which TCHD has verified that the owner, operator, or manager:
 - i. Implements mandatory vaccination policies, in writing, requiring all employees, staff, guests, customers, and all other individuals to show **Proof of Full Vaccination** before being permitted to enter their **Public Indoor Space**;
 - ii. Submits a self-attestation to TCHD in accordance with **TCHD’s Fully Vaccinated Facility Guidance**;
 - iii. Receives written confirmation from TCHD that their self-attestation has been received and approved;
 - iv. Continues requiring **Proof of Full Vaccination** for all individuals entering the facility in accordance with **TCHD’s Fully Vaccinated Facility Guidance**;
 - v. Agrees to compliance inspections as deemed necessary by TCHD; and
 - vi. Posts signs at all entrances indicating that the facility is a **Fully Vaccinated Facility** and that **Proof of Full Vaccination** is required for entry.
- b. **Face Covering or Facial Covering or Mask** must meet the requirements of the CDC mask attributes here: <https://www.cdc.gov/quarantine/masks/mask-travel-guidance.html>. When possible, TCHD recommends individuals wear a medical grade face covering such as a surgical mask instead of a cloth face covering. If a medical grade face covering is unavailable, a cloth face covering should meet the CDC requirements identified above.
- c. **Household Members** means individuals who reside in the same **Residence**.
- d. **Proof of Full Vaccination** means one of the following forms of documentation demonstrating receipt of one dose of a single dose COVID-19 vaccine or two doses of any two-dose COVID-19 vaccine as recommended by the Advisory Committee on Immunization Practices (“ACIP”) in accordance with the recommended timelines:
 - i. COVID-19 Vaccination Record Card (issued by the Department of Health and Human Services Centers for Disease Control & Prevention or WHO Yellow Card) which includes the name of the person vaccinated, the type of vaccine provided, and the date the last dose was administered); or
 - ii. A photo of a COVID-19 Vaccination Record Card; or
 - iii. A photo of a COVID-19 Vaccination Record Card stored on a phone or electronic device; or

- iv. Documentation of COVID-19 vaccination from a healthcare provider; or
 - v. Digital record accessed through the [myColorado](#) application.
- e. **Public Indoor Space** means any enclosed indoor area that is publicly or privately owned, managed, or operated to which individuals have access by right or by invitation, expressed or implied, or that is accessible to the public, serves as a place of employment, or is an entity providing services. **Public Indoor Spaces** include all enclosed indoor areas that are not an individual's **Residence**.
- f. **Residence** means the real property upon which an individual resides with other members of their household, including a room in a motel or hotel or a residential room for students at an education facility. Residence does not include any common areas that may be used by multiple households. Residence also includes a motor vehicle when being used for personal use by an individual or their same household.
3. **Exemptions to Face Covering Requirements.** The following individuals are exempt from the **Face Covering** requirements of this Order:
- a. Individuals under age 2.
 - b. Individuals who cannot medically tolerate a **Face Covering**.
4. **Exceptions to Face Covering Requirements.** Individuals performing any of the following activities are excepted from the **Face Covering** requirements of this Order while the activity is being performed:
- a. Individuals who are hearing impaired or otherwise disabled or who are communicating with someone who is hearing impaired or otherwise disabled and where the ability to see the mouth is essential to communication;
 - b. Individuals who are seated at a food service establishment or actively eating or drinking;
 - c. Individuals who are receiving a personal, religious, or medical service where the temporary removal of the **Face Covering** is necessary to perform the service;
 - d. Individuals who are asked to temporarily remove their **Face Covering** for identification purposes in furtherance of a particular service requiring legal identification;
 - e. Individuals who are actively engaged in a public safety role, such as law enforcement personnel, firefighters, or emergency medical personnel;
 - f. Individuals who are giving a speech for broadcast or an audience, so long as they remain at least twelve (12) feet away from non-household members;

- g. Individuals who are alone in an enclosed room or only with members of their same Household;
 - h. Individuals who are actively engaged in a performing arts performance, leading religious services, or engaged in other similar activities, so long as the individual maintains at least twelve (12) feet distance from non-household members;
 - i. Individuals actively playing an instrument that cannot otherwise be played while wearing a **Face Covering**;
 - j. Individuals who are in a swimming pool and actively engaged in a pool activity in which their **Face Covering** might become wet;
 - k. Individuals actively engaged in gymnastics, tumbling, cheer, or wrestling, where it is not safe to wear a **Face Covering**;
 - l. Individuals inside a **Fully Vaccinated Facility**.
5. **Americans with Disabilities Act.** The requirements of this Order shall be applied in a manner consistent with the Americans with Disabilities Act (42 U.S.C. § 12101 *et seq.*), Title VII of the Americans with Disabilities Act (42 U.S.C. § 2000e *et seq.*), the Colorado Anti-Discrimination Act (C.R.S. §24-34-401 *et seq.*), and any other relevant federal or State law. TCHD recommends that all facilities subject to this Order review the State of Colorado’s [Civil Rights Guidance](#).
6. **Signage Requirements.** All facilities subject to this Order must post signs at entrance(s) indicating **Face Coverings** are required for all individuals, regardless of vaccination status. Please see <https://covid19.colorado.gov/print-materials> for sample print materials.
7. **Denial of Entry.** Except for the limited exemptions and exceptions provided in Sections 3 and 4 above, no owner, operator, or manager of a **Public Indoor Space** may allow an individual to enter or be within that **Public Indoor Space** unless the individual is wearing a **Face Covering** as required by this Order.
8. **Legal Recourse.** TCHD will attempt to seek voluntary compliance through education, technical assistance and warning notices. However, this Order may be enforced by any appropriate legal means. It is unlawful for any person, entity, or facility to willfully violate, disobey, or disregard this Order. Any person, entity, or facility that does so may be subject to the penalties provided in C.R.S. §§25-1-516. In addition, any person, entity, or facility that is in violation of this Order may be subject to a civil action, including but not limited to injunctive relief pursuant to C.R.S. § 25-1-514 and reimbursement of expenses pursuant to C.R.S. §25-1-516(3), as well as reporting to the appropriate licensing agency. Any individual who endangers the health of others by knowingly entering or remaining in a **Public Indoor Space** in violation of the terms of this Order may be subject to penalties, including but not limited to penalties for trespass.

- 9. Duration.** This TCHD Public Health Order shall be in effect from November 24, 2021, at 12:01 a.m. and shall remain in effect through at least January 2, 2022 and shall continue thereafter until [Staffed ICU Bed Capacity in the North Central Emergency Preparedness Region](#) reaches 10% or greater for 14 consecutive days, unless extended, rescinded or amended in writing by the Executive Director of TCHD.
- 10. Recommendations.** The following recommendations are not requirements of this Order, but are recommended:
- a.** Businesses and facilities that permit individuals to remove a face covering while performing one of the activities listed in paragraph 4 are strongly recommended to use at least one of the following ventilation strategies:
 - i.** Keep open all available windows and doors accessible to fresh outdoor air as long as air quality and weather conditions permit;
 - ii.** Keep on a fully operational HVAC system; or
 - iii.** Utilize appropriately sized portable air cleaners in each room.
 - b.** Businesses and facilities are encouraged to implement remote work and activities where possible and move all activities outdoors that can be performed outdoors. When performing activities indoors, increase ventilation via opening doors and windows, turning on HVAC systems, or using other air filtration systems.
 - c.** People who are outdoors, in close proximity to other people who are not part of their household, are strongly encouraged to wear a **Face Covering**.
 - d.** People are strongly encouraged to wear a **Face Covering** when present in an indoor **Residence** if someone who is not part of the person's Household is present.
 - e.** Businesses and other entities subject to this Order are strongly encouraged to provide a **Face Covering** at no cost to people who do not have one upon entry into the facility.
 - f.** Businesses and other entities subject to this Order are strongly encouraged to require vaccination of all employees.

OTHER PUBLIC HEALTH ORDERS RELATED TO COVID-19

This Order is intended to be and shall be read and construed in concert with and as a supplement and addition to all federal, state, and local laws and orders related to COVID-19.

To the extent any federal, state, municipal, facility, or other TCHD rules, orders or laws are more restrictive than what is set forth herein, such rules, orders or laws control. This includes CDC's [Requirement for Persons Age 2+ Years to Wear Masks While on Conveyances and at](#)

[Transportation Hubs](#) and TCHD's [Public Health Order Requiring Facial Coverings In All Individuals Aged 2 Years And Older In Schools And Child Care Settings](#).

ADVISEMENT AND ADDITIONAL INFORMATION

Along with CDPHE, TCHD is tasked with protecting the health, safety, and welfare of the citizens of Adams and Arapahoe Counties as it relates to epidemic and communicable diseases, including COVID-19. This Order is necessary to control transmission of that disease to persons and to maintain consistent healthcare capacity in TCHD's jurisdiction. Immediate issuance of this Order is necessary for the preservation of public health, safety, and welfare.

If you have questions regarding this Order, or to report suspected violations of this Order please contact TCHD at 303-220-9200 or view the COVID-19 information on TCHD's website at www.tchd.org. Please do not call 911 to report violations of this public health order.

Any person aggrieved and affected by this Order is entitled to Colorado state district court judicial review of this Order pursuant to and in accordance with C.R.S. §25-1-515. However, the aggrieved and affected person must continue to comply with the terms of this Order while his, her, or its request for judicial review is pending.

If any part or provision of this Order or the application thereof to any person or circumstance is held to be invalid, the remainder of this Order, including the application of such part or provision to other persons or circumstances, shall not be affected and shall continue in full force and effect. To this end, the parts and provisions of this Order are severable.

DONE AND SIGNED, as the official Order of the Executive Director/Public Health Director of the Tri-County Health Department on this 23rd day of November, 2021 at the authorization and direction of the TCHD Board of Health.

TRI-COUNTY HEALTH DEPARTMENT



By: John M. Douglas, Jr., M.D.
Executive Director