



**COLORADO**  
Department of Public  
Health & Environment

June 29, 2020

Kathleen Conti, Commissioner  
Nancy Sharpe, Commissioner  
Jeff Baker, Commissioner  
Nancy Jackson, Commissioner  
Bill Holen, Commissioner  
Arapahoe County Board of Commissioners  
5334 S. Prince Street,  
Littleton, CO 80120

John Douglas, M.D.  
Tri-County Health Department  
6162 S. Willow Dr, Suite 100,  
Greenwood Village, CO 80111

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

Dear Commissioners and Director Douglas:

Thank you for your 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 gyms, restaurants, houses of worship, and indoor malls and consider the information provided, and determine that the request is 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 Arapahoe County has reported 5,100 COVID-19 cases to date and has a 2 week average percent positivity rate of 3.91%, which the variance framework permits to be considered in lieu of two-week incidence data, putting Arapahoe County in the "low" variance category - see [here](#) for more information.

Based on the low disease prevalence in Arapahoe 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 application requests all of the following:

- **Personal recreation:** allow Gyms to open to 50% of the posted occupancy code with people spaced 6 feet apart, ensuring a minimum of 28 square feet per person, with additional requirements included in the plan.
- **Restaurants:** allow up to 50% of the posted occupancy code with patrons spaced 6 feet apart between seats at different tables, no total person cap, with additional requirements included in the plan.
- **Houses of worship:** allow up to 50% of the posted occupancy code with people spaced 6 feet apart, ensuring a minimum of 28 square feet per person, with additional requirements included in the plan.
- **Indoor events:** allow indoor malls daily visitors up to 30% of building capacity, utilizing a ratio of one person per 55 square feet of physical space, individual retailers to follow Public Health Order 20-28 requirements in Section II for businesses and also Appendix A for retailers.

These variance requests are approved with the requirements and limitations described in the variance application in addition to the following amendments:

- For gyms, restaurants and houses of worship, each may allow for 50% of the posted occupancy code not to exceed more than 175 people in a confined indoor space with a minimum of 6 feet distancing.
- Restaurants and houses of worship, pursuant to the current PHO 20-28, as amended, may work with their local authorities to determine how many people they may have in an outdoor space.
- For indoor malls, the current requirements limit confined indoor spaces for indoor events to 100 people using the [Social Distancing Space Calculator](#). Your request of 30% building capacity does not include a total person limit, other than what is calculated using a ration of one person per 55 square feet. Based on the low level variance approval, the total limit for an indoor mall for any confined indoor space is 175 people. Note that it is critical for the common spaces within the indoor mall to be well-managed, as described in the variance application, to mitigate gatherings above 10 people and keep traffic flow moving.

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

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rescinded. This standard for variance review applies to all variances currently in effect in Arapahoe 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 Arapahoe County residents are safe and healthy as we deal with this global pandemic. Arapahoe 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,

A handwritten signature in black ink that reads "Jill Hunsaker Ryan". The signature is written in a cursive, flowing style.

Jill Hunsaker Ryan, MPH  
Executive Director