

PUBLIC HEALTH ORDER REQUIRING FACIAL COVERINGS IN PUBLIC WHERE SOCIAL DISTANCING CANNOT BE MAINTAINED

Pursuant to C.R.S. §§ 25-1-506, 508, 509, and 516, the Tri-County Health Department (“TCHD”) hereby issues this Public Health Order requiring facial coverings to be worn in public where social distancing cannot be maintained in Adams County, Arapahoe County, and Douglas County, so as to control and slow the spread of the SARS-CoV-2 virus (“coronavirus”) and to mitigate the effects of the disease resulting therefrom (the coronavirus and the disease resulting therefrom shall be referred to herein as “COVID-19”). The goal of this Order shall be to control and reduce the spread of COVID-19, to protect the public health, safety, and welfare, and to maintain consistent healthcare capacity in TCHD’s jurisdiction.

FINDINGS

Whereas, TCHD has public health jurisdiction over Adams, Arapahoe, and Douglas 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.

Whereas, COVID-19 is a respiratory illness transmitted like other respiratory illness through person-to-person contact, or by contact with surfaces contaminated with the virus, or through respiratory droplets that people expel when they breathe, cough, or sneeze. Persons can be infected with COVID-19 and be asymptomatic yet still contagious. Persons can be contagious 48 hours before developing symptoms. Many people with COVID-19 have mild symptoms and do not recognize that they are infected and contagious and that they can unintentionally infect others. Persons infected with COVID-19 may become symptomatic anywhere from two to fourteen days after exposure. Symptoms include fever, cough and/or shortness of breath or difficulty breathing. Individuals with serious chronic health conditions and older adults are most at risk for becoming very ill with this disease.

Whereas, due to the presence of COVID-19 in Colorado, states of emergency were declared by the State of Colorado and the Counties of Adams, Arapahoe, and Douglas, and those states of emergency continue. In an effort to control and reduce the spread of COVID-19, various executive orders have been issued by the Governor of Colorado, and various public health orders have been issued by the Colorado Department of Public Health and Environment (“CDPHE”) and TCHD.

Whereas, there is substantial evidence of the continued spread of COVID-19 throughout TCHD’s jurisdiction. As of July 9, 2020, there are 11,665 known positive cases in Adams, Arapahoe, and Douglas Counties, and 557 deaths in those Counties. In addition, incidence rates (cases/100,000) have been growing and over the past 14 days are high in all three counties: Adams at 124, Arapahoe at 76, and Douglas at 68. Over the past 30 days, daily incidence rates have risen by 235% in Adams County, 491% in Arapahoe County, and 350% in Douglas County.

Whereas, scientific evidence shows that limiting interactions among people slows virus transmission and, as social distancing restrictions are lifted, that the wearing of facial coverings by individuals while in public areas assists in maintaining reduced virus transmission by reducing the spread of respiratory droplets.

Whereas, the United States Centers for Disease Control and Prevention (“CDC”), CDPHE, and TCHD have recommended that members of the public, when interacting with others outside the home and especially in settings where many people are present, should cover their mouths and noses to prevent inadvertently spreading COVID-19.

Whereas, a facial covering mandate can work in concert with social distancing and frequent hand washing protocols under existing public health orders to minimize the spread of COVID-19 by reducing the exposure of individuals to the virus and by reducing the spread of respiratory droplets.

ORDER

Pursuant to the statutory authority granted the Executive Director, and Public Health Director, of TCHD, and at the authorization and direction of the TCHD Board of Health, the following is ordered:

1. Each person when in Adams, Arapahoe, or Douglas County, except as specifically exempted below, must wear a Face Covering whenever they are outside their residence and unable to maintain, or where not maintaining, a social distance of six (6) feet from any non-household member or members.

I. Face Covering Defined

"Face covering" means a covering made of cloth, fabric, or other soft or permeable material, without holes, that covers only the mouth and nose and surrounding areas of the lower face, and that is secured to the head with ties, straps, or loops over the ears or is wrapped around the lower face. A face covering can be made of a variety of synthetic or natural fabrics, including cotton, silk, or linen. Face coverings may be factory-made, sewn by hand, or be improvised from household items, including but not limited to, scarfs, bandanas, t-shirts, sweatshirts, or towels.

The face covering should fit snugly but comfortably against the side of the face, allow for breathing without restriction, and either be constructed of disposable mask materials or include fabric that can be laundered and machine-dried without damage or change to shape. Face coverings must cover the mouth and nose at all times and should remain in place until taken off safely. A face covering should be replaced when it becomes dirty, wet, and/or difficult to breathe through.

While procedural and surgical masks intended for healthcare providers and first responders meet these requirements, such as N95 respirators, these specialized masks should be reserved for appropriate occupational and health care settings as required by federal, state, and local law.

Note that any mask that incorporates a one-way valve (typically a raised plastic cylinder about the size of a quarter on the front or side of the mask) that is designed to facilitate easy exhaling is not a “face covering” under this Order and is not to be used to comply with the requirements of this Order. Masks with valves of that type permit droplet release from the mask and can put others nearby at risk.

A video showing how to make a compliant face covering and additional information about how to wear and clean face coverings may be found on the CDC’s website at <https://www.cdc.gov>.

II. Face Covering Required

- A. Except as provided in the exceptions below, individuals are required to wear a face covering if they are:
 - 1. outdoors and unable to consistently maintain a distance of six feet from individuals who are not members of their household;
 - 2. in any indoor location where members of the public are generally permitted;
 - 3. waiting for, riding on, driving, or operating public transportation or paratransit or while in a taxi, private car service or ride-sharing vehicle;
 - 4. 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; or
 - 5. engaged in work, whether at the workplace or performing work off-site, when interacting in-person with any member of the public, working in any space visited by members of the public, working in any space where food is prepared or packaged for sale or distribution to others, working in or walking through common areas, or in any room or enclosed area where other people, except for members of the person's own household or residence, are present where unable to physically distance.
- B. If an individual refuses to wear a mask or cloth face covering for reasons not allowed under the exceptions below, a business or other publically accessible facility shall decline entry to the individual.
- C. An individual may be required to temporarily remove a face covering upon entering an enclosed public space for identification purposes. An individual may also remove a face covering to eat or drink when seated at a restaurant or bar that is allowed to operate under existing public health orders.

III. Exceptions to Face Covering Requirement

A. The following are exceptions to the face covering requirements set forth above:

1. Individuals who cannot wear a face covering due to a medical condition, including those persons with respiratory issues that impede breathing, persons with a mental health condition, or persons with a disability;
2. Individuals experiencing homelessness who cannot wear a face covering because it is not affordable or obtainable. Such individuals are encouraged to take protective measures to the greatest extent practicable;
3. Individuals for whom wearing a face covering while working would create an unsafe condition in which to operate equipment or execute a task as determined by local, state, or federal regulation or workplace safety guidelines;
4. Individuals who would be unable to remove a face covering without assistance;
5. Any child aged two (2) years or less must not wear a face covering. This Order does not require that any child aged five (5) years or less wear a face covering, however, parents or custodians or caregivers are strongly encouraged to have their children between two (2) and five (5) years old wear a face covering in accordance with CDC guidelines. Parents and custodians and caregivers must supervise use of face coverings by children to avoid misuse or unsafe conditions.
6. Individuals who are communicating or seeking to communicate with someone who is hearing-impaired or has another disability, where the ability to see the mouth is essential for communication;
7. Individuals who are obtaining a service involving the nose or face for which the temporary removal of the face covering is necessary to perform that service.
8. Individuals who are seated at a restaurant or other establishment that offers food or beverage services under existing public health orders, while they are eating or drinking, provided that they are able to maintain a distance of at least six feet away from persons who are not members of the same household. Face coverings must be worn while entering and exiting such a restaurant or other establishment, and while ordering and paying.
9. Individuals who are engaged in outdoor work or recreation such as swimming, walking, hiking, bicycling, running, or other forms of outdoor exercise when alone or with household members, and when they are able to maintain a distance of at least six feet from others.

10. Individuals when exercising in a gym or fitness center are not required to wear a face covering when it is not physically possible or when actively exercising.
 11. A face covering is not required in any commercial or retail setting when any person is alone in a single, fully enclosed room. That individual must put on a face covering when coworkers are located six feet or less from the individual, when being visited by a client/customer, and anywhere members of the public or coworkers are regularly present.
 12. Persons in a place of business such as banks, financial institutions, or other security sensitive businesses who are requested or required to remove or lower their face covering for purposes of verifying their identity to carry out a transaction.
 13. Individuals who are incarcerated. Prisons and jails, as part of their mitigation plans, will have specific guidance on the wearing of face coverings or masks for both inmates and staff.
 14. Individuals in the education setting. Education settings will have specific guidance on the wearing of face coverings or masks for teachers, staff and students.
- B. Individuals are not required to show documentation that an exception applies. An employer may require such documentation from an employee in accordance with state and federal law.
- C. Nothing shall prevent a person from wearing a surgical grade mask or other more protective face covering if the person is already in possession of such equipment.
- D. Face coverings are not a replacement for adhering to social distancing and other public health protocols with respect to COVID-19. All individuals must continue to maintain 6 feet or more of distance from other people, wash hands regularly with soap and water for at least 20 seconds, and stay home when sick.

IV. 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, or local municipal orders or laws are more restrictive than what is set forth herein, such orders or laws control.

Local municipal governments within TCHD's jurisdiction retain the authority to issue and enforce equally or more restrictive orders than are set forth herein.

ADVISEMENT AND ADDITIONAL INFORMATION

Along with CDPHE, TCHD is tasked with protecting the health, safety, and welfare of the citizens of Adams, Arapahoe, and Douglas 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, please contact TCHD at 303-220-9200 or view the COVID-19 information on TCHD's website at www.tchd.org.

Members of the public can report suspected violations of this public health order by contacting TCHD at 303-220-9200. Please do not call 911 to report violations of this public health order.

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 to willfully violate, disobey, or disregard this Order. Any person who does so may be subject to the penalties provided in C.R.S. §§25-1-516 and 18-1.3-501. In addition, if you do not comply with this Order, TCHD may seek a court order in Colorado state district court to enforce this Order and/or to restrain or enjoin any violation of this Order.

Any business open to the public that permits an individual to enter or remain in the business or on its premises without a required face covering may be subject to the suspension or revocation of its license by the appropriate licensing authority as provided by law.

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.

This Public Health Order shall be in effect July 24, 2020 and shall expire 90 days thereafter unless and until it is earlier amended, extended, rescinded, or superseded in writing by the Executive Director of TCHD. Counties and municipalities within the TCHD jurisdiction can opt-out of, and be excepted from the application of this public health order; to do so, such county or municipality must provide written notification, through its governing body or duly authorized representative thereof, to TCHD at communications@tchd.org by July 23, 2020. Under extenuating circumstances, upon written request TCHD may grant a county or municipality an additional two weeks to opt-out. Any county or municipality that chooses to opt out of this public health order may opt back in at any time through written notification to TCHD at communications@tchd.org.

DONE AND SIGNED, as the official Order of the Medical Director and Public Health Officer (“Executive Director”) of the Tri-County Health Department on this _____ day of July, 2020, at the authorization and direction of the TCHD Board of Health.

TRI-COUNTY HEALTH DEPARTMENT

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