

EMERGENCY ORDER OF LOCAL HEALTH OFFICER AND
DOUGLAS COUNTY COMMISSION
Resolution No. 22-06

Emergency Public Health Order issued on the 12th day of January 2022, and extended on February 9, 2022, 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 are necessary due to the continued influx of new cases and new strains, in order to address the community spread of the disease and to ensure the capacity of health care resources is adequate to meet the need.
5. The highly transmissible Omicron variant of COVID-19 is growing exponentially in Douglas County and will soon be the dominant variant resulting in a rapid increase in new cases and numerous outbreaks. However, simultaneously, there remain many active cases of the Delta variant which is a severe strain that leads to complications and increased severity of cases, especially among those that are unvaccinated.
6. Based upon national trends, although the Omicron variant has a smaller hospitalization rate, the sheer volume of cases in a relatively condensed time period, will cause a larger total number of hospitalizations in a short period of time. This will put additional strain on the health system, including LMH Health.
7. 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 are more transmissible, including but not limited to the Omicron variant, and to decrease hospitalizations, serious illness, and death.

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 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.

10. 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.

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 January 12, 2022 and was extended on February 9, 2022, will be effective until March 2, 2022.

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

1. Individual Mask Order: Any person in Douglas County 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.

2. 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.
3. 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 two years or under are not required to wear a face covering.
 - Persons with a medically verifiable and documented medical condition, mental health condition, or disability, as documented by a board certified health care professional, 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 engaged in religious services, ceremonies or activities;
 - Persons who are seated at a restaurant or other establishment that offers food or beverage service, while they are actively eating or drinking;
 - 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, governmental, or collegiate association whose regulations and procedures are determined by the Local Health Officer to be sufficient to limit the spread of COVID-19;
 - 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.

4. 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.
5. 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.
 6. 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.
 7. 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 became effective as of 12:01 a.m. on January 13, 2022 and remain in force until March 2, 2022 unless it is otherwise rescinded or modified by the County Commission.

IT IS SO ORDERED THIS 9th DAY OF February, 2022


Thomas Marcellino MD

Dr. Thomas Marcellino
Local Health Officer
Douglas County, Kansas

(signatures on next page)

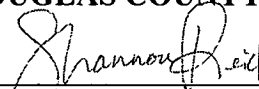
Approved and Adopted by:

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

Attest:



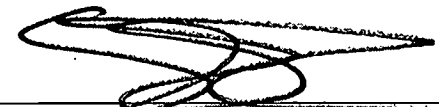
Jameson D. Shew, County Clerk



Shannon Reid, Chair



Patrick Kelly, Vice Chair



Shannon Portillo, Member