



# Public Health

## **PUBLIC HEALTH ORDER 2020-05 AMENDMENT OF BOULDER COUNTY PUBLIC HEALTH ORDER REQUIRING FACIAL COVERINGS IN PUBLIC WHERE SOCIAL DISTANCING CANNOT BE MAINTAINED**

Pursuant to Colorado Revised Statutes (“C.R.S.”) §§ 25-1-506, 508, 509, and 516, Boulder County Public Health hereby issues this amendment of the May 2, 2020, Public Health Order (No. 2020-02) and the June 29, 2020, Public Health Order Extension and Amendment (No. 2020-03) requiring facial coverings to be worn in public where social distancing cannot be maintained throughout Boulder County, Colorado, so as to control and slow the spread of the SARS-CoV-2 virus (“coronavirus”) and to mitigate the effects of the disease resulting therefrom (the coronavirus and the disease resulting therefrom shall be referred to herein as “COVID-19”). The goal of this Order shall be to control and reduce the spread of COVID-19, so as to maintain consistent health care capacity in Boulder County to adequately treat patients suffering from the disease, and the goal of this Amendment is to align Boulder County’s Local Public Health Order with the State of Colorado Executive Order D2020-138 Ordering Individuals in Colorado to Wear Non-Medical Face Coverings issued July 16, 2020.

### **FINDINGS**

Whereas, Boulder County Public Health (“BCPH”) has public health jurisdiction over Boulder County, including all cities and towns therein. In furtherance of its jurisdiction, BCPH has the power and duty to investigate and control the causes of epidemic or communicable diseases and conditions affecting the public health within Boulder County, as well as the power and duty to close schools and public places and to prohibit gatherings of people when necessary to protect public health, and to establish, maintain, and enforce isolation and quarantine, and in pursuance thereof, to exercise physical control over property and over persons within Boulder County as BCPH may find necessary for the protection of public health; and

Whereas, COVID-19 is a respiratory illness transmitted like other respiratory illnesses through person-to-person contact or by contact with surfaces contaminated with the virus. Persons infected with COVID-19 may become symptomatic anywhere from two (2) to fourteen (14) days after exposure. Symptoms include fever, cough, shortness of breath, or difficulty breathing. Individuals with serious chronic health conditions and older adults are most at risk for becoming very ill with this disease; and

Whereas, COVID-19 was first detected in Wuhan, China, in late 2019, and since then has spread to over 180 countries and territories, including the United States. As of July 24, 2020, there have been 42,314 confirmed or probable positive cases of COVID-19 statewide in Colorado and 1,716 confirmed or probable positive cases in Boulder County, Colorado, as well as 1,645 deaths related to COVID-19 cases statewide and 74 deaths in Boulder County; and

Whereas, on March 10, 2020, the Governor of Colorado (“Governor”), Jared Polis, declared a State of Emergency related to the presence of COVID-19 in the State of Colorado; and

Whereas, on March 14, 2020, the Chair of the Board of County Commissioners for Boulder County declared a local disaster emergency, which, on March 19, 2020, was extended by the Board of County Commissioners for Boulder County; and

Whereas, on April 17, 2020, the Governor of the State of Colorado issued Executive Order D2020-039, requiring workers in critical businesses and critical government functions to wear a non-medical mask covering their nose and mouth while at work and while serving the public, and directing the Executive Director of the Colorado Department of Public Health and Environment (“CDPHE”) to issue a Public Health Order consistent with the directives in the Executive Order; and

Whereas, on April 22, 2020, the Executive Director of CDPHE, pursuant to Colorado Revised Statutes §§ 25-1.5-101(1)(a) and 25-1.5-102(1)(a)(I), issued an Order requiring employees who work in close proximity to other employees or with the public to wear a non-medical or medical face covering unless doing so would inhibit the individual’s health, and recommending that these employees should wear gloves if gloves are provided by their employer; and

Whereas, on April 24, 2020, the Executive Director of Boulder County Public Health issued Boulder County Public Health Order Adopting and Extending State Stay-At-Home Orders (“Boulder County Stay-At-Home Order”), extending the closure of non-critical businesses and requiring individuals within Boulder County to stay at home except for necessary travel; and

Whereas, on April 26, 2020 the Governor of the State of Colorado issued Executive Order D2020-044 for Safer at Home through May 27, 2020; and

Whereas, Boulder County’s movement from Stay-At-Home to Safer-At-Home resulted in the easing of social distancing protections in Boulder County; and

Whereas, on May 2, 2020, the Executive Director of Boulder County Public Health issued Public Health Order 2020-02 Notice of Boulder County Public Health Order Requiring Facial Coverings in Public Where Social Distancing Cannot be Maintained, requiring individuals in Boulder County to wear a Face Covering whenever they are outside their residence and unable to maintain, or when not maintaining, social distance of at least six (6) feet from any non-household members through May 26, 2020; and

Whereas, the Boulder County Stay-At-Home Order expired on May 8, 2020; and

Whereas, on May 16, 2020, the Governor of the State of Colorado issued Executive Order D2020-067 Extending Executive Order D2020-039 Ordering Workers in Critical Businesses and Critical Government Functions to Wear Non-Medical Face Coverings through June 15, 2020; and

Whereas, on May 18, 2020, the Executive Director of CDPHE issued Amended Public Health Order 20-26 Face Coverings for Critical Businesses in effect through June 14, 2020; and

Whereas, on May 21, 2020, the Executive Director of Boulder County Public Health issued Public Health Order 2020-03 Notice of Extension of Boulder County Public Health Order Requiring Facial Coverings in Public Where Social Distancing Cannot be Maintained, extending the requirement for individuals in Boulder County to wear a Face Covering whenever they are outside their residence and unable to maintain, or when not maintaining, social distance of at least six (6) feet from any non-household members through June 30, 2020; and

Whereas, on May 21, 2020, the Governor issued Guidance to Employers and Places of Public Accommodation regarding equal opportunity employment and reasonable accommodations due to the presence of COVID-19, available at [https://drive.google.com/file/d/1DSJuV-9finS1\\_NBnQ8i\\_02PHQDDIWXRn/view](https://drive.google.com/file/d/1DSJuV-9finS1_NBnQ8i_02PHQDDIWXRn/view); and

Whereas, on June 1, 2020, the Governor of the State of Colorado issued Executive Order D2020-091 for Safer at Home and in the Vast, Great Outdoors; and

Whereas, on June 4, 2020, the Governor of the State of Colorado issued Executive Order D2020-092 Amending Executive Orders D2020-039 and D2020-067 Ordering Workers in Critical Businesses and Critical Government Functions to Wear Non-Medical Face Coverings, which amended and extended face covering requirements through July 4, 2020; and

Whereas, on June 18, 2020, the Executive Director of CDPHE issued Seventh Amended Public Health Order 20-28 Safer at Home and in the Vast, Great Outdoors which, among other things, establishes face covering requirements and removal allowances for providers and customers of designated services, in effect through July 1, 2020; and

Whereas, on June 20, 2020, the Governor of the State of Colorado issued Executive Order D2020-110 Amending, Restating, and Extending Executive Orders D2020-039, D2020-067, and D2020-092 Ordering Certain Workers to Wear Non-Medical Face Coverings through July 20, 2020; and

Whereas, on June 29, 2020, the Executive Director of Boulder County Public Health issued Public Health Order 2020-04 Notice of Extension and Amendment of Boulder County Public Health Order Requiring Facial Coverings in Public Where Social Distancing Cannot be Maintained, amending and extending, until further modified or repealed, the requirement for individuals in Boulder County to wear a Face Covering whenever they are outside their residence and unable to maintain, or when not maintaining, social distance of at least six (6) feet from any non-household members; and

Whereas, on June 30, 2020, the Executive Director of CDPHE issued Eighth Amended Public Health Order 20-28 Safer at Home and in the Vast, Great Outdoors which, among other things, maintains face covering requirements and removal allowances for providers and customers of designated services, in effect through July 30, 2020; and

Whereas, on July 16, 2020, the Governor of the State of Colorado issued Executive Order D2020-138 Amending and Extending Executive Orders D2020-039, D2020-067, D2020-092, and D2020-110 Ordering Individuals in Colorado to Wear Non-Medical Face Coverings; and

Whereas, the United States Centers for Disease Control and Prevention (“CDC”), Colorado Department of Public Health and Environment (“CDPHE”), and Boulder County Public Health (“BCPH”) have recommended that members of the public, when they need to interact with others outside the home and especially in settings where many people are present, should cover their mouths and noses to prevent inadvertently spreading COVID-19. One key transmission method for the COVID-19 virus is through respiratory droplets that people expel when they breathe, cough, or sneeze. Moreover, people can be infected with the COVID-19 virus and be asymptomatic yet still be contagious. People can also be contagious 48 hours before developing symptoms. Many people with COVID-19 have mild symptoms and do not recognize that they are infected and contagious and that they can unintentionally infect others; and

Whereas, scientific evidence shows that limiting interactions among people slows virus transmission and, as social distancing protections are lifted, that the wearing of facial coverings by individuals while in public areas assists in maintaining reduced virus transmission by reducing the spread of respiratory droplets; and

Whereas, a facial covering mandate can work in concert with reduced social distancing protections under Safer at Home and in the Vast, Great Outdoors to minimize the spread of COVID-19 by reducing the exposure of individuals to the virus necessary to protect vulnerable populations and to prevent the health care system from becoming overwhelmed.

## **ORDER**

Pursuant to statutory authority granted to the Executive Director of BCPH, and consistent with the Governor’s Executive Orders and the CDC’s Guidance, the following is ordered:

1. Each person within Boulder County, except as specifically exempted below by Paragraph 4 or 5, must wear a Face Covering whenever they are outside their Residence and unable to maintain, or when not maintaining, social distance of at least six (6) feet from any non-household members in any setting whether indoors or outdoors. In addition, each person in Boulder County must wear a Face Covering, as required by Governor Polis’ Executive Order D2020-138, that is, when entering or moving within any Public Indoor Space or while using or waiting to use the services of any taxi, bus, light rail, train, car service, ride-sharing or similar service, or Mass Transportation Operations. These requirements supplement and are in addition to all social distancing and other requirements contained in any state or local Public Health Order.
2. “Face Covering,” as used in this Order, means a covering made of cloth, fabric, or other soft or permeable material, without holes, that covers only the nose and mouth and surrounding areas of the lower face. Mesh, netting, or similarly porous material does not meet the requirements or definition of a Face Covering. A Face Covering may be factory-made or may

be handmade and improvised by using ordinary household materials. The Face Covering should fit snugly but comfortably against the side of the face; allow for breathing without restriction; and either be constructed of disposable mask materials or include multiple layers of fabric that can be laundered and machine-dried without damage or change to shape. Face Coverings must cover the nose and mouth at all times and should remain in place until taken off safely. If a worker's Face Covering moves during work, it must be replaced with one that does not need to be frequently adjusted in order to reduce touching of the face. A Face Covering should be replaced when it becomes dirty, wet, and/or difficult to breathe through.

Note that any mask that incorporates a one-way valve (typically a raised plastic cylinder about the size of a quarter on the front or side of the mask) that is designed to facilitate easy exhaling is not a Face Covering under this Order and is not to be used to comply with this Order's requirements. Valves of that type permit droplet release from the mask and can put others nearby at risk.

A video showing how to make a face covering and additional information about how to wear and clean Face Coverings may be found on the CDC's website at <https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/diy-cloth-face-coverings.html>.

3. "Residence," as used in this Order, means the real property upon which an individual resides with other members of their household, including a room in a motel or hotel or a residential room for students at an education facility. Residence also includes a motor vehicle when being used for personal use by an individual or their same household. Residence does not include any common areas that may be used by multiple households.
4. The following individuals are exempt from the requirements of this Order:
  - a. Individuals ten (10) years old and younger; and
  - b. Individuals who cannot medically tolerate a face covering.
5. Individuals performing the following activities are exempt from the requirements of this Order while the activity is being performed:
  - a. Individuals who are hearing impaired or otherwise disabled or who are communicating with someone who is hearing impaired or otherwise disabled and where the ability to see the mouth is essential to communication;
  - b. Individuals who are seated at a food service establishment;
  - c. Individuals who are exercising alone or with others from the individual's household and a Face Covering would interfere with the activity;
  - d. Individuals who enter a business or receive service and are asked to temporarily remove a face covering for identification purposes;
  - e. With exception of an unforeseen emergency (e.g. law enforcement officers responding to an immediate threat), first responders are required to wear a Face Covering under this Order;

- f. Individuals who are officiating at a religious service, so long as the individual maintains at least twenty-five (25) feet distance from non-household members indoors and at least six (6) feet distance from non-household members outdoors;
  - g. Individuals who are giving a speech for broadcast or an audience, so long as the individual maintains at least twenty-five (25) feet distance from non-household members indoors and at least six (6) feet distance from non-household members outdoors; or
  - h. Individuals who are receiving a personal service where the temporary removal of a Face Covering is necessary to perform the service.
6. This Order does not require any child aged ten (10) years and younger to wear a Face Covering. Parents and caregivers must supervise the use of Face Coverings by children to avoid misuse. In addition, this Order advises that children **under age two (2) years should not** wear a Face Covering due to the risk of suffocation.
  7. This Order adopts and is intended to provide additional public health protections by supplementing the requirements of other State of Colorado Face Covering Orders, including but not limited to Executive Order D2020-138, Executive Order D2020-39, Executive Order D2020-067, Executive Order D2020-092, and Executive Order D2020-110, as well as the Face Covering orders contained in all CDPHE orders, including but not limited to Public Health Order 20-28. At all times, the most protective, applicable protective Order shall control.
    - a. Nothing in this Order should be construed to preempt any State of Colorado regulations (including CDPHE Orders) concerning medical Face Coverings.
    - b. Nothing in this Order should be construed to preempt any State of Colorado regulations (including CDPHE Orders and Executive Orders) that impose Face Covering requirements beyond those contained in this Order.
    - c. Nothing in this Order should be construed to preempt any local Public Health Orders.
    - d. Nothing in this Order shall be construed to prevent a municipality from adopting more protective standards than those contained in this Order.
  8. No owner, operator, or manager of a Public Indoor Space, as the term is defined in Paragraph R of Executive Order D2020-138, may provide service to such individuals or allow an individual to enter or move within that Public Indoor Space, unless the individual is wearing a Face Covering, as required by Executive Order 2020-138. This Paragraph 8 shall be construed to incorporate, in full, Paragraph II.I of the Governor's Executive Order 2020-138.
  9. All businesses must post signs at entrance(s) instructing individuals of their legal obligation under this Order and the Governor's Executive Order 2020-138. Posting of a sign pursuant to Paragraph II.J of Executive Order 2020-138 shall be considered sufficient for purposes of this Paragraph 9. A sign is available at <https://covid19.colorado.gov/mask-guidance>.
  10. Any business that is in violation of this Face Covering Order, or of the Governor's Executive Order 2020-138, may be subject to a civil action, including but not limited to injunctive relief pursuant to C.R.S. § 25-1-514 and reimbursement of expenses pursuant to C.R.S. § 25-1-516(3),

and reporting to the appropriate licensing agency for suspension or revocation of its license pursuant to Paragraph II.K of the Governor's Executive Order 2020-138.

Along with CDPHE, BCPH is tasked with protecting the health and welfare of the citizens of Boulder County by investigating and controlling cases of epidemic and communicable disease. This Order is necessary to control the transmission of disease to others. Immediate issuance of this Order is necessary for the preservation of public health, safety, or welfare.

If you have questions regarding this Order, please contact the BCPH Call Center at 720-776-0822 or view the COVID-19 information on BCPH's website at [BoCo.org/COVID-19](http://BoCo.org/COVID-19).

This BCPH Public Health Order shall go into effect immediately, as of July 24, 2020, and shall continue until further modified or repealed.

**FAILURE TO COMPLY WITH THIS ORDER IS SUBJECT TO PENALTIES CONTAINED IN C.R.S. §§ 25-1-114 and 25-1-516, INCLUDING A FINE OF UP TO FIVE THOUSAND DOLLARS (\$5,000.00) AND IMPRISONMENT IN THE COUNTY JAIL FOR UP TO ONE (1) YEAR.**



**Jeffrey J. Zayach, MS**  
Executive Director  
Boulder County Public Health

July 24, 2020

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Date