

## EMERGENCY ORDER OF LOCAL HEALTH OFFICER

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Emergency Public Health Order issued on this 19th day of February 2021, to mitigate the spread of the Coronavirus (COVID-19) epidemic in Douglas County, Kansas, pursuant to the authority provided in K.S.A. 65-119 and K.S.A. 65-129b and other applicable laws or regulations.

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WHEREAS, the Local Health Officer is authorized and required, pursuant to K.S.A. 65-119, K.S.A. 65-129b and K.S.A. 65-202 to immediately exercise and maintain a supervision over known or suspected cases of any infectious or contagious disease during its continuance, and to issue orders seeing that all such cases are properly handled and that the provisions of the Kansas public health laws as to isolation, quarantine and disinfection are duly enforced; and

WHEREAS, the Local Health Officer is appointed by the Lawrence-Douglas County Health Board and is authorized to prohibit public gatherings when necessary for the control of any and all infectious or contagious diseases, pursuant to K.S.A. 65-119 and K.S.A. 65-202; and

WHEREAS on the 12th day of March 2020, the Governor of the State of Kansas, Laura Kelly, found that a disaster had occurred, or the threat thereof was imminent within Douglas County, Kansas as a result of the Coronavirus pandemic (COVID-19) and the confirmed outbreak and person-to-person spread of COVID-19 in the United States, Kansas and Douglas County; and

WHEREAS, to reduce spread of COVID-19, the United States Centers for Disease Control and Prevention (CDC), the Kansas Department of Health and Environment (KDHE) and the Douglas County Local Health Officer, all recommend implementation of community mitigation strategies to increase containment of the virus, including cancellation of large gatherings and social distancing in smaller gatherings; and

WHEREAS, a White House Coronavirus Task Force reports for Missouri and Kansas have advised that counties in the metropolitan area and in adjacent rural areas of Missouri and Kansas should adopt practices including, but not limited to, limiting indoor dining and drinking at restaurants and taverns to reduced capacities and restricting hours until cases and test positivity decrease is effective at decreasing infections; communicating to the public they should not gather with anyone who does not live with them; and that members of the public should always wear masks in public spaces; and

WHEREAS, Douglas County must remain flexible to account for the evolving nature and scope of the unprecedented public health emergency posed by COVID-19, while also simultaneously safely and strategically operating businesses and facilitating economic recovery and revitalization; and

WHEREAS, the worldwide outbreak of COVID-19 and the resulting epidemic in Kansas and Douglas County continue to threaten the life and health of our citizens and visitors as well as the economy and remains a public disaster affecting life, health, property and the public peace; and

WHEREAS, the Local Health Officer believes continuation of some community mitigation strategies is necessary due to the continued influx of new cases and new strains, in order to allow the resources for contact tracing and exposure notification to be able to address the community spread of the disease and to ensure the capacity of other local resources is adequate to meet the need.

NOW, THEREFORE, BE IT ORDERED by the Local Health Officer, pursuant to the above authorities, that:

1. Mass Gatherings: Mass gatherings of more than 25 individuals are prohibited.
  - a. “Mass gatherings” are defined as instances in which individuals are in one location and are unable to maintain a 6-foot distance between individuals (not including individuals who reside together).
  - b. Exceptions include governmental and judicial functions, schools, healthcare facilities, private business, and religious and faith-based activities.
  - c. A “gathering” does not include normal operations at spaces where persons may be in transit or coming and going individually or in groups of less than 25 persons. For all gatherings of people, the health officer strongly encourages everyone to follow the guidance provided by the Centers for Disease Control and Prevention (CDC), federal, state and local public health officials and private medical providers. Further it is recommended that businesses allow employees to work from home to the greatest extent possible to minimize contact and any resulting spread of the COVID-19 virus.
2. Guidance for Individuals: Individuals are strongly encouraged to follow guidance contained in the Governor’s Ad Astra plan.
3. Guidance for Employers/Businesses: Employers and businesses are strongly encouraged to follow guidance contained in the Governor’s Ad Astra plan.
4. Business Restrictions:
  - a. All businesses must comply with the following:
    - i. Maintain at least 6 feet of distance between customers or groups of customers (“Social Distancing Requirement”);
    - ii. Follow fundamental cleaning and public health practices detailed on [covid.ks.gov](https://covid.ks.gov); and
    - iii. Avoid any instances in which groups of more than 25 individuals are in one location and unable to maintain a 6-foot distance with only infrequent or incidental moments of closer proximity.

- b. All businesses in operation should follow industry-specific guidelines as provided on [covid.ks.gov](https://www.covid.ks.gov). Following any additional best practice guidance from each business sector is strongly encouraged.
- c. Unless otherwise noted in this order, the following venues are restricted:
  - i. Entertainment venues, including: auditoriums; arenas; banquet halls; cinemas; conference centers; concert halls; performance venues; sporting venues; community centers; stadiums; theaters casinos; night clubs; and adult entertainment;
  - ii. Recreational facilities and places of public amusement, including: gyms, fitness and recreational centers; amusement parks; arcades; bingo halls; bowling alleys; and clubs;
  - iii. Parties, informal gatherings, lectures, meetings, parades, fairs, festivals, sporting events, and performances.
- d. Venues listed in subsection 4(c) above are restricted as follows and must:
  - i. Limit the number of individuals (staff and customers) in the facility, building or room to 50 percent of the lowest occupancy load on the certificate of occupancy of the facility, building or room, in which the gathering is occurring; or, if the gathering is occurring outside a facility, then the gathering shall be limited to 200 people; provided, however, the Social Distancing Requirement must be adhered to at all times both inside or outside the facility;
  - ii. Close their premises, including all outside seating areas and patios to customers, no later than 12:00 a.m.(midnight);
  - iii. Close all dance floors (the dance floor may be repurposed for table seating);
  - iv. Close all buffet service;
  - v. Require all food and beverage to be consumed by patrons while seated;
  - vi. Except for the recreational facilities defined in subsection 4(c)(ii) above and the activities described in subsection 4(c)(iii) above, require all patrons to remain seated at all times when not entering/exiting the venue or visiting a restroom facility; and
  - vii. Require a face mask to be worn by all staff and any patron not seated at a table, when seated at a table not actively eating or drinking, and when interacting with establishment staff.
- e. Restaurants, taverns, and all other such businesses serving food and/or drink indoors, including public, private, or membership-only businesses, must:

- i. Limit the number of individuals (staff and customers) in the facility, building or room to 50 percent of the lowest occupancy load on the certificate of occupancy of the facility, building or room, in which the gathering is occurring; or, if the gathering is occurring outside a facility, then the gathering shall be limited to 200 people provided, however, the Social Distancing Requirement must be adhered to at all times both inside or outside the facility. (For the purposes of this provision, outdoor seating is not included in this seating-capacity limitation; however, to qualify as “outdoor seating,” at least one side of an enclosure/tent must be open to the elements to allow for proper ventilation and air movement.)
- ii. Close their premises, including all outside seating areas and patios to customers, no later than 12:00 a.m.(midnight);
- iii. Close carry-out, curbside or off-premises delivery of alcoholic beverages no later than 12:00 a.m.(midnight) (carry-out, curbside, off-premises delivery of food is allowed after 12:00 a.m.(midnight) as are the use of drive-thrus);
- iv. Limit groups of patrons to a maximum of ten (10) persons per table and Social Distancing Requirements between tables/groups of patrons shall be observed;
- v. Close all buffet service;
- vi. Restrict customers from eating, drinking, standing at, or congregating at, a bar or counter except for carry-out services;
- vii. Require all food and beverage at restaurants and bars to be consumed by patrons while seated;
- viii. Require all patrons to be seated at all times when not entering/exiting the business or visiting a restroom facility; and
- ix. Require a face mask to be worn by all staff and any patron not seated at a table, when seated at a table not actively eating or drinking, and when interacting with establishment staff.

5. Non-Business Venue Restrictions:

- a. All indoor activities and venues, not otherwise described in 4(c) or exempted by 1(b) above, can open if they comply with the following:
  - i. Maintain at least 6-foot distance between individuals or groups (not including individuals who reside together).
  - ii. Follow fundamental cleaning and public health practices. (Compliance with any additional sector-specific best practice guidance is strongly encouraged.)

- iii. Avoid any instances in which groups of more than 25 individuals are in one location and unable to maintain a 6-foot distance with only infrequent or incidental moments of closer proximity.
- iv. Limit the number of individuals (staff and customers) in the facility, building or room to 50 percent of the lowest occupancy load on the certificate of occupancy of the facility, building or room, in which the gathering is occurring; or, if the gathering is occurring outside a facility, then the gathering shall be limited to 200 people provided, however, the Social Distancing Requirement must be adhered to at all times both inside or outside the facility.
- v. Recreational, youth or other non-professional organized sports facilities, sports tournaments, sports games, and sports practices may open or occur if they follow guidelines established by the Lawrence-Douglas County Health Department, including the use of a mask by all officials, coaches, participants and spectators at all times.
- vi. Require a face mask to be worn by all staff and any patron not seated at a table, when seated at a table not actively eating or drinking, and when interacting with establishment staff.

6. Essential Functions:

- a. This order is not meant to significantly disrupt the performance of essential functions. The applicable list of essential functions is outlined in the Governor's Executive Order 20-68.

7. Individual Mask Order: Any person in Kansas shall cover their mouth and nose with a mask or other face covering when they are in the following situations:

- Inside, or in line to enter, any indoor public space;
- Obtaining services from the healthcare sector in settings, including but not limited to, a hospital, pharmacy, medical clinic, laboratory, physician or dental office, veterinary clinic, or blood bank (unless directed otherwise by an employee or healthcare provider);
- Waiting for or riding on public transportation or while in a taxi, private car service, or ride-sharing vehicle;
- While outdoors in public spaces and unable to maintain a 6-foot distance between individuals (not including individuals who reside together) with only infrequent or incidental moments of closer proximity.

8. Business Mask Order: All businesses or organizations in Douglas County must require all employees, customers, visitors, members, or members of the public to wear a mask or other face covering when:

- Employees are working in any space visited by customers or members of the public, regardless of whether anyone from the public is present at the time;
- Employees are working in any space where food is prepared or packaged for sale or distribution to others;
- Customers, members, visitors, or members of the public are in a facility managed by the business or organization; or
- Employees are in any room or enclosed area where other people (except for individuals who reside together) are present and are unable to maintain a 6-foot distance except for infrequent or incidental moments of closer proximity.

9. Exceptions to Mask Order: The following are exempt from wearing masks or other face coverings in the situations described in paragraphs 1 and 2:

- Persons age five years or under should not wear a face covering because of the risk of suffocation. This is particularly true for children age two years and under;
- Persons with a medical condition, mental health condition, or disability that prevents wearing a face covering - this includes persons with a medical condition for whom wearing a face covering could obstruct breathing or who are unconscious, incapacitated, or otherwise unable to remove a face covering without assistance;
- Persons who are deaf or hard of hearing, or communicating with a person who is deaf or hard of hearing, where the ability to see the mouth is essential for communication;
- Persons for whom wearing a face covering would create a risk to the person related to their work, as determined by local, state, or federal regulators or workplace safety guidelines;
- Persons who are obtaining a service involving the nose or face for which temporary removal of the face covering is necessary to perform the service;
- Persons who are seated at a restaurant or other establishment that offers food or beverage service, while they are eating or drinking, provided they maintain a 6-foot distance between individuals (not including individuals who reside together or are seated together) with only infrequent or incidental moments of closer proximity;
- Persons who are engaged in an activity that a professional or recreational association, regulatory entity, medical association, or other public-health-oriented entity has determined cannot be safely conducted while wearing a mask or other face covering;
- Persons who are engaged in an activity that is governed by a professional or collegiate association whose regulations and procedures are determined by the Health Officer to be sufficient to limit the spread of COVID-19;

- Persons engaged in an activity or event held or managed by the Kansas Legislature;
- Persons engaged in a court-related proceeding held or managed by the Kansas Judiciary; and
- Persons engaged in any lawful activity during which wearing a mask or other face covering is prohibited by law.

10. Mask Order Definitions:

- “Mask or other face covering” means a covering of the nose and mouth that is secured to the head with ties, straps, or loops over the ears or is simply wrapped around the lower face. A mask or other face covering can be made of a variety of synthetic and natural fabrics, including cotton, silk, or linen. Ideally, a mask or other face covering has two or more layers. A mask or other face covering may be factory-made, sewn by hand, or can be improvised from household items such as scarfs, bandanas, t-shirts, sweatshirts, or towels.
- “Public space” means any indoor or outdoor space or area that is open to the public; this does not include private residential property or private offices or workspaces that are not open to customers or public visitors.

11. Nothing in this order shall restrict, limit or supersede the Secretary of Health and environment or the Local Health Officer’s authority to make isolation, quarantine, or other orders restricting movement as necessary to respond to escalating or worsening conditions.

12. This Order maybe supplemented or modified as required for the effective and efficient management and control of the Coronavirus epidemic in the County by further order or direction of the Lawrence-Douglas County Board of Public Health or by the Douglas County Local Health Officer.

This order shall become effective as of 12:01 a.m. on February 19, 2021 and remain in force until rescinded or until modified.

IT IS SO ORDERED THIS 19th DAY OF FEBRUARY 2021

  

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Thomas Marcellino MD

Dr. Thomas Marcellino  
Local Health Officer  
Douglas County, Kansas