

DENVER-AREA EMPLOYERS FACE NEW COVID MASK MANDATE

Insights

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Given the recent uptick in COVID-19 cases in the local area and concerns related to hospital capacity, Denver – joined by other local counties (Adams, Arapahoe, and Jefferson – is reinstating mask mandates for public indoor spaces regardless of vaccination status effective now through January 3, 2022 at 11:59 p.m. unless extended. These spaces include but are not limited to common areas of apartment buildings, offices, gyms, shops, cultural facilities, restaurants, bars and night clubs. This latest development will impact employers throughout the Denver metro area, requiring you to take proactive steps in order to comply with new local health protocols. What do you need to know about [this new mandate](#) – and what do you need to do?

The New Mask Mandate in a Nutshell

The mandate only applies to “public indoor spaces.” As defined in this Order, this means any enclosed indoor area other than a person’s residence that is publicly or privately owned, managed, or operated to which individuals have access by right or by invitation, expressed or implied, or that is accessible to the public, serves as a place of employment, or is an entity providing goods or services. Public Indoor Spaces include entering, being inside, or moving within the common area of an apartment building, condominium, or similar residential building, including lobbies, pool areas, elevators, common recreation areas, and in offices or other spaces used by the public.

While other exceptions still apply (see below), a business now can opt to become a fully vaccinated facility attesting

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that at least 95% of people inside the facility are vaccinated. A business that has already implemented mandatory vaccination policies may be interested in completing this process and can do so by contacting DDPHE at covidvaccine@denvergov.org.

What Should You Do?

What steps should employers take in Denver County to comply with the new mask mandate? We recommend two critical action steps:

- Communicate to employees that masks will be required in all indoor public spaces effective immediately through least January 3, regardless of vaccination status.
- Update postings to reflect that all those entering indoor public spaces will be required to wear a mask indoors.

Below are the exceptions to public masking indoors policies:

- Individuals inside a Fully Vaccinated Facility;
- Individuals who are deaf or hard of hearing, or who are communicating with someone who is deaf or hard of hearing or otherwise disabled and where the ability to see the mouth is essential to communication;
- Individuals seated at a food service establishment or actively eating or drinking;
- Individuals actively engaged in public safety roles;
- Individuals actively engaged in performing arts events, leading religious services and/or similar activities if 12 feet of distance is maintained;
- Individuals who are receiving a personal, religious, or medical service where the temporary removal of mask is necessary to perform the service;
- Those who cannot wear masks due to a medical or mental health condition or disability, or who are hearing impaired or communicating with a hearing-impaired person;
- Individuals alone in an enclosed room or are only with members of their same household in an enclosed room; and

- Individuals swimming, testifying at witnesses, serving as language interpreters for participants in court proceedings and/or temporary removal of mask for legal identification.

Conclusion

Currently, it appears that masks will still not be required outdoors. However, this mask mandate is a good reminder that although the COVID-19 situation has improved, we are not in the clear yet. With the new Omicron variant sure to cause concern in the coming weeks and months, and many local residents still unvaccinated, COVID-19 protocols are back in Denver for now.

We will monitor these developments and provide updates as warranted, so make sure that you are subscribed to [Fisher Phillips' Insights](#) to get the most up-to-date information direct to your inbox. If you have further questions, contact your Fisher Phillips attorney, the author of this Insight, or any attorney in our [Denver office](#).