

EMERGENCY ORDER OF LOCAL HEALTH OFFICER

Health Order #DK11-01

This Emergency Public Health Order is issued on this 17th day of November, 2020, to mitigate the spread of the Coronavirus (COVID-19) epidemic in Dickinson County, Kansas, pursuant to the authority provided in K.S.A. 65-119, K.S.A. 65-129b and K.S.A. 65-202 and other applicable laws or regulations.

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 Board of Health 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

WHEREAS on the 12th day of March 2020, Kansas Governor Laura Kelly found that a disaster had occurred, or the threat thereof was imminent within the State of 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 and Kansas; and

WHEREAS, on March 13, 2020, the President of the United States declared the ongoing COVID-19 pandemic of sufficient severity and magnitude to warrant an emergency declaration for all states, tribes, territories, and the District of Columbia pursuant to Section 501 (b) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. § 5121-5207 (the "Stafford Act");

WHEREAS, the recent worldwide outbreak of COVID-19 and the resulting epidemic in Kansas and Dickinson 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, COVID-19, is a respiratory disease that spreads easily from person to person and may result in serious illness or death, has been confirmed in Kansas and in Dickinson County, resulting in serious illness and at least seven deaths to date in Dickinson County, and Kansas has

over 110,000 cases with over 1100 deaths, and so far there have been over 250,000 deaths and over 11 million cases in the United States; 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 Dickinson County Local Health Officer, all have recommended implementation of community mitigation strategies to increase containment of the virus, including wearing of masks, cancellation of large gatherings, social distancing, and hand washing, and

WHEREAS, wearing a mask in public is one of the easiest and most effective ways to protect each other, help keep our businesses open and our economy running, and get and keep children in school, and

WHEREAS, the intent of this Order is not to deprive any person or entity of any rights protected by the United States Constitution, the Kansas Constitution, or any other law, but merely to set forth restrictions which would best protect Dickinson County residents against the community spread of COVID-19, and

WHEREAS, in general, public gatherings, large and small, lead to increased person-to-person transmission of COVID-19; and

WHEREAS, Covid-19 cases have rapidly increased in the last week resulting in more admissions to where referral hospitals across the State are at or near capacity to the point our ability to transfer patients needing higher levels of care (to see specialists or be in an ICU bed) to these facilities is severely compromised if not impossible which creates more stress on our own healthcare system and threatens the lives of our citizens: and

WHEREAS, for the aforementioned and other reasons, and in recognition and furtherance of the safety, security, and welfare of the people of Dickinson County, requiring that masks or other face coverings be worn in public, limiting the size of public gatherings, ensuring social distancing, and placing certain other restrictions on activities are all measures that can be taken to slow and reduce the spread of COVID-19. The purpose of this emergency order is to mitigate the spread of COVID-19 while still allowing businesses to stay open and avoid the closures we had this spring.

NOW, THEREFORE, the Local Health Officer and the Board of Health for Dickinson County, in order to ensure that Dickinson County can insure a safe environment for our citizens and keep our schools and businesses open as we restore our economy, does hereby order the following:

Section I: WEARING OF MASK OR OTHER FACE COVERING:

1. Effective at 12:01 a.m. on November 19th, 2020, any person in Dickinson County shall cover their mouth and nose with a mask or other face covering when they are in the following situations:

- a. Inside of or in line to enter any indoor public space;
- b. 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;
- c. Waiting for or riding on public transportation or while in a taxi, private car service or ride-sharing vehicle;
- d. 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. This would include parks, playgrounds, sporting events, farmers markets, sidewalks and other outdoor venues.

2. Also, all businesses or organizations in Dickinson County must require all employees, customers, visitors, members, or members of the public to wear a mask or other face covering when:

- a. 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;
- b. Employees are working in any space where food is prepared or packaged for sale or distribution to others;
- c. Employees are working in or walking through common areas, such as hallways, stairways, elevators, and parking facilities;
- d. Customers, members, visitors, or members of the public are in a facility managed by the business or organization; or
- e. 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: The following are exempt from wearing masks or other face coverings in the situations described in paragraphs 1 and 2:

- a. Persons age five years or under—children age two years and under in particular should not wear a face covering because of the risk of suffocation;
- b. 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;
- c. Persons who are hearing impaired, or communicating with a person who is hearing impaired, where the ability to see the mouth is essential for communication;

- d. 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;
- e. 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;
- f. 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. Masks are to be worn if not actively eating or drinking;
- g. Athletes who are engaged in an organized sports activity that allows athletes to maintain a 6-foot distance from others with only infrequent or incidental moments of closer proximity;
- h. 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;
- i. Persons engaged in a court-related proceeding held or managed by the Kansas Judiciary;
- j. Persons engaged in any lawful activity during which wearing a mask or other face covering is prohibited by law.

4. Definitions:

- a. "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. Individuals who are medically unable to wear a mask must wear a full-face shield covering the mouth, nose, and eyes as an alternative to a face mask. Masks with one-way valves or vent through which air can be exhaled are NOT acceptable as a mask to be worn in public.
- b. "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. Signage:

- a. Public places shall post at all public entrances, signage indicating masks are required for entry.
- b. Signage shall be at least 8.5x11 inches in size or larger and be easily seen by

the entering public. Signage is available at www.dkcocks.org/ for download and printing.

Section II: SOCIAL DISTANCING AND OTHER PUBLIC GATHERINGS

1. Individuals within a public space shall maintain 6 feet of social distance from other individuals, unless such individuals reside together or an exception stated within Section II.3 of this Order applies.
2. Within a public place where a business or organization operates, such business or organization shall ensure that 6 feet of social distancing is maintained between individuals and groups of individuals unless such individuals reside together or an exception stated within Section II.3 of this Order applies.
3. Exceptions to the 6 feet of social distancing requirement stated within Sections II.1 and II.2. shall include:
 - A. Businesses and organizations that provide services that intrinsically require staff from the business or organization to be within less than 6 feet from the customer, such as dentists, hair salons, barber shops, tattoo parlors, medical service providers, and similar services.
 - B. Businesses where tasks completed by employees require such employees to work within 6 feet of one another.
 - C. While seated at a restaurant, bar, night club, or other business licensed to sell alcohol for on-premises consumption, individuals at the same table may be located within 6 feet of one another. However, there shall not be more than 8 individuals seated at any such table. Also, all tables and individuals seated at a table shall be located at least 6 feet from any other tables and individuals seated at such tables
4. Mass gatherings within specific enclosed, confined, or designated public spaces, whether indoors or outdoors, shall be limited to 30 total individuals or 50 % of the capacity permitted under the applicable fire code, whichever is less, and subject to the requirement within Section II.1. and Section II.2. of the Order that individuals must maintain 6 feet of social distance. In the absence of a capacity established under the applicable fire code, the mass gathering shall be limited to 30 total individuals, subject to individuals maintaining 6 feet of social distance pursuant to Section II.1. and Section II.2. of this Order. For purposes of defining mass gatherings, distinct buildings and distinct rooms shall be considered as distinct spaces. Any business or organization hosting or organizing a mass gathering shall be responsible for ensuring individuals' compliance with the mass gathering, social distancing and mask wearing requirements stated within this Order.
5. In addition to other gatherings and events that may fit within the definition of "mass gatherings", the term "mass gatherings" and all of the requirements within this Order that apply to mass gatherings shall also specifically apply to:

- a. Restaurants and community centers. Restaurants are encouraged to provide curb-side service as much as possible.
 - b. Bars, night clubs, and other businesses licensed to sell alcohol for on premises consumption
 - c. Fitness centers and health clubs.
6. Due to the transitory nature of individuals within retail stores, their activities shall not be considered mass gatherings. However, retail stores shall be limited to 50% of the capacity permitted under the applicable fire code.
 7. Outdoor and indoor entertainment venues with capacities in excess of 30 people may not host events unless the Local Health Officer has approved a written plan from the venue subsequent to the issuance of this Order.
 8. The following are exempt from the mass gathering limitations in Section II.4. of this Order, and are instead encouraged to maintain social distancing as much as is feasible and to maintain 6 feet of social distance between individuals who do not reside together, when feasible:
 - a. Election polling places
 - b. Licensed childcare facilities
 - c. Schools
 - d. Court facilities

Section III: Provisions Specific to Certain Activities

1. Fitness centers and health clubs must close locker rooms, except for when a portion of a locker room may be necessary to remain open for use as restroom facilities.
2. Fairs, festivals, carnivals, parades, and other similar events shall not occur unless approved by the Health Officer.
3. All bars, night clubs, or any other businesses licensed to sell alcohol for on-premises consumption must abide by a curfew and close by 11:00 P.M.
4. If a business or organization has multiple distinct components that fit within different portions of this Order, each distinct component shall be required to fit the requirements of this Order that apply most specifically to such components of the business or organization.

Section IV. Lawful Order This Order is a lawfully issued order pursuant to K.S.A. 65-202 and K.S.A. 65-119(A), and is also a “public health directive” as identified within Section 9 of 2020 Special Session House Bill No. 2016. Individuals and organizations within Dickinson County are required to comply with this Order.

Section V. Possible Review Amendment, or Revocation. Pursuant to Sections 37 and 38 of 2020 Special Session House Bill No. 2016, which amended K.S.A. 65-201 and 65-202, the Board of County Commissioners may review, amend, or revoke this Order. This Order may be supplemented or modified as required for the effective and efficient management and control of the COVID-19 epidemic in the County by further order or direction of the Board of Health or Local Health Officer of Dickinson County, Kansas, as applicable.

Section VI. Severability If any portion of this Order is found or determined to be invalid, such finding or determination shall only affect the portion of the Order that is at issue and shall not affect the validity of the remainder of the Order.

Section VII. Effect on Prior Order This order should be read in conjunction with other emergency orders responding to the COVID-19 pandemic that are still in effect and supersedes any contrary provisions of previous orders.

Section VIII. Prosecution Violations of this Order shall be brought under chapter 60 of the Kansas Statutes Annotated, and amendments thereto, by the County Attorney of Dickinson County.

Section IX. Enforceability Pursuant to K.S.A. 65-129b, any sheriff, deputy sheriff or other law enforcement officer of any political subdivision within Dickinson County, Kansas, is hereby required to assist in the execution or enforcement of this Order, as amended or modified.

Section X. Effective Date This order is effective at 12:01 a.m. on the 19th of November, 2020, and shall remain in effect until 11:59 p.m. on the 31st Day of December, or until terminated or modified by the Dickinson County Board of Health.

IT IS SO ORDERED THIS 18th, day of November, 2020.

BOARD OF HEALTH
DICKINSON COUNTY, KANSAS




Brian Holmes, MD
County Health Officer



Ron Roller
County Commissioner



John Hultgren
Director of Health Services



Craig Chamberlin
County Commissioner



Lynn Peterson
Chairman, County Commission