

COUNTY OF JEFFERSON  
State of Washington

In the Matter of Emergency Response to the  
COVID-19 Pandemic

PUBLIC HEALTH ORDER—August 13, 2021

**BACKGROUND**

1. On February 29, 2020, Governor Jay Inslee issued Proclamation [20-05](#), which declared a State of Emergency in all Counties in Washington State to due to the public health emergency caused by the COVID-19 virus.

2. On March 10, 2020, the Jefferson County Health Officer issued a Public Health Order to control and prevent the spread of the COVID-19 pandemic.

3. On March 11, 2020, the World Health Organization declared the outbreak of COVID-19 to be a pandemic.

4. On March 16, 2020, the Jefferson County Board of Commissioners approved a Declaration of Emergency due to the COVID-19 pandemic.

5. On March 23, 2020, Governor Jay Inslee signed Proclamation [20-25](#) declaring that a State of Emergency continues to exist in all Counties in Washington State due to COVID-19. Proclamation [20-25](#) has been amended several times, which limit Washingtonians' ability to participate in certain activities unless certain conditions are met.

6. As a result of the continued worldwide spread of COVID-19, its significant progression in Washington State, and the high risk it poses to our most vulnerable populations, Governor Jay Inslee subsequently issued amendatory proclamations exercising his emergency powers under RCW [43.06.220](#) by prohibiting certain activities and waiving and suspending specified laws and regulations.

6. The Jefferson County Public Health Department has confirmed localized person- to-person spread of COVID-19 in Jefferson County. Given the current understanding about how COVID-19 spreads, including by asymptomatic and pre-symptomatic persons, masks are an essential defense to the spread of COVID-19.

7. Viruses constantly change through mutation, and new variants of a virus are expected to occur over time. Multiple variants of the virus that causes COVID-19 have been documented in the United States and globally during this pandemic. See <https://www.cdc.gov/coronavirus/2019-ncov/transmission/variant.html>.

8. COVID-19 vaccines are effective in reducing infection and serious disease, widespread vaccination is the primary means we have as a state to protect everyone, including persons who cannot be vaccinated for medical reasons, youth who are not eligible to receive a vaccine, immunocompromised individuals, and vulnerable persons including persons in health care facilities, long-term care facilities and other congregate care facilities from COVID-19 infections.

9. COVID-19 vaccines are safe and effective. COVID-19 vaccines were evaluated in clinical trials involving tens of thousands of participants and met the U.S. Food & Drug Administration's rigorous

scientific standards for safety, effectiveness, and manufacturing quality needed to support emergency use authorization; and, to date, more than 346 million doses of COVID-19 vaccines have been given in the United States with 8.2 million of those doses administered in Washington, and serious safety problems and long-term side effects are rare.

10. After months of improving COVID-19 epidemiological conditions in Washington State, the emergence of highly contagious COVID-19 variants, including the “delta variant” that is at least twice as transmissible as the virus that emerged in late 2019, coupled with the continued significant numbers of unvaccinated people, have caused COVID-19 cases and hospitalizations to rise sharply among unvaccinated populations and have resulted in breakthrough infections in some fully vaccinated individuals.

11. On July 26, 2021, Health Officers from eight Puget Sound Counties, including Clallam and Jefferson, released the following recommendation: “The health officers of King, Pierce, Snohomish, Kitsap, Clallam, Jefferson, San Juan, and Grays Harbor counties have joined together to pass on their best public health advice to protect you, your family, and our communities. We recommend all residents wear facial coverings when in indoor public settings where the vaccination status of those around you is unknown. This step will help reduce the risk of COVID-19 to the public, including customers and workers, help stem the increase in COVID-19 cases and hospitalizations in many parts of the state and decrease the spread of the highly contagious Delta variant.”

12. The Centers for Disease Control and Prevention stated on July 27, 2021 that to maximize protection from the Delta variant and prevent possibly spreading it to others, wear a mask indoors in public if people are in an area of substantial or high transmission.

13. As of August 4, 2021, nearly 4.4 million Washingtonians, about 70% of those eligible and 58% of the total population, had initiated their vaccine series, leaving 2.1 million eligible Washingtonians who were unvaccinated

14. Throughout the COVID-19 pandemic there have been waves of increased risk of transmission, requiring the ability to implement stricter mitigations and safety protocols as recommended by public health officials.

### **AUTHORITY TO ISSUE ORDER**

1. RCW [70.05.070](#) vests authority in the Jefferson County Health Officer to take such action as is necessary to maintain health and sanitation; to control and prevent the spread of any dangerous, contagious, or infectious diseases; and to take such measures as deemed necessary in order to promote the public health.

2. WAC [246-100-040\(2\)](#) provides the Jefferson County Health Officer “the powers of police officers, sheriffs, constables, and all other officers and employees of any political subdivisions within the jurisdiction of the health department to enforce immediately orders given to effectuate the purposes of this section in accordance with the provisions of RCW [43.20.050\(4\)](#) and [70.05.120](#).” Under WAC [246-100-040\(2\)](#), these powers include Jefferson County’s police powers authorized by Wa. Const. art. XI, §11 and RCW [36.32.120\(7\)](#).

3. The preservation of the public health is a proper subject for the exercise of the police power and is the first concern of the state. *State v. Superior Court for King Cty.*, 103 Wash. 409, 419, 174 P. 973, 976 (1918). *See also Medtronic, Inc. v. Lohr*, 518 U.S. 470, 475, 116 S. Ct. 2240, 2245, 135 L. Ed. 2d 700 (1996). A county has the power to quarantine persons with infectious diseases. *City of Seattle v. Cottin*, 144 Wash. 572, 576, 258 P. 520, 521 (1927). Because protecting and preserving the health of its citizens from disease is an important governmental function, public health statutes and the actions of local health boards

implementing those statutes are liberally construed. *Spokane Cty. Health Dist. v. Brockett*, 120 Wn.2d 140, 149, 839 P.2d 324, 329 (1992) (citations omitted). The legislatively delegated power to counties and health boards to control contagious diseases gives them extraordinary power which might be unreasonable in another context. *Id.*

4. WAC [246-100-036\(3\)](#) requires the Jefferson County Health Officer, when necessary, to institute disease control and contamination control measures as deemed necessary based on professional judgment, current standards of practice and the best available medical and scientific information.

5. Despite the declaration of emergency and best public health efforts, Jefferson County has continued to experience rising rates of COVID-19 transmission and numerous outbreaks (defined as multiple positive tests for COVID-19 from a single location or event).

6. Jefferson County is currently experiencing ongoing transmission of confirmed COVID-19 cases related primarily to the highly transmissible Delta variant, as are neighboring counties and Washington State as a whole.

7. Cloth masks and more protective masks (such as surgical masks and KN95 masks) are a highly effective method for trapping the factor in reducing COVID-19 transmission. This is known as “source control.”

8. Rates of COVID-19 transmission and hospitalization have been on the rise throughout the summer of 2021 due to the highly contagious Delta variant, largely in the unvaccinated population.

9. Concern and uncertainty exist about the possibility of increased transmission of current and future COVID-19 variants to children, the immunocompromised and vaccinated populations.

10. Based on professional judgment of the Jefferson County Health Officer, it is necessary to issue this order requiring the wearing of masks in government offices and businesses, under the limitations listed below.

11. The Health Officer further finds that immediate enforcement of the below COVID-19 safeguards is necessary to prevent the spread of COVID-19 in Jefferson County and for the preservation of public health, safety, and general welfare and lies within the existing authority of the Health Officer.

## **ORDER**

*IT IS ORDERED*, by the Jefferson County Health Officer that it is necessary that:

1. Effective August 16th and continuing until the Governor has declared the public emergency related to COVID-19 has ended or until this order is revoked earlier, all persons shall be required to wear a cloth mask or more protective mask (such as surgical makes or KN95 masks) at all times when indoors in any publicly-accessible or shared space in government offices and businesses, including hallways, stairways, meeting rooms, breakrooms, restrooms, or any public area where they might encounter other individuals, regardless of vaccination status, except as provided in Sections 2-4, below.

2. Employees of governments and businesses who are fully vaccinated for COVID-19 are not required to mask in the following scenarios:

a. When within their own, non-shared office; or,

b. At their workstation while not interacting with other employees or members of the public, and if their workstation has six feet of physical distance from other people.

For purposes of this exception, “fully vaccinated” means that a person has received all the required doses of a vaccine for COVID19 (e.g., two doses of the Moderna or Pfizer vaccines, or one dose of the Johnson & Johnson vaccine) and 14 days have passed since the final dose, and the employer has complied with all other requirements for employers in the Washington Department of Labor and Industries in its June 30, 2021 guidance (<https://www.lni.wa.gov/forms-publications/F414-164-000.pdf>), including that the employer requires proof of vaccination status and maintains a list of persons who provide proof of full vaccination status.

3. Children under the age of five are not required to mask. Masks are recommended but not required for two, three, and four year old children. Masks should not be worn by children younger than two.

4. People with a medical condition, mental health condition, developmental or cognitive condition, or disability that prevents wearing a face covering are not required to mask. This includes, but is not limited to, people 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.

5. In addition, the citizens of Jefferson County must abide by any existing Proclamations from the Governor, Orders from the Secretary of the State Department of Health and any applicable Orders from the Jefferson County Health Officer.

6. The Health Officer and his/her representatives are hereby authorized to inspect venues for compliance with the COVID-19 safeguards. Enforcement shall begin by providing the venue with an opportunity to remedy the violation, except that immediate suspension may be implemented when deemed necessary to correct an imminent or actual health hazard.

7. The Health Officer and his/her representatives are authorized to enforce non-compliance through the suspension of operating permits, or other remedies authorized by state law and/or the Jefferson County Code.

#### 8. Implementation Plan.

a. The Health Officer or his/her representative may conduct inspections of establishments pertaining to COVID-19 safeguards periodically and will respond to complaints. Non-compliance will be assessed either virtually or in person. Upon determining that there is a violation of the COVID-19 safeguards, the Health Officer’s representatives will provide education and guidance, to assist in coming into compliance, unless immediate permit suspension is necessary to respond to an imminent or actual health hazard.

b. Where immediate permit suspension is not necessary, the Health Officer’s representatives will, within 72 hours of providing education/guidance, again determine whether compliance has been achieved. If there remains non-compliance with COVID-19 safeguards, the permit will be suspended, and an immediate cessation of operations will be required.

c. If an immediate permit suspension was imposed, the establishment shall be responsible for reaching out to the Jefferson County Department of Public Health to address potential reopening.

d. All establishments with a suspended permit will be required to submit corrective actions and meet with the Health Officer’s representative to discuss such actions before they are allowed to schedule a reopening inspection.

e. The Health Officer’s representatives also may request the assistance of the local police, Washington State Patrol, Jefferson County Sheriff, and all other officers and employees of any political subdivision within Jefferson County to enforce this health order.

f. Noncompliant establishments will also be referred to the Washington State Department of Labor and Industries for additional enforcement.

9. Consequences of Noncompliance. Noncompliance with this rule may subject the violator to permit suspension by the Health Officer. Any person who shall fail or refuse to obey any lawful order issued by any local health officer shall be deemed guilty of a misdemeanor punishable as provided under RCW [70.05.120](#). Violations of Secretary of Health directives and the Governor's Proclamations are misdemeanors and are subject to criminal penalties. Violations of Department of Labor and Industries are subject to fines and other enforcement remedies by that department.

*Ordered* this 13<sup>th</sup> day of August, 2021

A handwritten signature in black ink, appearing to read 'AB', enclosed within a large, loopy circular flourish.

Allison Berry, MD, MPH

Jefferson County Health Officer