



**COLORADO**  
Department of Public  
Health & Environment

June 29, 2020

Mark Waller, Chair  
Holly Williams, Commissioner  
Cami Bremer, Commissioner  
Longinos Gonzalez, Jr, Commissioner  
Stan Vanderwerf, Commissioner  
El Paso County Board of Commissioners  
200 South Cascade Avenue, Suite 100,  
Colorado Springs, CO 80903

Susan Wheelan  
Public Health Director  
El Paso County Public Health  
1675 W. Garden of the Gods Road, Suite 2044  
Colorado Springs, CO 80907

RE: El Paso County Variance Request from portions of **Public Health Order 20-28**

Dear Commissioners and Director Wheelan:

Thank you for your second application to the Colorado Department of Public Health and Environment (CDPHE) requesting a variance to portions of **Public Health Order 20-28 Safer at Home**. I have had an opportunity to review your request for personal recreation, indoor and outdoor events, amusement parks, restaurants, and transportation for outdoor recreation and consider the information provided, and determine that the request is partially approved, with some amendments, as explained further below.

As stated in Appendix G to PHO 20-28, when reviewing a variance request, we evaluate the current prevalence of COVID-19 in the jurisdiction, including whether cases are increasing, stable, or decreasing. Your application addresses particular requirements that you propose as an alternative to the Safer at Home model for each of these areas. The data and information included in your request demonstrates that El Paso County has reported 2,266 COVID-19 cases to date and has a 2 week average percent positivity rate of 3.41%, which the variance framework permits to be considered in lieu of two-week incidence data, putting El Paso County in the “low” variance category - see [here](#) for more information.

Based on the low disease prevalence in El Paso county as assessed in this variance review, the following standard is applied to determine the maximum capacity in the indoor and outdoor settings for which you have applied: for all indoor and outdoor spaces, in order to achieve 6 feet

distancing, the limit is 50% of the posted occupancy code ensuring a minimum 28 square feet per person not to exceed more than 175 people gathered in a confined indoor space at any given time, and not to exceed 250 in an outdoor space.

Your June 10, 2020 variance application requests 50% capacity with no total person cap for all of the following sectors and activities:

- **Personal recreation**
  - Gyms, defined as a building or room used for indoor sports or exercise, such as fitness, dance, exercise or group classes, martial arts classes. exercise studios and centers, recreation centers, and other indoor facilities
  - Athletic Training Facilities, defined as gyms used exclusively, either at all times or for certain defined periods of time, by athletes who have an official relationship with an Olympic organization and are training for future Olympic competitions or qualifying events
  - Indoor Water Park at Great Wolf Lodge
  - Park nature centers
  - Bowling alleys
  - Ice rinks
  - Laser tag, indoor gun ranges, escape rooms, Nerfgun battles, paintball, miniature golf courses, and go-kart tracks
- **Indoor and outdoor events**, to include places of interest visited by people for their natural cultural, educational, historical, or unique entertainment value
  - Theaters, both movie or recorded performances and live performances
  - Indoor Malls
  - Libraries
  - Museums
  - Art galleries
  - Manitou Cliff Dwellings
  - Flying W Ranch
  - Small private special events
- **Amusement parks**, those specifically mentioned include Cave of the Winds and Santa's Workshop.

Your June 25, 2020 variance request seeks the following:

- **Restaurants:** increase capacity to 50% of the posted occupancy code up to 175 people in a confined indoor space
- **Indoor events:** increase capacity to 50% of the posted occupancy code up to 175 people in a confined indoor space
- **Outdoor Recreation:** increase shuttle bus and van capacity to 75% with 6 feet distancing

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The variances for personal recreation, indoor and outdoor events, and restaurants are approved at the low variance standard as described above, 50% of the posted occupancy code up to 175 people in a confined indoor space and 250 people outdoors, with 6 feet distancing.

We have concerns regarding the opening of any amusement parks in the state. Although outdoor settings are preferred from a mitigation of disease spread perspective, with the sheer volume of high touch surfaces such as park rides and the likelihood of constant mingling of non household contacts throughout the park, we are not currently approving any requests for amusement parks. The request to open any amusement parks in El Paso county is not authorized to move forward at this time.

Finally, the Safer at Home framework does not contemplate exceeding 50% capacity, and even in the anticipated Protect Our Neighbors framework, counties will remain at 50% capacity until they are able to demonstrate that they continue to meet the required metrics for a continuous period of time while in Protect Our Neighbors. As such, the outdoor recreation shuttle buses and vans must remain at 50% capacity.

This variance approval is granted based on the facts and circumstances today as you have described them in your request, and is subject to adjustment if conditions worsen as described [here](#). If the County were to exceed a percent positivity of 5%, notify CDPHE and then implement a mitigation plan for 2 weeks to try and restore virus transmission levels to the baseline under which the variance was approved. If after 2 weeks the levels are not restored, then the capacity limits are automatically adjusted to the maximum of the new level (low goes to medium, medium goes to high). If the county started at the "high" level for the variance, and after the 2 weeks of mitigation the baseline has not been restored, then the variance is rescinded. This standard for variance review applies to all variances currently in effect in El Paso County. Additionally, CDPHE reserves the right to modify or rescind this variance approval as circumstances warrant. This approval is in effect until the final expiration of PHO 20-28, which will be extended in some capacity beyond the current expiration date of June 30, 2020.

I appreciate your thoughtful approach to these challenging issues, and wish you all the best in your continuing efforts to ensure that El Paso County residents are safe and healthy as we deal with this global pandemic. El Paso County is a valued partner, and we are available to answer any questions and work with you on these matters. Please give me a call if you have any questions.

Sincerely,



Jill Hunsaker Ryan, MPH  
Executive Director