



COUNTY OF JEFFERSON

State of Washington

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

PUBLIC HEALTH ORDER—August 11, 2020

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to exist in all Counties in Washington State due to COVID-19; and that his prior proclamations are amended and superseded by a Proclamation to impose a Stay Home – Stay Healthy Order throughout Washington State, which prohibits all people in Washington State from leaving their homes or participating in social, spiritual and recreational gatherings of any kind regardless of the number of participants, and all non-essential businesses in Washington State from conducting business, within the limitations provided in Proclamation [20-25](#). Proclamation [20-25](#) has been amended several times.
6. On June 8, 2020, Governor Inslee ordered all employees to wear a face covering when working, except when working alone or when the job involves no in-person interaction, as detailed in the *Safe Start Washington Phased Reopening Plan* found [here](https://www.governor.wa.gov/sites/default/files/SafeStartPhasedReopening.pdf) (<https://www.governor.wa.gov/sites/default/files/SafeStartPhasedReopening.pdf>) and, further, that employers must provide cloth facial coverings to employees, unless their exposure dictates a higher level of protection as described in the Department of Labor & Industries' COVID-19 workplace safety and health requirements.

7. On June 24, 2020, the Secretary of Health issued Order 20-03, effective June 26, 2020, requiring all individuals in Washington State to wear a face covering that covers their nose and mouth when in any indoor or outdoor public setting, except under certain circumstances, which provides a minimum level of protection for Washingtonians when they are not at work where the Department of Labor & Industries' face covering requirements apply.

8. On July 24, 2020, the Secretary of Health issued Order [20-03.1](#), effective July 25, 2020, which expands the Secretary's prior face covering mandate to require all people in Washington State to wear a face covering when they are outside of their house, mobile home, apartment, condominium, hotel or motel room, bedroom in a congregate living setting, or other dwelling unit.

9. Health professionals and epidemiological modeling experts advise that Washington is still in a state of COVID-19 outbreak, and pauses in phase reopening, restrictions on gathering size, and increased mask use may help prevent Washington from experiencing the crisis situation in Florida and Arizona.

10. The United States Centers for Disease Control and Prevention recommends that, in addition to its recommendation to maintain six-feet of physical distance from non-household members and frequent hand washing with soap and water or alcohol-based hand sanitizer, people wear cloth face coverings when they are in public settings where they cannot reliably maintain six feet of distance from others at all times, given the substantial increase in the numbers of cases of COVID-19 infection, these precautions must be mandatory.

11. The science also suggests that by ensuring safe social distancing hygiene practices, and the use of cloth face coverings, many business and recreational activities can be conducted with limited exposure to customers, which is important to revitalizing Washington State's economy, restoring jobs, and providing necessary goods and services.

12. The most recent amendment of Proclamation [20-25](#) is Proclamation [20-25.7](#), issued on July 24, 2020, which makes clear that Proclamation [20-25](#) remain in effect until rescinded, and requires people to wear face masks both while at work and while not at work.

13. The Washington State Department of Health has confirmed localized person-to-person spread of COVID-19 in Washington State, significantly increasing the risk of exposure and infection to the general public, and creating an extreme public health risk that may spread quickly.

14. The Jefferson County Public Health Department has confirmed localized person-to-person spread of COVID-19 in Jefferson County—and this localized person-to-person spread of COVID-19 in Jefferson County is increasing. Given the current understanding about how COVID-19 spreads, including by asymptomatic persons and what have been called “super spreaders” who currently cannot be identified, masks are an essential defense to the spread of COVID-19.

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. Jefferson County is currently experiencing ongoing transmission of confirmed COVID-19 cases as are neighboring counties and Washington State as a whole. Epidemiological research and investigation by the State of Washington Department of Health, including contact tracing, indicates that this increase is caused in part by persons gathering in public places, including grocery stores, restaurants, bars, and taverns, without wearing face coverings, observing social distancing of 6 feet or more, or without taking other required protective health and sanitation measures, enumerated in Governor Inslee’s Safe Start Washington Phased Reopening Plan, and Restaurant and Tavern Requirements, Governor Inslee’s Proclamation 20- 25.6, and Order of the Secretary of Health 20-03 on face coverings (hereinafter collectively referred to as “COVID-19 safeguards”).

6. Statutory requirements set out in Washington State Department of Labor and Industries rules require employers and employees to wear activity-appropriate masks or respirators for all indoor activity and certain outdoor activities are not being consistently followed in Jefferson County. State occupational health and safety rules allow workers who allege a medical condition that prevents them from adhering to workplace masking requirements may undergo an evaluation

by a medical professional of their choice and submit written evidence of a medical condition restricting mask use along with an accommodation plan detailing which activities can and cannot be performed as a result of the medical condition. State L & I codes do not allow face shields to be substituted for masks.

7. Cloth masks or their equivalent are a highly effective method for trapping the respiratory droplets and aerosols that are emitted while speaking and breathing and are a major factor in COVID-19 transmission. The main benefit offered by masks is known as “source control”. Face shields, i.e. transparent plastic shields that cover all or part of the face are beneficial for eye protection but are grossly inadequate as a source control method. Face shields may be used in addition to face masks but are not permitted as an alternative to face masks. Food service workers who submit an accommodation plan authorized by a licensed medical professional that involves a face shield only are prohibited from working in any situations where a face mask is required, e.g. face-to-face interactions with customers or coworkers or sharing a room with coworkers or customers. Only activities that can be performed without a mask are permissible while wearing only a face shield, i.e. working outdoors greater than 6 feet away from other people and working alone in a room.

8. The Health Officer finds that the failure to comply with the COVID-19 safeguards constitutes an actual health hazard and finds that it is necessary to enforce the above COVID-19 safeguards for any food establishments who fail to comply, through the Health Officer’s existing, established authority under law to suspend operating permits. WAC 246-215 and JCC 8.15 authorized the health officer and his/her authorized representatives to suspend a food establishment’s operating permit if continued operation of the food establishment constitutes an actual health hazard.

9. The Health Officer further finds that immediate enforcement of the above 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.

10. Based on professional judgment of the Jefferson County Health Officer, it is necessary to issue an order allowing inspections of food service establishments in Jefferson County to ensure compliance with the Governor’s Proclamations and the State Health Department Director’s orders referenced above.

ORDER

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

1. Effective immediately and continuing until the Governor has declared the public emergency related to COVID-19 has ended or until this order is revoked earlier, all licensed food service establishments in Jefferson County are to be in full compliance with all COVID-19 Safeguards adopted by the State of Washington--Governor Inslee’s Safe Start Washington Phased Reopening Plan, the Restaurant and Tavern Requirements, Governor Inslee’s Proclamation [20-25.7](#), the Order of the Secretary of Health [20-03.1](#), and any applicable Jefferson County Health Officer orders.

2. The Health Officer and his/her representatives are hereby authorized to inspect food service establishments for compliance with the COVID-19 safeguards. Enforcement shall begin by providing the food service establishment 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.

3. 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.

4. The Health Officer and his/her representatives are authorized to revoke a food service establishment's operating permit for interference with the performance of the Implementation Plan below.

5. Implementation Plan.

- a. The Health Officer or his/her representative may conduct inspections of food service establishment pertaining to the COVID-19 safeguards periodically and will respond to complaints. Non-compliance will be assessed either virtually or in person. Upon determining that the food service establishment is violating the COVID-19 safeguards, the Health Officer's representatives will provide education and guidance to the food service establishment, to help it come 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 the food service establishment is in compliance. If the food establishment remains non-compliant with COVID-19 safeguards, the food service establishment's permit will be suspended, and the establishment required to immediately cease operation. The food service establishment will be provided with the necessary steps that it must take in order to comply with the COVID-19 safeguards, regain its permit and reopen.
- c. If an immediate permit suspension was imposed, the food establishment shall be responsible for reaching out to the Jefferson County Department of Public Health to address potential reopening.
- d. All food 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. The names of food establishments with permit suspensions will be disclosed on the Jefferson County Emergency Management Department and/or the Jefferson County Public Health website and be a matter of public record.
6. 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 11th day of August, 2020.



Thomas Locke, MD, MPH

Jefferson County Health Officer