

EMERGENCY ORDER OF LOCAL HEALTH OFFICER AND
DOUGLAS COUNTY COMMISSION RESOLUTION NO. 21-38

Emergency Public Health Order issued on this 22nd day of September 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, K.S.A. 65-129b, K.S.A. 65-201 and K.S.A. 65-202 and other applicable laws or regulations.

Medical, Scientific and Legal Justifications for Order

1. The Local Health Officer is authorized and required, pursuant to K.S.A. 65-119, K.S.A. 65-129b, K.S.A. 65-201 and K.S.A. 65-202 to exercise and maintain 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.
2. 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 to reduce spread of COVID-19.
3. 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.
4. The Local Health Officer believes 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.
5. The purpose of this order is to provide community mitigation strategies to minimize the spread of COVID-19 in light of the continued influx of new cases and new variants, which may be more transmissible, including but not limited to the Delta variant.
6. The highly transmissible Delta variant of COVID-19 is now the dominant strain in Douglas County, resulting in a rapid increase in new cases and numerous outbreaks.
7. Children under the age of 12 are not currently eligible for vaccines and the CDC recommends universal indoor masking for children under the age of 12, especially in in-person school settings.
8. The mask mandate fulfills the stated purpose because research has demonstrated that mask mandates reduce the COVID-19 incidence rates for communities that implement them. (See, e.g., <http://dx.doi.org/10.15585/mmwr.mm6947e2>.)
9. The mask mandate also fulfills the stated purpose because youth age 2 to 11 wearing masks indoors in public settings will protect the health of those children while they

await vaccinations, as well as limiting the risk of incidence for those they may come in contact with.

7. The Local Health Officer has considered the least restrictive ways an order can meet its stated purpose and believes this order is narrowly tailored to meet its purpose.

8. The Local Health Officer deems it necessary to issue this order mandating the wearing of face masks as set forth below as the least restrictive method for meeting its purpose based upon the medical and scientific evidence.

10. A previous order was presented to the County Commission and became effective when approved by the Commission on August 18, 2021 but said order expires on September 22, 2021.

11. Pursuant to K.S.A. 65-201(b)(2), this Order has been presented to the County Commission and became effective when approved by the Commission on September 22, 2021 for approximately 90 days and is now being presented for approval on.

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

1. Mask Order for Youth ages 2 to 11: Any person in Douglas County the age of 2 to 11 (starting the day the person turns 2 until the day before the person turns 12) 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, school bus, or ride-sharing vehicle;
2. Exceptions to Mask Order: The following are exempt from wearing masks or other face coverings in the situations described in paragraph 1:
 - Youth ages 2 to 11 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;
 - Youth ages 2 to 11 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;

- Youth ages 2 to 11 who are obtaining a service involving the nose or face for which temporary removal of the face covering is necessary to perform the service;
- Youth ages 2 to 11 engaged in religious services, ceremonies or activities;
- Youth ages 2 to 11 who are seated at a restaurant or other establishment that offers food or beverage service, while they are eating or drinking;
- Youth ages 2 to 11 engaged in any lawful activity during which wearing a mask or other face covering is prohibited by law.

3. 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.
- “Indoor Public space” means any indoor 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.

4. 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 pursuant to K.S.A. 65-129c.
5. 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 Douglas County Commission, Lawrence-Douglas County Board of Public Health and/or by the Douglas County Local Health Officer.
6. If any portion of this order is found to be unenforceable or not to be the least restrictive means to achieve its purpose, that portion shall be regarded as removed from this order, while the remaining portions shall valid and the order shall be interpreted and enforced as if it did not contain said portion.

This order shall become effective as of 12:01 a.m. on September 23, 2021 and remain in force until 11:59 p.m. on December 22, 2021 unless it is otherwise rescinded or modified by the County Commission.

(signatures on next page)

IT IS SO ORDERED THIS 22nd DAY OF September 2021



Thomas Marcellino MD

Dr. Thomas Marcellino
Local Health Officer
Douglas County, Kansas

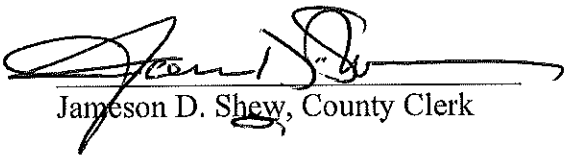
Approved and Adopted by:

**BOARD OF COUNTY COMMISSIONERS OF
DOUGLAS COUNTY, KANSAS**

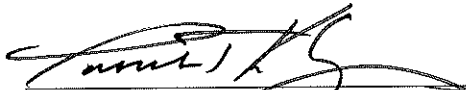
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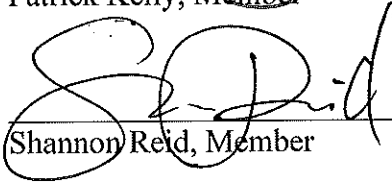
Shannon Portillo, Chair



Jameson D. Shew, County Clerk



Patrick Kelly, Member



Shannon Reid, Member