

CLACKAMAS COUNTY BOARD OF COUNTY COMMISSIONERS

Policy Session Worksheet

Presentation Date: 3-2-2021 **Approx. Start Time:** 2:30 **Approx. Length:** 30 min

Presentation Title: COVID BOARD ORDER DISCUSSION

Department: County Administration

Presenters: Stephen Madkour

Other Invitees: Nancy Bush, Philip Mason-Joyner, Tracy Moreland

WHAT ACTION ARE YOU REQUESTING FROM THE BOARD?

Discussion of proposed Board Order pertaining to Covid and protections for local businesses.

EXECUTIVE SUMMARY:

This idea was first discussed during January 19, 2021 Issues meeting, where the BCC reviewed a Board Order that Yamhill County had approved, and decided to discuss the idea. Staff was directed to create a draft for Clackamas County for the Board to consider. A form of Order essentially mirroring what was passed in Yamhill County is attached. The purpose of that Order was to afford an uncertain level of protection to businesses located within the county that decided to deviate from the restrictions included in the Governor's orders and those of the Oregon Health Authority. Both Josephine and Yamhill counties have passed similar Orders.

FINANCIAL IMPLICATIONS (current year and ongoing):

Is this item in your current budget? YES x NO **N/A**

What is the cost? N/A What is the funding source? N/A

STRATEGIC PLAN ALIGNMENT:

- **How does this item align with your Department's Strategic Business Plan goals?**
N/A

- **How does this item align with the County's Performance Clackamas goals?**

Ensure Safe, Healthy and Secure Communities: Responsive initiatives regarding Covid-19 are key in maintaining this Strategic Priority.

LEGAL/POLICY REQUIREMENTS: County Counsel is of the opinion that the positions taken by Josephine and Yamhill counties potentially are at odds with the Governor's Order and could

offer businesses that decide to rely on the validity and scope of authority of the Order a false sense of security.

PUBLIC/GOVERNMENTAL PARTICIPATION: N/A

OPTIONS:

1. Place the attached Board on a future business meeting Agenda for adoption;
2. Direct staff to make changes to the form of Order and bring back for the Board to further review.
3. Do not consider a Covid Board Order at this time.

RECOMMENDATION:

No staff recommendation; will act to support the decision of the Board.

ATTACHMENTS:

DRAFT 2021 COVID BOARD ORDER LANGUAGE

SUBMITTED BY: Tracy Moreland

Division Director/Head Approval _____

Department Director/Head Approval _____

County Administrator Approval _____

For information on this issue or copies of attachments, please contact Tracy Moreland at tracymor@clackamas.us

**BEFORE THE BOARD OF COUNTY COMMISSIONERS
OF CLACKAMAS COUNTY, STATE OF OREGON**

In the Matter of Establishing an
Accurate Hazard Level in Relation
To COVID-19

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Board Order _____
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WHEREAS, to date an estimated _____ Oregonians have died of or with COVID-19, approximately ____% of those who tested positive, and approximately _____% of Oregon's total population; and

WHEREAS, the principal goal of the original COVID-19 lockdown was to ensure access to appropriate medical treatment when it was required; and

WHEREAS, appropriate modes of medical response and treatment have remained available for the duration of time that the COVID-19 has been present within Clackamas County and will likely continue to be available going forward; and

WHEREAS, like cold and flu viruses, the COVID-19 will probably exist within the human population for an indefinite amount of time; and

WHEREAS, reasonable doubt exists and it cannot be ascertained with certainty that (i) testing by the Oregon Health Authority is accurate since PCR tests are not designed to be used as diagnostics; and (ii) the COVID-19 specific death tolls are accurate, as reported; and

WHEREAS, reasonable concern exists in making future public policy using inaccurate testing, or inaccurate testing numbers; and

WHEREAS, economic security is a pressing issue in Clackamas County and current state lockdown policies continue to have direct negative economic, behavioral health and social consequences;

NOW THEREFORE, IT IS HEREBY ORDERED That the Clackamas County Board of County Commissioners Orders as follows:

**BEFORE THE BOARD OF COUNTY COMMISSIONERS
OF CLACKAMAS COUNTY, STATE OF OREGON**

In the Matter of Establishing an
Accurate Hazard Level in Relation
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Board Order _____
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1. Clackamas County formally requests that the Oregon Health Authority disclose PCR cycle thresholds, identify which tests are being used and be fully transparent in all instances of false negative and positive tests to date; and
2. Clackamas County will endeavor to work with the Oregon Health Authority and Governor of Oregon to determine, by county, what should be the appropriate risk vs. benefit threshold for future business closures and lockdowns; and
3. This Board Order constitutes *prima facie* evidence that persons and entities, including medical providers, within Clackamas County are not subject to findings of negligence-per-se on the sole basis of having engaged in activities that are inconsistent with executive orders related to the COVID-19; and
4. This Board Order constitutes *prima facie* evidence that in Clackamas County the hazard posed by the COVID-19 is one of low probability and risk, and that reasonable precautions taken by persons and entities to minimize the virus's spread constitute good faith efforts regardless of whether such precautions are consistent with executive orders related to the COVID-19; and
5. All persons and entities within Clackamas County may present this Board Order to any court or tribunal, including proceedings before administrative bodies, as *prima facie* evidence of good faith compliance with relevant state and local laws and rules, including administrative rules, while engaging in activities that are inconsistent with executive orders related to the COVID-19; and
6. Reasonable precautions, when adequately communicated and effectively enforced, serve to adequately prevent or minimize employee exposure, including accidental exposure, to COVID-19 regardless of whether such precautions are consistent with executive orders related to the COVID-19; and

7. This Board Order shall have no legal effect unless and until it is validated by a Circuit Court and the Board hereby authorizes County Counsel to apply to Circuit Court for such validation pursuant to applicable law.

DATED this ____ day of _____, 2021.

BOARD OF COUNTY COMMISSIONERS

Chair

Recording Secretary