

# Frequently Asked Questions

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## Public Health Order Frequently Asked Questions

### What is different about this?

This public health effort is designed to provide local communities the flexibility to operate more day-to-day activities while assuring public health requirements in each jurisdiction align with the risks presented by and are strong enough to blunt the spread of the virus within that jurisdiction. In short, the “red to green” system enables local communities to shed burdensome restrictions as soon as public health data show the virus is retreating within their borders.

### How long will this last?

The state’s operative emergency public health order installing the county-by-county “red to green” framework is effective Dec. 2 through at least Dec. 30.

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Businesses closed?

No, almost every category of business or nonprofit is permitted to operate to some extent. All day-to-day activities are under some level of public health restriction, mostly on in-person activity, intended to limit person-to-person contact and crowding in indoor spaces, where the virus spreads more easily. Nothing in the public health order precludes businesses from operating remotely or employees from teleworking.

### How is each level determined?

The two key health metrics that are used to determine where a county sits within the tiered framework are pulled identified within the state's gating criteria, the set of public health datapoints tracked and measured by the state Medical Advisory Team and others: The per-capita **incidence of new COVID-19 cases** and **average COVID-19 test positivity** over a statistically meaningful period of time. These are also the same metrics the state has used to classify counties for the purposes of gauging the risk level for limited public school reopenings and limited nursing home visitations.

Counties at the Green Level have **both** a new COVID-19 case incidence rate of no greater than 8 cases per 100,000 inhabitants during the most recent two-week period, **and** an average percent of positive COVID-19 test results over the most recent 14-day period less than or equal to 5%.

Counties at the Yellow Level have **either** a new COVID-19 case incidence rate of no greater than 8 cases per 100,000 inhabitants during the most recent two-week period, **or** an average percent of positive COVID-19 test results over the most recent 14-day period less than or equal to 5%.

Counties at the Red Level are those with a new COVID-19 case incident rate of greater than 8 cases per 100,000 inhabitants during the most recent two-week period **and** an average percent of positive COVID-19 test results over the most recent 14-day period greater than 5%.

These data are measured and kept at [cv.nmhealth.org](https://cv.nmhealth.org).

### Where can I see my county's level?

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The New Mexico Department of Health maintains an official map displaying each county's current level on its designated COVID-19 webpage, [cv.nmhealth.org](https://cv.nmhealth.org). To capture an average over a period of time that accurately conveys the state of the spread of the virus in each county, the agency updates this map every other Wednesday.

### **How can my county move up to the next level?**

By driving down the spread of the virus. This is accomplished by reducing in-person gatherings and person-to-person contact, particularly indoors, where the virus spreads more easily.

When a county meets the specific metrics for a less restrictive level, the county may begin operating at that level of restrictions upon immediate effect of the department's biweekly update of the map. When a county fails to meet the specified metrics for a given level upon the biweekly update of the map, it will begin operating at the next most restrictive level within 48 hours.

### **When can my county move to the next level?**

The Department of Health updates its official map every other Wednesday. The next update is scheduled for Wednesday, Dec. 2. If a county meets the criteria for a less restrictive level, it may begin operating at that level with immediate effect. If a county falls out of compliance with the criteria for its current level, it will adopt the requirements of the next most restrictive level within 48 hours.

### **What do the Red, Yellow and Green Levels mean?**

Each Level has a different set of standards depending on the spread of the virus within a community, as determined by COVID-19 public health data. The Red Level signifies very high risk; the Yellow Level signifies high risk; and the Green Level signifies medium risk.

#### GREEN LEVEL:

Green Level have **both** a new COVID-19 case incidence rate of no greater than 8 cases per 100,000 inhabitants during the most recent two-week period, **and** an average percent of positive COVID-19 test results over the most recent 14-day period less than or equal to 5%.

**Essential businesses (non-retail):** No capacity restrictions but operations must be limited to only those absolutely necessary to carry out essential functions

**Essential retail spaces:** 50% of maximum capacity

**Food and drink establishments:** 50% of maximum capacity for indoor dining; 75% of maximum capacity for outdoor dining

**Close-contact businesses:** 50% of maximum capacity

**Outdoor recreational facilities:** 50% of maximum capacity (unless required to have less capacity under the state's COVID-Safe Practices)

**Close-contact recreational facilities:** Remain closed

**All other businesses:** 50% of maximum capacity

**Houses of worship:** May hold religious services, indoors or outdoors, or provide services through audiovisual means, but may not exceed 50% of the maximum capacity of any enclosed space on the premises

**Places of lodging:** 75% of maximum occupancy for those that have completed NM Safe Certified training; 40% of maximum occupancy for all others; 10 guests maximum for vacation rentals

**Mass gatherings limit:** 20 persons, 100 vehicles

#### YELLOW LEVEL:

Counties at the Yellow Level have **either** a new COVID-19 case incidence rate of no greater than 8 cases per 100,000 inhabitants during the most recent two-week period, **or** an average percent of positive COVID-19 test results over the most recent 14-day period less than or equal to 5%.

**Essential businesses (non-retail):** No capacity restrictions but operations must be limited to only those absolutely necessary to carry out essential functions

**Essential retail spaces:** 25% of maximum capacity or 125 customers at one time, whichever is smaller

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**k establishments:** 25% of maximum capacity for indoor dining; 75% of maximum capacity for outdoors dining; any establishment serving alcohol must close by 10 p.m. each night

**Close-contact businesses:** 25% of maximum capacity or 20 customers at one time, whichever is smaller

**Outdoor recreational facilities:** 25% of maximum capacity (unless required to have less capacity under the state's COVID-Safe Practices)

**Close-contact recreational facilities:** Remain closed

**All other businesses:** 25% of maximum capacity or 125 customers at one time, whichever is smaller

**Houses of worship:** May hold religious services, indoors or outdoors, or provide services through audiovisual means, but may not exceed 25% of the maximum capacity of any enclosed space on the premises

**Places of lodging:** 60% of maximum occupancy for those that have completed NM Safe Certified training; 25% of maximum occupancy for all others; 5 guests maximum for vacation rentals

**Mass gatherings limit:** 10 persons; 25 vehicles

#### RED LEVEL:

Counties at the Red Level are those with a new COVID-19 case incident rate of greater than 8 cases per 100,000 inhabitants during the most recent two-week period **and** an average percent of positive COVID-19 test results over the most recent 14-day period greater than 5%.

**Essential businesses (non-retail):** No capacity restrictions but must limit operations to only those absolutely necessary to carry out essential functions

**Essential retail spaces:** 25% of maximum capacity or 75 customers at one time, whichever is smaller

**Food and drink establishments:** No indoor dining permitted; 25% of maximum capacity for outdoor dining; any establishment serving alcohol must close by 9 p.m. each night

**Close-contact businesses:** 25% of maximum capacity or 10 customers at one time, whichever is smaller

**Outdoor recreational facilities:** 25% of maximum capacity (unless required to have less capacity under the state's COVID-Safe Practices)

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**recreational facilities:** Remain closed**All other businesses:** 25% of maximum capacity or 75 customers at one time, whichever is smaller**Houses of worship:** May hold religious services, indoors or outdoors, or provide services through audiovisual means, but may not exceed 25% of the maximum capacity of any enclosed space on the premises**Places of lodging:** 40% of maximum occupancy for those that have completed NM Safe Certified training; 25% of maximum occupancy for all others; 5 guests maximum for vacation rentals**Mass gatherings limit:** 5 persons, 10 vehicles

### **What qualifies as an essential business, or a close-contact business, etc.?**

The categories and definitions within the public health order are as follows:

**Essential businesses (non-retail):** These are any business or nonprofit entity falling within one or more of the following categories:

- Health care operations including hospitals, walk-in-care health facilities, pharmacies, medical wholesale and distribution, home health care workers or aides for the elderly, emergency dental facilities, nursing homes, residential health care facilities, research facilities, congregate care facilities, intermediate care facilities for those with intellectual or developmental disabilities, supportive living homes, home health care providers, drug and alcohol recovery support services, and medical supplies and equipment manufacturers and providers;
- Homeless shelters, food banks, and other services providing care to indigent or needy populations;
- Childcare facilities;
- Farms, ranches, and other food cultivation, processing, or packaging operations;
- Infrastructure operations including, but not limited to, public works construction, commercial and residential construction and maintenance, self-storage facilities, airport operations, public transportation, airlines, taxis, private transportation providers, transportation network companies, water, gas, electrical, oil drilling, oil refining, natural resources extraction or mining operations,

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- erial research and enrichment, those attendant to the repair and construction of roads and highways, gas stations, solid waste collection and removal, trash and recycling collection, processing and disposal, sewer, data and internet providers, data centers, technology support operations, and telecommunications systems;
- Manufacturing operations involved in food processing, manufacturing agents, chemicals, fertilizer, pharmaceuticals, sanitary products, household paper products, microelectronics/semiconductor, primary metals manufacturers, electrical equipment, appliance, and component manufacturers, and transportation equipment manufacturers;
  - Services necessary to maintain the safety and sanitation of residences or essential businesses including security services, towing services, custodial services, plumbers, electricians, and other skilled trades;
  - Veterinary and livestock services, animal shelters and facilities providing pet adoption, daycare, or boarding services;
  - Media services;
  - Utilities, including their contractors, suppliers, and supportive operations, engaged in power generation, fuel supply and transmission, water and wastewater supply;
  - Crematoriums, funeral homes and cemeteries;
  - Banks, credit unions, insurance providers, payroll services, brokerage services, and investment management firms;
  - Businesses providing mailing and shipping services;
  - Laboratories and defense and national security-related operations supporting the United States government, a contractor to the United States government, or any federal entity;
  - Professional services, such as legal or accounting services, but only where necessary to assist in compliance with legally mandated activities; and
  - Logistics, and also businesses that store, transport, or deliver groceries, food, materials, goods or services directly to residences, retailers, government institutions, or essential businesses.

**Food spaces:** These include grocery stores, supermarkets, food banks, farmers' markets and vendors who sell food, convenience stores, and other businesses that generate more than one-third of their revenue from the sale of canned food, dry goods, fresh fruits and vegetables, pet food, animal feed or supplies, fresh meats, fish, and poultry, and any other consumable food and drink products; automobile repair facilities, bike repair facilities, and retailers who generate the majority of their revenue from the sale of automobile or bike repair products; hardware stores; laundromats; and dry cleaner services.

**Food and drink establishments:** These are restaurants, breweries, wineries, distillers, cafes, coffee shops, or other similar establishments that offer food or drink.

**Close-contact businesses:** These are barbershops, hair salons, tattoo parlors, nail salons, spas, massage therapy services, esthetician clinics, tanning salons, guided raft tours, guided balloon tours, bowling alleys and ice skating rinks.

**Outdoor recreational facilities:** These are outdoor golf courses, public swimming pools, ski basins, youth programs, youth livestock shows, horseracing tracks, botanical gardens, and outdoor zoos.

**Close-contact recreational facilities:** These are indoor movie theaters, indoor museums with interactive displays or exhibits and other similar venues, miniature golf, arcades, amusement parks, aquariums, casinos, concert venues, professional sports venues, event venues, bars, dance clubs, performance venues, go-kart courses, automobile racetracks, adult entertainment venues, and other places of recreation or entertainment. For purposes of the public health order, a bar is defined as any business that generated more than half of its revenue from the sale of alcohol during the preceding fiscal year.

**Houses of worship:** These are any church, synagogue, mosque, or other gathering space where persons congregate to exercise their religious beliefs.

**Places of lodging:** These are hotels, motels, RV parks, and short-term vacation rentals.



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**gs:** These are any public gathering, private gathering, organized event, ceremony, parade, funeral, or any other grouping that brings together a specified number of individuals in a single room or connected space, confined outdoor space, or open outdoor space. “Mass gatherings” also include coordinated events in which individuals gather in vehicles. “Mass gatherings” do not include the presence of any number of individuals where those individuals regularly reside. “Mass gathering” does not include individuals who are public officials or public employees in the course and scope of their employment.

**All other businesses:** These are any entities that are not identified explicitly as an “essential business” “outdoor recreational facility,” “house of worship,” “food and drink establishment,” “place of lodging” or “close-contact recreational facility.” Examples would include non-essential retail spaces like a clothing store, a gym, a group fitness class or a personal training service, among others.

### **Why don't I see my business or nonprofit identified in any of the categories of the public health order or in the “red-to-green” levels framework?**

Any entities that are not identified explicitly as an “essential business,” “close-contact business,” “outdoor recreational facility,” “food and drink establishment,” “place of lodging” or “close-contact recreational facility” may operate under the following requirements for each county level:

- Red Level: At 25% of maximum capacity or with 75 customers at one time, whichever is smaller
- Yellow Level: At 25% of maximum capacity or 125 customers at one time, whichever is smaller
- Green Level: At 50% of maximum capacity

### **What can I leave the house for?**

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ould not be leaving the house unless it's an emergency or for an essential need like food and water. You can and should seek out emergency medical care if you need it. You can and should seek out a flu shot and, if you feel sick or have been exposed, a COVID-19 test. But gathering with other people, and making unnecessary trips outside of the house, is how the virus spreads. It's within your control, in your day-to-day life, to protect yourself and those around you.

### **My child was attending school part-time in the hybrid model. Can they still go to school?**

The public health order does not impact the state's efforts to get K-5 students — and ultimately middle and high school students — back into classrooms at a safe distance and in small groups. Students whose school districts had received approval from the Public Education Department to operate hybrid learning may continue to attend classes — but parents should be advised that after-school and weekend activities, especially any activities without masks and with non-household members, are a venue for the virus to spread and must be avoided. School districts retain the authority to revert to or remain in a remote-only learning model for the safety of educators, parents, students and school communities.

As with public schools, private schools that have elected to conduct some in-person learning may continue to operate with strict maximum occupancy restrictions.

### **Can I travel out of state? Can I visit New Mexico right now?**

If you travel out of state, you must self-quarantine for two weeks, or for the duration of your stay in New Mexico, upon your return. There are exceptions for essential workers and travel specific for child care and health care, among others. Visit [cv.nmhealth.org](https://cv.nmhealth.org) and click on the "Travel Restrictions" page to read about the exceptions and to view which states are currently high- and low-risk. Travel anywhere is a risk given current public health conditions nationwide, but visitors to and from low-risk states may be exempt from the two-week self-quarantine requirement.

### **Is this the law? What if a business or individual violates the state restrictions?**

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law. The state Public Health Emergency Response Act authorizes the state Department of Health to declare a public health emergency and to enact restrictions on day-to-day activities in order to protect the health and safety of New Mexicans. The Department of Health, under the provisions of this law, may issue civil administrative penalties of up to \$5,000 a day per violation of an emergency public health order. The state Supreme Court has upheld the authority of the state Department of Health in this matter. To report a violation of the emergency public health order, you may email [covid.enforcement@state.nm.us](mailto:covid.enforcement@state.nm.us) or visit [newmexico.gov](http://newmexico.gov) and click on the orange button.

### **What state resources are available to me?**

- For information about COVID-19 testing and other public health information, call the Department of Health coronavirus hotline at 1-855-600-3453. You may also visit [cv.nmhealth.org](http://cv.nmhealth.org) for general COVID-19 information and [togethernm.org](http://togethernm.org) for COVID-19 testing information.
- For mental health and behavioral health assistance, call 1-855-NMCRISIS (1-855-662-7474) or visit [nmcrisisline.com](http://nmcrisisline.com).
- For assistance with COVID-19 health insurance questions and issues, to obtain health insurance, to obtain help if you have been denied coverage or inappropriately charged for COVID-19 testing or treatment, call the New Mexico Superintendent of Insurance COVID-19 health insurance call center at 1-833-415-0566 from 8 a.m. to 6 p.m., Monday through Saturday.
- For information about unemployment, visit [jobs.state.nm.us](http://jobs.state.nm.us) and [youtube.com/nmdws](http://youtube.com/nmdws).
- To apply online for medical assistance (Medicaid), food assistance (SNAP), cash assistance (TANF) and energy assistance (LIHEAP) visit: [www.yes.state.nm.us](http://www.yes.state.nm.us).
- To report a violation of the state's emergency public health order, visit the reporting portal on [newmexico.gov](http://newmexico.gov) or email [covid.enforcement@state.nm.us](mailto:covid.enforcement@state.nm.us).
- For emergency medical assistance, do not call the Department of Health information hotline — call 9-1-1.

### **Are holiday and other drive-thru events permitted?**

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yes, so long as the attendees stay within their vehicles at all times and their vehicles do not remain stationary for any significant period of time. When people gather or congregate, the virus has an opportunity to spread. A drive-thru event should keep people moving through so as not to cause a congregation or gathering and to mitigate the risk of viral spread.

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