

Effective Date: Monday, July 26, 2021

**St. Louis County Department of Public Health
2019 Novel Coronavirus (“COVID-19”)
Face Covering Order**

I. Background

The St. Louis County Department of Public Health (“DPH”) has closely monitored the global pandemic caused by a viral respiratory illness called COVID-19. Infections with COVID-19 have been reported around the world. The first confirmed instance of person-to-person spread of COVID-19 in the United States was reported on January 30, 2020. The first confirmed instance of COVID-19 in St. Louis County was reported on March 7, 2020. A state of emergency was declared in St. Louis County on March 13, 2020, and has continued since then, during which time several executive orders and DPH orders, policies, and other rules have been issued, amended, and rescinded.

A. Authority

COVID-19 is considered an infectious, contagious, communicable, and dangerous disease for purposes of Sections 192.020-1 and 192.139, RSMo., 19 CSR 20-20.020, and other state and local laws. The Director of DPH is the “local health authority” under 19 CSR 20-20.050(1) pursuant to 19 CSR 20-20.010(26), Section 4.130 of the Charter, and Section 600.010 SLCRO. The Director of DPH has the powers conferred by state law of a state health officer as well as other powers granted by county ordinances and executive orders. *See* SLCRO § 602.010, SLCRO § 602.020, and SLCRO § 600.030; Executive Orders 10-18.

Missouri law empowers and obligates county health officers to create and enforce orders to prevent the spread of infectious diseases. *See* §§ 192.260, 192.280 RSMo.; 19 CSR 20-20.010(26), 20-20.020, 20-20.040(2)(E), 20-20.040(2)(G), 20-20.040(2)(I). In creating such orders, DPH may make ordinances, rules, and regulations not inconsistent with the rules and regulations prescribed by the department of health and senior services which may be necessary to protect the public health. *See* § 192.290, RSMo.

This Order does not, directly, or indirectly, close, partially close, or place restrictions on the opening of or access to any business organization, church, school, or any other place of public or private gathering or assembly and does not prohibit or otherwise limit attendance at any public or private gatherings. This Order also does not, directly or indirectly, require any business organization, church, school, or owner, operator, or host of a place of public or private gathering or assembly to restrict, limit, or otherwise refuse access to any individual. Rather, this Order merely regulates the conduct of certain individuals while in St. Louis County in the event that, and only after, they access an indoor or enclosed public building or space or public transportation vessel, as set forth herein.

B. The Spread of COVID-19 and the Delta Variant in St. Louis County

There are about 549,451 residents of St. Louis County who have not yet completed vaccination against COVID-19, which is about 55.3% of the overall population of St. Louis County. (Missouri Department of Health and Senior Services, *available at* <https://covidvaccine.mo.gov/data/>, accessed July 22, 2021.) The unvaccinated population of St. Louis County includes eligible individuals who have not yet been vaccinated, as well as children under 12 years old who are not currently eligible to be vaccinated.

Transmission of COVID-19 in St. Louis County is increasing at a significant rate. The average number of new cases of COVID-19 diagnosed daily in St. Louis County has risen from 40 in the beginning of June 2021 to 212 in mid-July 2021. The average COVID-19 positivity rate over the past week has similarly spiked to 9.4% from a low of 2.9% on June 1, 2021. In total, there have been 105,603 cases of COVID-19 diagnosed in St. Louis County to date, with 2,291 cumulative deaths. (See Covid-19 Data – St. Louis County, Missouri, *available at* <https://stlcorona.com/resources/covid-19-statistics/>.)

Transmission of COVID-19 includes vaccine breakthrough cases, which the Centers for Disease Control and Prevention (“CDC”) reports are “substantially undercount[ed].” (Meseret Birhane, et al., *COVID-19 Vaccine Breakthrough Infections Reported to CDC- United States, January 1-April 30, 2021*, CDC Morbidity and Mortality Weekly Report 2021 May 28; 70(21): 792-793, *available at* <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8158893/>; see also Kanika Tyagi, *Breakthrough COVID19 Infections After Vaccinations in Healthcare and Other Workers in a Chronic Care Medical Facility in New Delhi, India*, Diabetes & Metabolic Syndrome Clinical Research and Reviews, May-June 2021, *available at* <https://www.sciencedirect.com/science/article/abs/pii/S1871402121001399>.)

Variants of COVID-19 that may spread more easily or cause more severe illness remain present and have increased in St. Louis County and throughout the state of Missouri. As of July 23, 2021, the CDC estimates that over 96% of COVID-19 infections in the region are the Delta variant. (Centers for Disease Control & Prevention. *COVID Data Tracker*, *available at* <https://covid.cdc.gov/covid-data-tracker/#variant-proportions>, accessed July 23, 2021.) The Delta variant is far more transmissible as the original strain of COVID-19. (Strategic Advisory Group of Experts on Immunization, *Eighty-ninth SAGE meeting on COVID-19*, 13 May 2021, *available at* https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/988403/S1236_Eighty-ninth_SAGE.pdf; Samuel Alizon, et al., *Rapid Spread of the SARS-CoV-2 Delta Variant in Some French Regions, June 2021*, EuroSurveillance, July 2021, *available at* <https://www.eurosurveillance.org/content/10.2807/1560-7917.ES.2021.26.28.2100573?crawler=true>; Jianpeng Xiao, et al., *Transmission Dynamics of an Outbreak of the COVID-19 Delta Variant B.1.617.2 – Guangdong Province, China, May-June 2021*, China CDC Weekly, July 2021, *available at* https://www.researchgate.net/profile/Jianpeng-Xiao/publication/352931648_Transmission_Dynamics_of_an_Outbreak_of_the_COVID-19_Delta_Variant_B16172_-_Guangdong_Province_China_May_-

[_June_2021/links/60dfcde4a6fdccb745ffff20/Transmission-Dynamics-of-an-Outbreak-of-the-COVID-19-Delta-Variant-B16172-Guangdong-Province-China-May-June-2021.pdf.\)](https://www.aap.org/en/pages/2019-novel-coronavirus-covid-19-infections/children-and-covid-19-state-level-data-report/)

Surges are increasingly impacting younger adults and children. (See, e.g., American Academy of Pediatrics, *Children and COVID-19: State-Level Data Report*, available at <https://services.aap.org/en/pages/2019-novel-coronavirus-covid-19-infections/children-and-covid-19-state-level-data-report/> (“As of July 15, almost 4.09 million children have tested positive for COVID-19 since the onset of the pandemic. After decreases in weekly reported cases over the past couple of months, in July we began seeing increases in cases added to the cumulative total – over 23,500 child cases were added this week.”).) We have also seen surges in other parts of the country and the world, increasingly impacting younger adults. (Pan American Health Organization. *Hospitalizations and deaths of younger people soar due to COVID-19*, available at <https://www3.paho.org/en/news/5-5-2021-hospitalizations-and-deaths-younger-people-soar-due-covid-19-paho-director-reports>.) Accordingly, the American Academy of Pediatrics recommends face coverings for anyone over the age of 2. (American Academy of Pediatricians. *COVID-19 Interim Guidance: Face Masks*, available at <https://services.aap.org/en/pages/2019-novel-coronavirus-covid-19-infections/clinical-guidance/cloth-face-coverings/> (updated May 26, 2021).)

Comprehensive research concerning the spread of the Delta variant is not yet available. The current state of the science is that the Delta variant can spread to and infect even vaccinated individuals. (Ezgi Hacısuleyman, et al., *Vaccine Breakthrough Infections with SARS-CoV-2 Variants*, New England Journal of Medicine, June 10, 2021, available at <https://www.nejm.org/doi/full/10.1056/nejmoa2105000>.) It is also likely that breakthrough infections like these result in vaccinated people then spreading the Delta variant to others. Recent research also suggests that currently-available vaccines are less effective to guard against the Delta variant than the original strain of COVID-19. (Jamie Lopez Bernal, et al., *Effectiveness of COVID-19 Vaccines Against B.1.617.2 (Delta) Variant*, New England Journal of Medicine, July 21, 2021, available at <https://www.nejm.org/doi/full/10.1056/NEJMoa2108891>.)

C. The Impact of Wearing a Face Covering

SARS-CoV-2, the virus that causes COVID-19, spreads primarily through respiratory droplets exhaled when infected people breathe, talk, cough, or sneeze. Most of these droplets are smaller than 10 µm in diameter, referred to as aerosols. The amount of small droplets and particles increases with the rate and force of airflow during exhalation (e.g., shouting, vigorous exercise). Proximity, duration of contact, and lack of ventilation all increase risk of exposure. (John T. Brooks, et al., *Effectiveness of Mask Wearing to Control Community Spread of SARS-CoV-2*, Journal of the American Medical Association, Feb. 10, 2021, available at <https://jamanetwork.com/journals/jama/fullarticle/2776536>.)

Wearing a face covering substantially reduces transmission of COVID-19. Face coverings prevent infected persons from exposing others to SARS-CoV-2 by blocking exhalation of virus-containing droplets into the air (termed *source control*). This is especially important because it is estimated that 50% or more of transmissions are from persons who are not exhibiting COVID-19 symptoms at the time. (See Michael Johansson, et al., *SARS-CoV-2 Transmission From People Without COVID-19 Symptoms*, JAMA Netw Open, Jan. 7, 2021, available at

<https://jamanetwork.com/journals/jamanetworkopen/fullarticle/2774707>; see also Jeremy Howard, *et al.*, *An evidence review of face masks against COVID-19*, Proceedings of the National Academy of Sciences of the United States of America, available at <https://www.pnas.org/content/118/4/e2014564118> (“Public mask wearing is most effective at reducing spread of the virus when compliance is high. . . . We recommend that public officials and governments strongly encourage the use of widespread face masks in public, including the use of appropriate regulation.”); Dhaval Adjodah, *et al.*, *Association between COVID-19 outcomes and mask mandates, adherence, and attitudes*, PLOS ONE, available at <https://journals.plos.org/plosone/article?id=10.1371/journal.pone.0252315> (“We show that mask mandates are associated with a statistically significant decrease in new cases (-3.55 per 100K), deaths (-0.13 per 100K), and the proportion of hospital admissions (-2.38 percentage points) up to 40 days after the introduction of mask mandates both at the state and county level. These effects are large . . . Our results have policy implications for reinforcing the need to maintain and encourage mask-wearing by the public, especially in light of some states starting to remove their mask mandates.”). The universal wearing of face coverings is particularly important when a surge of COVID-19, or a variant thereof, is impacting a community. (See, e.g., Pien Huang, *Public Health Experts Call on CDC to Change its Mask Mandate*, NPR, available at <https://www.npr.org/sections/health-shots/2021/07/22/1019311989/public-health-experts-call-on-cdc-to-endorse-masking-indoors> (“‘In my mind, it would be advisable for CDC to say, given the spread of the delta variant in our country, we would recommend that people go back to using masks indoors,’ particularly in areas with huge spikes in cases.” (quoting Dr. Carlos del Rio, an epidemiologist at Emory University)); *id.* (“Implementing indoor mask mandates for everyone, regardless of vaccination status, is ‘the right and scientific thing to do[.]’” (quoting Ali Mokdad of the Institute for Health Metrics and Evaluation (IHME) at the University of Washington)); The New York Times, *W.H.O. Urges Masking for the Vaccinated, in Split with C.D.C.*, available at <https://www.nytimes.com/live/2021/06/28/world/covid-vaccine-coronavirus-mask> (“World Health Organization officials, concerned about the easing of precautions meant to stop the spread of the coronavirus even as the most contagious variant to date has emerged, have urged even fully vaccinated people to continue wearing masks and to keep taking other measures to prevent infection.”); World Health Organization, COVID-19 Virtual Press Conference, June 25, 2021, available at www.who.int/publications/m/item/covid-19-virtual-press-conference-transcript---25-june-2021 (“As we have been saying, . . . vaccine alone won’t stop the community transmission . . . People need to continue to use masks consistently, be in ventilated spaces, hand hygiene, respiratory etiquette, the physical distance, avoid crowding.”)) Face coverings also protect uninfected wearers by forming a barrier to large respiratory droplets that could otherwise land on exposed mucous membranes of the eye, nose, and mouth and partially filtering out small droplets and particles from inhaled air.

Recent research has also demonstrated the utility of requiring people to wear face coverings instead of relying on people voluntarily wearing them. That research indicates that “mask mandates are associated with a 23.4 percentage point increase in mask adherence in four geographically, culturally and politically diverse states—Hawaii, Iowa, North Dakota and New Hampshire—and that mask adherence is itself associated with a significant decrease in COVID-19 cases and deaths in all 50 states and D.C. We also observe that the recent lifting of state mask mandates is associated with decreases in adherence and increases in cases.” (Dhaval Adjodah, *et al.*, *Association between COVID-19 outcomes and mask mandates, adherence, and attitudes*, PLOS ONE, available at

<https://journals.plos.org/plosone/article?id=10.1371/journal.pone.0252315> (June 23, 2021); see also Miriam E. Van Dyke, *Trends in County-Level COVID-19 Incidence in Counties with and without a Mask Mandate – Kansas, June 1-August 23 2020*, CDC Morbidity and Mortality Weekly Report 2020 Nov 27; 69(47): 1771-1781, available at <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7727605>; Edward S. Knotek II, et al., *Consumers and COVID-19: Survey Results on Mask-Wearing Behaviors and Beliefs*, Economic Commentary, July 16, 2020, available at <https://www.clevelandfed.org/newsroom-and-events/publications/economic-commentary/2020-economic-commentaries/ec-202020-survey-results-on-mask-wearing-behaviors-and-beliefs.aspx> (“[M]ost respondents indicated that they were extremely likely to wear a mask if doing so were required by public authorities”); Cornelia Betsch, et al., *Social and Behavioral Consequences of Mask Policies during the COVID-19 Pandemic*, Proceedings of the National Academy of Sciences, Sept. 8, 2020, available at <https://www.pnas.org/content/117/36/21851> (“[S]hould countries or communities want people to wear masks (e.g., to curb local outbreaks or to reduce transmission in future waves of the pandemic), introducing a mandatory policy along with explicit communication of the benefits of mask wearing (risk reduction, mutual protection, positive social signaling) and the benefits of the mandatory policy (fairness, less stigmatization, higher effectiveness) appears advisable.”).

Local evidence also suggests that St. Louis County’s previous orders requiring face coverings limited the spread of COVID-19. Dr. Enbal Shacham and colleagues at St. Louis University found that such orders in St. Louis County and St. Louis City slowed infection rates significantly compared to surrounding counties. After 3 weeks, the average daily growth rate of cases was 44% lower than in counties without such mandates. After 12 weeks, it was still 40% lower. (Enbal Shacham, et al., *Association of County-Wide Mask Ordinances with Reductions in Daily COVID-19 Incident Case Growth in a Midwestern Region over 12 Weeks*, MedRxiv, Oct. 30, 2020, available at <https://www.medrxiv.org/content/10.1101/2020.10.28.20221705v1>; see also Centers for Disease Control and Prevention, COVID-19 Science Update, Nov. 10, 2020, available at https://www.cdc.gov/library/covid19/111020_covidupdate.html; Bryce Gray, *Where Masks Aren’t Mandatory in St. Louis Region, Virus Cases Boom*, St. Louis Post-Dispatch, Nov. 20, 2020, available at https://www.stltoday.com/lifestyles/health-med-fit/coronavirus/where-masks-arent-mandatory-in-st-louis-region-virus-cases-boom/article_a9c1940d-727e-50d5-b8bf-1b99f0d9ac42.html.) Dr. Shacham and his colleagues’ overall conclusions were summarized as follows:

These data demonstrate that county-level mask mandates were associated with significantly lower incident COVID-19 case growth over time, compared to neighboring counties that did not implement a mask mandate. The results highlight the swiftness of how a mask [mandate] can impact the trajectory of infection rate growth. Another notable finding was that following implementation of mask mandates, the disparity of infection rate by race and population density was no longer significant, suggesting that regional-level policies can not only slow the spread of COVID-19, but simultaneously create more equal environment.

II. Purpose

The intent of this Order is to reduce the transmission of COVID-19, including variants thereof, in St. Louis County with the least restrictive effective measure. As the CDC has recognized, “Adopting universal masking policies can help avert future lockdowns, especially if combined with other non-pharmaceutical interventions such as social distancing, hand hygiene, and adequate ventilation.” (See Centers for Disease Control and Prevention, *Science Brief: Community Use of Cloth Masks to Control the Spread of SARS-CoV-2*, May 7, 2021, available at <https://www.cdc.gov/coronavirus/2019-ncov/science/science-briefs/masking-science-sars-cov2.html>.)

This recommendation is consistent with the guidance of the U.S. Surgeon General, the St. Louis Metropolitan Pandemic Task Force, and many independent experts, who support mask mandates to combat local surges of COVID-19. (See, e.g., Tara Haelle, *Scientists Urge Local Mask Mandates as Delta Sweeps the U.S.*, National Geographic, July 23, 2021, available at <https://www.nationalgeographic.com/science/article/scientists-urge-local-mask-mandates-as-delta-sweeps-the-us>; Fauci, *Bringing Back Mask Mandates is ‘Under Active Consideration,’* CNN, available at <https://grabien.com/story.php?id=343999> (“Even if you are vaccinated, you should wear a mask. That’s a local decision that’s not incompatible with the CDC’s overall recommendations that give a lot of discretion to the locals. And we’re seeing that in L.A. We’re seeing it in Chicago. We’re seeing that in New Orleans, because the officials there, many of them are saying even if you’re vaccinated it’s prudent to wear a mask indoors. That’s a local decision.”); Davone Morales, *‘Very Reasonable’ for Local Officials to Reimplement Mask Mandates Amid Delta Surge: Dr. Vivek Murthy*, ABC News, July 18, 2021, available at <https://abcnews.go.com/Politics/delta-variant-surge-unvaccinated-deeply-dr-vivek-murthy/story?id=78902909>; KMOV Staff, *St. Louis Pandemic Task Force Urges Return to Public Masking to Avoid Drastic Measures*, July 20, 2021, available at https://www.kmov.com/news/st-louis-pandemic-task-force-urges-return-to-public-masking-to-avoid-drastic-measures/article_9f5b35a6-e97a-11eb-913a-9fcfc2b8d049.html.)

III. Policy

1. Face Coverings are required to be properly worn by all individuals ages 5 and older while in indoor and enclosed public buildings and spaces and public transportation vessels in St. Louis County. For purposes of clarity, “indoor and enclosed public buildings and spaces” include all indoor and enclosed spaces other than private dwellings or private transportation vessels. “Face Coverings” for the purpose of Sections II and III of this Order means a device, usually made of cloth, that covers the nose and mouth.
2. Face Coverings are recommended in indoor private settings and crowded outdoor settings where there is close contact with other people who may not be fully vaccinated. This is particularly important if an individual is not fully vaccinated.
3. Face Coverings are not required to be worn by:
 - i. Children under the age of 2;
 - ii. Children between the ages of 2-5 who are strongly encouraged, but not required, to wear a Face Covering while under the direct supervision of an adult;

- iii. Persons with health conditions that prohibit wearing a Face Covering. Nothing in this Order shall require the use of a Face Covering by any person for whom doing so would be contrary to their health or safety because of a medical condition;
- iv. Persons who have trouble breathing, or are unconscious, incapacitated, or otherwise unable to remove the Face Covering without assistance;
- v. Persons who are deaf or hard of hearing, or someone who is communicating with a person who is deaf or hard of hearing, where the ability to see the mouth is essential for communication;
- vi. Persons who are alone in a separate room, office, or interior space;
- vii. Persons who are consuming food or drink, including for religious purposes; and
- viii. Persons who are obtaining a service, including a religious service, involving the nose or face for which temporary removal of the Face Covering is necessary to perform the service.

IV. Application and Enforcement

To the extent not otherwise explicitly modified or rescinded in this Order or otherwise, all other orders and guidelines of the Director of DPH remain in effect and this Order shall not supplant, supersede, replace, rescind, amend, or modify any other County Executive Order, law, ordinance, rule, regulation, or permit condition or requirement. This Order is to be construed and applied only to the extent permitted by the U.S. Constitution, the Missouri Constitution, and all other applicable laws. The St. Louis County Counselor can seek emergency injunctive relief or other civil relief to enforce any provision of this Order.

V. Effective Date

This Order shall become effective at 8:00 A.M. on Monday, July 26, 2021, and continue in effect until amended or rescinded.

VI. Savings Clause

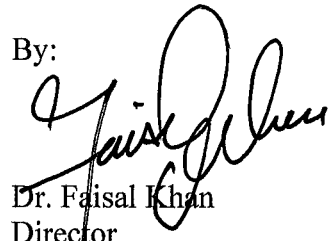
If any provision of this Order or its application is held to be invalid, then the remainder of this Order shall not be affected and shall continue in full force and effect. To this end, the provisions of this Order are severable.

VII. Authorization

This Order is authorized pursuant to Executive Orders 10 through 18, which are incorporated herein by reference, and to Missouri and St. Louis County law, including the Missouri Constitution, §§ 192.006, 192.200, 192.260, 192.280, and 192.290 RSMo., Chapter 44 RSMo., 19 CSR 20-20.010, 20-20.040, and 20-20.050 of the Rules of the Department of Health and Senior Services, the St. Louis County Charter, and the St. Louis County Revised Ordinances.

So Ordered this 26th day of July 2021.

By:

A handwritten signature in black ink, appearing to read "Faisal Khan", written over the printed name.

Dr. Faisal Khan
Director

St. Louis County Department of Public Health