

**Frequently Asked Questions and Answers about the
Elkhart County Health Department
Public Health Order 05-2020 – Face Covering Directive
Public Health Order 06-2020 – COVID-19 Mitigation Directives
FAQ’s Released December 5, 2020**

Questions

- 1. Who is required to create, publicly post, and ensure compliance with a COVID-19 Response Plan? 3**
- 2. Who is required to create, publicly post, and ensure compliance with a COVID-19 Safety Plan that has been approved by the Elkhart County Health Department? 3**
- 3. Who is required to implement and maintain Staff and Volunteer Screening measures?..... 3**
- 4. Who is required to implement and maintain Sanitation Measures? 3**
- 5. Who is required to implement and maintain Social Distancing Measures?..... 3**
- 6. Are all businesses and entities in Elkhart County required to ensure compliance with the Face Covering Directive set forth in Public Health Order 05-2020? 4**
- 7. Are Persons in Charge of Gatherings or Meetings and Special or Seasonal Events required to ensure compliance with the Face Covering Directive set forth in Public Health Order 05-2020? 4**
- 8. Do you support businesses and entities that offer alternatives to in-person services? 4**
- 9. Are face coverings required to be worn at fitness centers? 4**
- 10. Do child care operations have to comply with Public Health Order 05-2020 and 06-2020?..... 5**
- 11. Do churches have to comply with Public Health Order 05-2020 and 06-2020? 5**
- 12. Do you support churches that offer alternative options to in-person services? 5**
- 13. Are Gatherings or Meetings and Special or Seasonal Events with an anticipated total attendance in excess of 25 ever permitted in Elkhart County? 5**
- 14. If I have a recurring Gathering or Meeting or Special or Seasonal Event must I submit a new COVID-19 Safety Plan for each recurrence? 6**
- 15. What COVID-19 mitigation measures must an educational institution implement and maintain? 6**

16. If I wear a face covering when in an area open to the public or a private area (e.g. office) with people outside my household, do I still need to practice social distancing?..... 6

17. Do I have to wear a face covering if I am in an indoor area open to the public and I am maintaining 6 foot social distancing with all individuals outside of my household? 7

18. Are there criminal penalties for violating Public Health Orders 05-2020 or 06-2020? 7

19. Are there civil penalties for violating Public Health Orders 05-2020 or 06-2020? 7

20. What does Elkhart County Restated Ordinance No. 2020-38 do? 7

21. Will the Elkhart County Sheriff’s Office be enforcing Public Health Orders 05-2020 and 06-2020 or Elkhart County Restated Ordinance No. 2020-38?..... 8

22. Will the Elkhart County Prosecutor’s Office be prosecuting individuals that violate Public Health Order 05-2020 or 06-2020 or Elkhart County Restated Ordinance No. 2020-38? 8

23. Will individuals enforcing Public Health Order 05-2020 and 06-2020 and Elkhart County Restated Ordinance No. 2020-38 be issuing Citation Orders to every customer and attendee or to the business or entity and Person in Charge?..... 8

24. What should I do if I have questions regarding or wish to report an alleged violation of the mitigation directives set forth in Public Health Order 06-2020? 9

25. If I submit a COVID-19 concern, how will any contact or personal information provided be used? 9

26. If I don’t wear a face covering at a business or entity, can the business refuse to serve me?..... 9

Answers

1. Who is required to create, publicly post, and ensure compliance with a COVID-19 Response Plan?

Answer: Every business and entity in Elkhart County, including all for-profit and non-profit entities, must create, publicly post, and ensure compliance with a COVID-19 Response Plan that meets the requirements of Public Health Order 06-2020. The only exception to this general rule applies to educational institutions serving any K-12 level grades that have submitted a COVID-19 reopening plan that has been reviewed by the Elkhart County Health Department without objection. See Question 15 for more information regarding educational institutions.

2. Who is required to create, publicly post, and ensure compliance with a COVID-19 Safety Plan that has been approved by the Elkhart County Health Department?

Answer: Every Person in Charge of a Gathering or Meeting or Special or Seasonal Event with a total attendance, including guests, employees, and all other individuals, of more than 25 people must create, publicly post, and ensure compliance with a COVID-19 Safety Plan approved by the Elkhart County Health Department.

3. Who is required to implement and maintain Staff and Volunteer Screening measures?

Answer: Every business and entity in Elkhart County, including all for-profit and non-profit entities, and every Person in Charge of a Gathering or Meeting or Special or Seasonal Event must identify and implement measures to appropriately screen staff and volunteers for COVID-19 symptoms and address the appropriate quarantine procedures for close contacts of COVID-19 positive individuals.

4. Who is required to implement and maintain Sanitation Measures?

Answer: Every business and entity in Elkhart County, including all for-profit and non-profit entities, and every Person in Charge of a Gathering or Meeting or Special or Seasonal Event must implement and maintain Sanitation Measures.

5. Who is required to implement and maintain Social Distancing Measures?

Answer: Every business and entity in Elkhart County, including all for-profit and non-profit entities, and every Person in Charge of a Gathering or Meeting or Special or Seasonal Event must implement and maintain Social Distancing Measures. The only exception to this general rule applies to personal services and health care providers, which may permit a business employee and a customer to be within six feet of each other and make physical contact

only for the period of time necessary and to the extent necessary for the specific services to be provided.

6. Are all businesses and entities in Elkhart County required to ensure compliance with the Face Covering Directive set forth in Public Health Order 05-2020?

Answer: Yes, every business and entity in Elkhart County, including all for-profit and non-profit entities, must ensure compliance with the Face Covering Directive set forth in Public Health Order 05-2020. The only exception to this general rule applies to personal services and health care providers, which may permit a customer to remove his or her face covering only for the period of time necessary and to the extent necessary for the specific services to be provided.

7. Are Persons in Charge of Gatherings or Meetings and Special or Seasonal Events required to ensure compliance with the Face Covering Directive set forth in Public Health Order 05-2020?

Answer: Yes, every Person in Charge of a Gathering or Meeting or Special or Seasonal Event must ensure compliance with the Face Covering Directive set forth in Public Health Order 05-2020.

8. Do you support businesses and entities that offer alternatives to in-person services?

Answer: Yes. We understand in-person attendance is necessary for certain services to be offered. But creative means have been established to produce alternatives to in-person offerings. We fully support every business and entity that decides to offer or transition entirely to offering remote services. We also fully support every business and entity that decides to identify alternative purchasing options for goods such as drive-thru access, outdoor pickup options, online ordering, and other alternatives.

9. Are face coverings required to be worn at fitness centers?

Answer: Yes. Gyms, exercise facilities, and fitness centers like all other for-profit and non-profit businesses and entities, must comply with both public health orders. Gyms, exercise facilities, and fitness centers need to implement, maintain, and ensure compliance with a COVID-19 Response Plan that satisfies the face covering directive and mitigation directives. Unless an exception set forth in Public Health Order 05-2020 applies, all individuals in indoor areas open to the public must properly wear a face covering over their nose and mouth. If an individual is in an area that is private, not open to the public (e.g. reserved exercise room) and is able to maintain 6 feet distance from others not in their household, then they may remove their facial covering while engaging in strenuous exercise. It must be recognized by the public that due to heavy breathing that may occur during strenuous exercise, respiratory droplets containing infectious viral particles may travel farther than 6 feet, thus increasing the risk of contracting COVID-19 by individuals who may be 6 feet away.

10. Do child care operations have to comply with Public Health Order 05-2020 and 06-2020?

Answer: Yes. Child care operations, like all other for-profit and non-profit businesses and entities, must comply with both public health orders. Child care operations need to implement, maintain, and ensure compliance with a COVID-19 Response Plan that satisfies the face covering directive and mitigation directives.

11. Do churches have to comply with Public Health Order 05-2020 and 06-2020?

Answer: Yes. Churches, like all other for-profit and non-profit businesses and entities, must comply with both public health orders. Churches need to implement, maintain, and ensure compliance with a COVID-19 Response Plan that satisfies the face covering directive and mitigation directives. Churches may conduct religious services, however, regardless of the number of attendees, without submitting a COVID-19 Safety Plan to the Health Department. Elkhart County appreciates religious rights and has taken steps to ensure that additional restrictions have not been placed upon churches in comparison to other businesses and entities.

12. Do you support churches that offer alternative options to in-person services?

Answer: Yes, as noted in Question 8, we support all businesses and entities that are willing to transition away from in-person services. This is no different for churches. The State of Indiana — based upon its contact tracing data — has stated that church gatherings are among the events causing the greatest spread of COVID-19. Especially in light of this information, we fully support any church that decides to transition entirely to offering livestreaming, virtual, or drive in services as recommended by the Governor.

13. Are Gatherings or Meetings and Special or Seasonal Events with an anticipated total attendance in excess of 25 ever permitted in Elkhart County?

Answer: If more than 25 individuals are expected, the Elkhart County Health Department strongly encourages postponing the Gathering, Meeting, or Event. A Gathering or Meeting or Special or Seasonal Event with total attendance greater than 25 is only permitted if the Person in Charge has secured Elkhart County Health Department approval of their COVID-19 Safety Plan. In order to obtain that approval, the Person in Charge must timely submit a COVID-19 Safety Plan Review Request with a satisfactory COVID-19 Safety Plan. A copy of the COVID-19 Safety Plan Review Request can be found at: <http://www.elkhartcountyhealth.org/pdfs/2020%2011-17%20event%20-%20covid-19%20safety%20plan%20review%20request.pdf>. The approved COVID-19 Safety Plan requirement described above does not apply to single households, living units, or religious services exceeding 25 individuals.

14. If I have a recurring Gathering or Meeting or Special or Seasonal Event must I submit a new COVID-19 Safety Plan for each reoccurrence?

Answer: It depends. A recurring Gathering or Meeting or Special or Seasonal Event may submit one plan that applies equally to each occurrence identified on the COVID-19 Safety Plan Review Request, but must provide explanation of how the multiple Gatherings, Meetings, or Events are exactly alike, and how the Person in Charge will maintain the COVID-19 Safety Plan through the series of Gatherings, Meetings, or Events. These Gatherings, Meetings, or Events must be repetitions of the same Gathering, Meeting, or Event, repeating without any changes. Any Gathering, Meeting, or Event that has a change (e.g. modified number of expected attendees, change of location, change of safety procedures, adding food services, modifying the number of vendors or performances) must timely submit a new COVID-19 Safety Plan Review Request.

15. What COVID-19 mitigation measures must an educational institution implement and maintain?

Answer: Prior to reopening this fall, educational institutions were advised to submit a COVID-19 reopening plan to the Elkhart County Health Department for review. Educational institutions were instructed to use the guidance issued specifically for educational institutions by the Indiana Department of Education and the Indiana State Department of Health when developing their COVID-19 reopening plan. For all educational institutions serving any K-12 level grades that have submitted a COVID-19 reopening plan that has been reviewed by the Elkhart County Health Department without objection, such educational institutions — during regular school hours or while engaged in education setting purposes or transportation of students — need only comply with the mitigation measures set forth in their COVID-19 reopening plan. Additional restrictions set forth in Public Health Order 06-2020 apply to attendance of school sponsored events, extracurricular activities, and co-curricular activities. Educational institutions that did not submit a COVID-19 reopening plan must create, publicly post, and ensure compliance with a COVID-19 Response Plan.

16. If I wear a face covering when in an area open to the public or a private area (e.g. office) with people outside my household, do I still need to practice social distancing?

Answer: Yes, social distancing remains one of the most important tools to reduce the spread of COVID-19. Wearing a face covering is another important tool for reducing the spread of the virus. However, a face covering is not a substitute for physical distancing of at least 6 feet. See Question 5 for more information about who is required to implement and maintain Social Distancing Measures.

17. Do I have to wear a face covering if I am in an indoor area open to the public and I am maintaining 6 foot social distancing with all individuals outside of my household?

Answer: Yes, individuals in an indoor area open to the public must wear a face covering even if they believe they can maintain six feet of social distancing from others.

18. Are there criminal penalties for violating Public Health Orders 05-2020 or 06-2020?

Answer: No. Public Health Orders 05-2020 and 06-2020 do not create a criminal penalty for violations. See Question 19 below for further information regarding the civil penalties.

19. Are there civil penalties for violating Public Health Orders 05-2020 or 06-2020?

Answer: Yes, Public Health Orders 05-2020 and 06-2020 outline the incremental enforcement steps that may be taken upon identification of a violation. Those steps include:

- issuing a written warning outlining the type of noncompliance and providing action steps to come into compliance;
- if noncompliance persists following the written warning, issuing a citation of noncompliance and order the business or entity to take action steps to obtain compliance;
- if a business or entity continues noncompliance despite the citation order, the Health Officer may pursue either or both of the following courses of action:
 - issue an order to close the business entity; or
 - refer the matter to legal counsel to enforce the citation and order in a circuit or superior court under Indiana Code § 16-20-1-26, with such penalties including, but not limited to, suspension or revocation of a license; appropriate remedial actions; vacation of a property; inspections; penalties up to \$2,500.00 per violation, with each noncompliant action constituting a separate and distinct violation; entering a judgment; and imposing court costs and fees.

Additionally, the County may issue incremental civil fines for violations of Elkhart County Restated Ordinance No. 2020-38. See Question 20 below to learn more about the civil enforcement procedures implemented under Elkhart County Restated Ordinance No. 2020-38.

20. What does Elkhart County Restated Ordinance No. 2020-38 do?

Answer: Elkhart County Restated Ordinance No. 2020-38, adopted by the Elkhart County Commissioners, incorporates the Mitigation Directives set forth in Public Health Order 06-2020 and establishes an incremental civil fine structure for violations of the Ordinance. Those steps include:

- issuing a written warning — to educate and encourage — outlining the type of noncompliance and providing action steps to come into compliance;
- if noncompliance persists following the written warning, issuing a Citation Order with civil fines — based upon the schedule provided — of up to \$2,500.00;

- if noncompliance persists following the first Citation Order, issuing subsequent Citation Order(s) with civil fines — based upon the schedule provided — of up to \$5,000.00.

The civil fines discussed above are in addition to, and not in lieu of, the remedial measures available to the Health Officer under Public Health Orders 05-2020 and 06-2020. See Question 19 above for additional information regarding the remedial measures provided in Public Health Orders 05-2020 and 06-2020.

21. Will the Elkhart County Sheriff’s Office be enforcing Public Health Orders 05-2020 and 06-2020 or Elkhart County Restated Ordinance No. 2020-38?

Answer: No. As noted in Question 18 above, Public Health Orders 05-2020 and 06-2020 do not create criminal liability. Similarly, Elkhart County Restated Ordinance No. 2020-38 does not create criminal liability. The Elkhart County Sheriff’s Office will continue to dedicate its time enforcing the State of Indiana’s criminal and traffic laws. Public Health Orders 05-2020 and 06-2020 confirm that the Elkhart County Health Department or its designated team — not including the Sheriff’s Office — will enforce the Health Orders. Similarly, Elkhart County Restated Ordinance No. 2020-38 authorizes specific Elkhart County officials — not including the Sheriff’s Office — to enforce the Ordinance and authorizes cities to designate a group within each city to enforce the terms and provisions of the Ordinance within their geographical boundaries.

22. Will the Elkhart County Prosecutor’s Office be prosecuting individuals that violate Public Health Order 05-2020 or 06-2020 or Elkhart County Restated Ordinance No. 2020-38?

Answer: No. As noted in Questions 18 and 21 above, Public Health Orders 05-2020 and 06-2020 and Elkhart County Restated Ordinance No. 2020-38 do not create criminal liability. Instead, the Health Orders and Ordinance are civil in nature and will be enforced separate and apart from the Prosecutor’s Office.

23. Will individuals enforcing Public Health Order 05-2020 and 06-2020 and Elkhart County Restated Ordinance No. 2020-38 be issuing Citation Orders to every customer and attendee or to the business or entity and Person in Charge?

Answer: Public Health Orders 05-2020 and 06-2020 and Elkhart County Restated Ordinance No. 2020-38 establish enforcement procedures that will be pursued against businesses and entities that are in violation and Persons in Charge of Gatherings, Meetings, and Events that are in violation. Citation orders will not be issued to the individual attendees or customers of the business, entity, Gathering, Meeting, or Event. It is the responsibility of the business or entity or Person in Charge to ensure compliance from all individuals.

24. What should I do if I have questions regarding or wish to report an alleged violation of the mitigation directives set forth in Public Health Order 06-2020?

Answer: If you have questions about the public health orders or have concerns about a business or entity not operating safely, you can contact the Elkhart County COVID-19 call center at 574-523-2106 during operating hours. Alternatively, people can mail a concern to the Elkhart County Health Department at 608 Oakland Ave, Elkhart, IN 46516 or file a concern online using the COVID-19 concern form at:

https://docs.google.com/forms/d/e/1FAIpQLSdEVfR0gjK_kWqCqelnvp3dV0-kK2Gkz4_gYS-TXtfzV6dOZQ/viewform?gxids=7628

25. If I submit a COVID-19 concern, how will any contact or personal information provided be used?

Answer: The Elkhart County Health Department will use any contact or personal information provided as a part of its investigation of the alleged concern. The Elkhart County Health Department will not publish or post your contact or personal information online. You may submit concerns anonymously and are not required to provide the Elkhart County Health Department with any contact or personal information at the time you present your concern. If you choose to provide your contact or personal information, please remember that you are submitting information to a governmental unit and your information may be subject to a public record request.

26. If I don't wear a face covering at a business or entity, can the business refuse to serve me?

Answer: Yes. Businesses and entities are required to ensure compliance with Public Health Order 05-2020. A business or entity should take all reasonable steps to prohibit any member of the public who is not wearing a face covering, without an exception set forth in the Order, from entering and should not serve that person. For individuals that qualify for an exception under the Order, the entity may provide alternative means for shopping at the location (e.g. curbside pick-up) in lieu of allowing the individual to enter the building. If you are unable to wear a face covering, contact the business or entity in advance to discuss their policy and what options they have available for you.

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