

COUNTY OF JEFFERSON  
State of Washington

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

PUBLIC HEALTH ORDER—April 26, 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](#) et seq. 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, with the most recent amendment occurring on November 15, 2020 in Proclamation 20-25.12, which renamed Proclamation 20-25 et seq. “Healthy Washington—Roadmap to Recovery. Proclamation [20-25.12](#) makes clear that restrictions in prior proclamations continue to apply, except as amended in Proclamation [20-25.12](#), which makes clear that Proclamation [20-25](#) et seq. remain in effect until rescinded, and requires people to wear face masks both while at work and while not at work.

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 [20-05](#) through [20-71](#), [20-74](#) and [20-84.1](#), [21-01](#), and exercising his emergency powers under RCW [43.06.220](#) by prohibiting certain activities and waiving and suspending specified laws and regulations.

7. 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.

8. 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.

9. As of May 28, 2020: (a) In the State of Washington, there were over 10,000 diagnosed cases of COVID-19 and over 1,000 deaths; and, (b) Worldwide there have been over

\$4.5 million deaths, over 600,000 deaths in the United States, and over 5,000 deaths in the State of Washington alone. See: <https://covid19.healthdata.org/united-states-of-america/washington>.

10. 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>

11. The current standards of practice and the best available medical and scientific information related to the control of COVID-19 requires social distancing.

12. Modeling of the COVID-19 outbreak shows that even with social distancing through August 2021, COVID-19 will continue to have a significant impact on public health. See: <https://covid19.healthdata.org/united-states-of-america/washington>, with social distancing measures in place. Without social distancing measures in place, the impacts would be worse.

13. On March 24, 2020, Governor Inslee issued Proclamation [20-28](#) which modified certain provisions of the Open Public Meetings Act, Chapter [42.30](#) RCW through April 23, 2020. Proclamation [20-28](#) was extended until May 4, 2020 by Proclamation [20-28.1](#) and until May 31, 2020 by Proclamation [20-28.2](#) and Proclamation [20-28.3](#) (with an exception not relevant to Chapter [43.06](#) RCW). Proclamation [20-28.3](#) was amended several times, with the latest amendment being Proclamation [20-28.15](#). However, Proclamation [20-28.15](#) continues the requirements in Proclamation [20-28.14](#), without restating them.

14. Without the limitations in Proclamations [20-28](#) through [20-28.15](#) , social distancing required to address the COVID-19 pandemic would significantly limit the public participation at the venues normally used in Jefferson County for open public meetings by public agencies.

15. As Proclamation [20-28](#) states:

a. “[T]ransparency in state government and all of its political subdivisions is an important state policy, such that all statutes related to open public meetings and public records are the business of the state;” and,

b. “[T]here are a plethora of electronic, telephonic and other options that make it possible for the public to attend open public meetings remotely.”

16. Between March 24, 2020 and the present, many effective Open Public Meetings have been held remotely in Jefferson County that have used GoTo Meeting, Zoom or other such technology.

17. On May 29, 2020, the Jefferson County Public Health Officer issued an order that was to become effective if, after 11:59 p.m. on May 31, 2020, if Proclamation 20-28 was not extended by the Governor. The Governor failed to extend timely Proclamation 20-28 after May 31, 2020, when Proclamation 20-28.4 expired on June 17, 2020. This triggered Public Health Order-May 29, 2020, which prohibited any public agency in Jefferson County that is subject to Chapter 42.30 RCW from conducting any meeting subject to Chapter 42.30 RCW, unless: (a) The meeting is not conducted in-person and instead provides an option(s) for the public to attend

the proceedings through, at minimum, telephonic access, and may also include other electronic, internet or other means of remote access, and (b) Provides the ability for all persons attending the meeting to hear each other at the same time.

18. On December 8, 2020, the Governor issued Proclamation [20.28-14](#), which modifies the prohibition on in-person public meetings, and requires compliance with the guidelines for “business meetings,” found in the “Miscellaneous Venues” [guidance](#) incorporated into Proclamation [20-25](#) et seq. *Stay Safe—Stay Healthy—Rollback of County-By-County Phased Reopening Responding to a COVID-19 Outbreak Surge*.

19. In general, the limitations in Proclamation [20.28-14](#) are protective of health and safety. However, due to cost, limited availability, and other considerations, venues controlled by public agencies in Jefferson County are not practical for large in-person open public meetings during the COVID-19 pandemic.

20. The severity of the situation demands that the Jefferson County Health Officer to take additional measures to protect the public from further transmission of COVID-19 in Jefferson County in addition to those required by Proclamation [20-28.15](#).

### **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. Based on professional judgment of the Jefferson County Health Officer, it is necessary to preclude in-person open public meetings in Jefferson County to prevent the spread of the COVID-19 virus, at least through the period of the emergency declared by the Governor. Effective Open Public Meetings can be held remotely in Jefferson County, using GoTo Meeting, Zoom or other such technology.

### **ORDER**

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

1. In-person public meetings subject to Chapter 42.30 RCW in Jefferson County shall comply with Proclamation [20.28-14](#) as the minimum standards for open public meetings in Jefferson County; provided the chair of each legislative body in of each public agencies subject to Chapter 42.30 RCW (the City of Port Townsend, Chimacum School District No 49, Jefferson County Board of Health, Jefferson County Board of Commissioners, Jefferson County Fire Protection No. 1 (d.b.a. East Jefferson Fire and Rescue), Jefferson County Fire Protection No. 2 (Quilcene), Jefferson County Fire Protection No. 3 (Port Ludlow), Jefferson County Fire Protection No. 4 (Brinnon), Jefferson County Public Hospital District No.2, Jefferson County Utility District No. 1, the Port of Port Townsend, Port Townsend School District, etc.) sets requirements for each venue within their public agencies for compliance with Proclamation [20.28-14](#) for all open public meetings with an in-person component. For meetings of these legislative bodies, the requirements for compliance with this order may be contained in a published agenda or a published notice for a public meeting pursuant to RCW [42.30.077](#) or RCW [42.30.078](#).
2. Any public meeting subject to Chapter 42.30 RCW in Jefferson County that does not comply with this order is prohibited unless: (a) The meeting is not conducted in-person and instead provides an option(s) for the public to attend the proceedings through, at minimum, telephonic access, and may also include other electronic, internet or other means of remote access, and (b) Provides the ability for all persons attending the meeting to hear each other at the same time.
3. The May 29, 2020 Jefferson County Public Health Officer order is rescinded and replaced by this order.
4. This order is effective immediately.

*Ordered* this 26<sup>th</sup> day of April, 2021.



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Thomas Locke, MD, MPH  
Jefferson County Health Officer