

**ORDER OF THE DIRECTOR OF EMERGENCY MANAGEMENT FOR THE COUNTY OF
ALBEMARLE, VIRGINIA PURSUANT TO VIRGINIA CODE § 44-146.21(C)**

**ORDER NO. 21-3
(Vaccinations or Periodic Testing Pertaining to COVID-19)**

1. On March 11, 2020, the World Health Organization declared the novel coronavirus, SARS-CoV-2, and the disease it causes, commonly referred to as COVID-19, a pandemic (for reference in this Order, this virus and the disease that it causes are referred to as “COVID-19”).
2. On March 12, 2020, acting as the Director of Emergency Management, I declared a local emergency because of the COVID-19 pandemic pursuant to my authority under Virginia Code § 44-146.21, and this declaration was confirmed by the Board of Supervisors on March 17, 2020. The declaration of a local emergency remains in effect.
3. Also on March 12, 2020, Governor Ralph S. Northam issued Executive Order No. 51 declaring a state of emergency for the Commonwealth of Virginia because of the COVID-19 pandemic. The Governor allowed the state of emergency to expire on June 30, 2021.
4. In the United States, over 3,567,000 persons have been infected with COVID-19 and over 614,200 individuals have died.¹ In Virginia, as of August 10, 2021, 711,078 persons have been infected with COVID-19 and over 11,578 have died.²
5. Persons infected with COVID-19 experience a range of symptoms from none at all (asymptomatic) to severe illness and death.³ While the majority of those afflicted have been able to recover fully, even after recovery, various long-term health problems may linger.⁴ Those persons who are immunocompromised, have certain medical conditions, suffer from longstanding systemic and social inequities, or who are older are more likely to become severely ill or die from COVID-19.⁵
6. The principal mode by which COVID-19 spreads is through exposure to respiratory fluids carrying infectious virus, which can occur through direct inhalation; depositing fluids on exposed mucous membranes in the mouth, nose, or eye through sprays; and touching mucous membranes with contaminated hands.⁶
7. The United States is currently in the fourth wave of new cases. The third wave that occurred in the winter of 2020-2021 saw the number of new cases reach their highest level during the COVID-19 pandemic. On January 8, 2021, the Centers for Disease Control and Prevention reported 312,325 new cases, the highest number in a single day since the start of the pandemic.⁷
8. Since then, vaccines have played a vital role in slowing the spread. COVID-19 vaccines first became available in the United States in December 2020 and became widely available to the public by spring 2021.⁸ As of the date of this Order, the U.S. Food and Drug Administration has authorized three COVID-19 vaccines for emergency use: Pfizer-BioNTech, Moderna, and Johnson & Johnson’s Janssen.⁹ The Pfizer and Moderna vaccines are 95 percent effective against the original version of COVID-19 and 90 percent against the Delta Variant. These vaccines have also been shown to reduce the risk of transmission from a fully vaccinated person by 80 to 90 percent. Likewise, Johnson & Johnson’s Janssen vaccine provides strong protection against severe illness against all known variants. With the vaccine rollout, the number of new infections per day dropped significantly. On June 21, 2021, there were only 8,420 new reported cases.¹⁰
9. Although the vaccination rate increased rapidly from January to May 2021, it has remained relatively stagnant for several months.¹¹ As of the date of this Order, approximately 50.1 percent of the total U.S. population are fully vaccinated.¹² New COVID-19 cases are now significantly more likely to originate in unvaccinated persons.¹³

As explained by Governor Northam in Executive Directive No. 18 issued on August 5, 2021, “[b]ecause the vaccines are safe and effective, unvaccinated Virginians account for nearly everyone who is now being hospitalized or dying from COVID-19.”

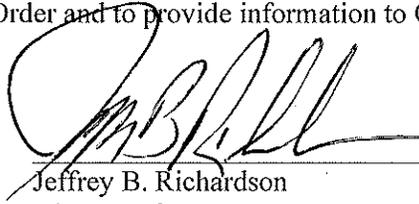
10. Preventing the spread of COVID-19 has been an extraordinarily difficult and complex undertaking that is now complicated by the advent of what is commonly referred to as the “Delta Variant,” a mutation to the SARS-COV-2 virus. As noted in Section 7, the United States is currently experiencing the fourth wave of infection surge, despite the vaccines. The number of new infections per day has been on the rise since late June, with 184,346 new cases reported on August 9, 2021.¹⁴ One cause of this surge is the rapid spread of the Delta Variant, which is a highly-transmissible variant that is 50 percent more contagious than the initial strain of COVID-19.¹⁵ Two different studies suggest that persons infected with the Delta Variant were more likely to be hospitalized than patients infected with the “Alpha” or the original COVID-19 virus strains.¹⁶ The Delta Variant is now the predominant strain of COVID-19 threatening public health, comprising approximately 83.2 percent of recent U.S. cases.¹⁷
11. Throughout the COVID-19 pandemic, the County’s goals have been to reduce transmission among County employees and the public, protect people who are at higher-risk for adverse health complications, and maintain essential services for the public.
12. For the foregoing reasons, and pursuant to my authority under Virginia Code § 44-146.21(C) to protect the health and safety of persons and to “proceed without regard to time-consuming procedures and formalities prescribed by law (except mandatory constitutional requirements) pertaining to the performance of public work,” I hereby direct:
 - A. Disclose vaccine status or submit to weekly testing. All County employees must disclose their vaccination status to the County personnel designated by me to receive that information (the “designated County personnel”) or undergo weekly COVID-19 testing as explained below.
 1. Full vaccination status. To establish that they are fully vaccinated against COVID-19, employees must show their original COVID-19 Vaccination Record Card to the designated County personnel.
 2. If employee not fully vaccinated. Employees who are not fully vaccinated or decline to disclose their vaccine status must undergo weekly COVID-19 testing at County-approved testing sites and disclose each week the results of those tests to the designated County personnel. An employee is not required to state a reason for declining to disclose their vaccine status. The County will pay for the cost of testing, the testing will be conducted during the employees’ workday or at another time of the employee’s choosing when testing is available, and the time spent to be tested will be part of the employee’s compensated workday. An employee who tests positive must comply with the applicable rules in the “Albemarle County COVID-19 Reconstitution Guidance for Employees.”
 - B. Duty of designated County personnel. The designated County personnel must collect the vaccination status of each employee who report to them on a form provided by the County and deliver the data to the confidential repository designated by the County.
 - C. “County employee” and “employee” defined. “County employee” and “employee” mean all full-time, part-time, temporary, and contract employees of the County of Albemarle, Virginia who report to the Albemarle County Board of Supervisors or are supervised up through the County Executive, regardless of their work location.
 - D. Relationship of this Order to laws. This Order does not affect the County’s responsibilities as an employer or the rights of an employee with the applicable requirements and rights under the Americans with Disabilities Act, Title VII of the Civil Rights Act of 1964, and the First Amendment to the United States Constitution.

E. Effective date. This Section is effective on and after September 15, 2021.

13. The direction in Section 12 best positions the County to meet its goals both as an employer and as a government to protect the health and safety of its workplaces and the broader community.

14. I will assemble a team to implement this Order and to provide information to County employees about its implementation.

Date: 8/11/21



Jeffrey B. Richardson
Director of Emergency Management
County of Albemarle, Virginia

References

1. Centers for Disease Control & Prevention, *United States COVID-19 Cases, Deaths, and Laboratory Testing (NAATs) by State, Territory, and Jurisdiction*, https://covid.cdc.gov/covid-data-tracker/#cases_casesper100klast7days (Aug. 5, 2021).
2. <https://www.vdh.virginia.gov/coronavirus/covid-19-in-virginia/>
3. Centers for Disease Control & Prevention, *People with Certain Medical Conditions* (May 13, 2021), Note 4 <https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/people-with-medical-conditions.html#MedicalConditionsAdults>; Centers for Disease Control & Prevention, *Older Adults* (July 3, 2021), <https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/older-adults.html>.
4. Centers for Disease Control & Prevention, *COVID-19 Trends Among Persons Aged 0-24 Years—United States, March 1-December 12, 2020* (Jan. 13, 2021), <https://www.cdc.gov/mmwr/volumes/70/wr/mm7003e1.htm>. Studies have shown that children and young people may have fewer severe COVID-19 outcomes than adults. The Court notes that more recent information on the Delta Variant suggests that it impacts a younger demographic with more serious symptoms. *See generally* Kathy Katella, *5 Things to Know About the Delta Variant*, Yale Medicine (Aug. 3, 2021) (“Kids and young people are a concern as well. ‘A recent study from the United Kingdom showed that children and adults under 50 were 2.5 times more likely to become infected with Delta[]’”), <https://www.yalemedicine.org/news/5-things-to-know-delta-variant-covid>
5. Centers for Disease Control & Prevention, *People with Certain Medical Conditions* (May 13, 2021), <https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/people-with-medical-conditions.html#MedicalConditionsAdults>; Centers for Disease Control & Prevention, *Older Adults* (July 3, 2021), <https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/older-adults.html>.
6. Centers for Disease Control & Prevention, *Scientific Brief: SARS-COV-2 Transmission* (May 7, 2021), <https://www.cdc.gov/coronavirus/2019-ncov/science/science-briefs/sars-cov-2-transmission.html>.
7. Centers for Disease Control & Prevention, *Trends in Number of COVID-19 Cases and Deaths in the US Reported to CDC, by State/Territory*, https://covid.cdc.gov/covid-data-tracker/#trends_dailytrendscases (Aug. 5, 2021).
8. Ben Guarino, Ariana Eunjung Cha, Josh Wood & Griff Witte, *‘The weapon that will end the war’: First coronavirus vaccine shots given outside trials in U.S.*, Wash. Post (Dec. 14, 2020 5:50 PM), <https://www.washingtonpost.com/nation/2020/12/14/first-covid-vaccines-new-york/>.
9. Ben Guarino, Ariana Eunjung Cha, Josh Wood & Griff Witte, *‘The weapon that will end the war’: First coronavirus vaccine shots given outside trials in U.S.*, Wash. Post (Dec. 14, 2020 5:50 PM), <https://www.washingtonpost.com/nation/2020/12/14/first-covid-vaccines-new-york/>.
10. Centers for Disease Control & Prevention, *Trends in Number of COVID-19 Cases and Deaths in the US Reported to CDC, by State/Territory*, Note 8, https://covid.cdc.gov/covid-data-tracker/#trends_dailytrendscases (Aug. 5, 2021).
11. *5 Things to Know About the Delta Variant*, Yale Medicine, Note 6 (Aug. 3, 2021) <https://www.yalemedicine.org/news/5-things-to-know-delta-variant-covid>; Centers for Disease Control & Prevention, *COVID Data Tracker Weekly Review* (Aug. 6, 2021), <https://www.cdc.gov/coronavirus/2019-ncov/covid-data/covidview/index.html>. In response to the rapid spread of the Delta Variant, it has been reported that demand for COVID-19 vaccines has increased during the past couple of weeks. *See* Dan Goldberg & Tucker Doherty, *Vaccine demand jumps in states pummeled by Delta variant*, Politico (Aug. 6, 2021 12:50 PM), <https://www.politico.com/news/2021/08/06/vaccine-demand-states-delta-502701>; Eduardo Medina, *Demand for shots is increasing in less-vaccinated states under siege from the Delta variant*, N.Y. Times (July 31, 2021), <https://www.nytimes.com/2021/07/31/world/less-vaccinated-covid-shots.html>.

12. Centers for Disease Control & Prevention, *COVID-19 Vaccinations in the United States*, <https://covid.cdc.gov/covid-data-tracker/#vaccinations> (Aug. 7, 2021).
13. *Klaassen v. Trustees of Indiana Univ.*, No. 1:21-CV-238 DRL, 2021 WL 3073926, at *1 (N.D. Ind. July 18, 2021).
14. [Cumulative Cases - Johns Hopkins Coronavirus Resource Center \(jhu.edu\)](http://coronavirus.jhu.edu/data/cumulative-cases), <http://coronavirus.jhu.edu/data/cumulative-cases>.
15. Centers for Disease Control & Prevention, *COVID Data Tracker Weekly Review* (Aug. 6, 2021) [hereinafter “CDC COVID Data Tracker”], <https://www.cdc.gov/coronavirus/2019-ncov/covid-data/covidview/index.html>.
16. <https://www.cdc.gov/coronavirus/2019-ncov/variants/delta-variant.html>.
17. Centers for Disease Control & Prevention, *COVID Data Tracker Weekly Review*, Note 14 (Aug. 6, 2021), <https://www.cdc.gov/coronavirus/2019-ncov/covid-data/covidview/index.html>.