



PUBLIC HEALTH ORDER 2021-1 PROHIBITING SPECTATORS AT SPORTING EVENTS

Pursuant to Colorado Revised Statutes (“C.R.S.”) §§ 25-1-506, 508, 509, and 516, Boulder County Public Health (“BCPH”) hereby issues this Public Health Order setting forth guidance and requirements for all persons within Boulder County 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 ultimate goal of this Order shall be to control and slow the spread of COVID-19 in order to maintain consistent health care capacity in Boulder County to adequately treat patients suffering from the disease.

I. FINDINGS

Whereas, Boulder County Public Health (“BCPH”) has public health jurisdiction over Boulder County, Colorado (“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; to prohibit gatherings of people when necessary to protect public health; 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 an illness transmitted primarily through person-to-person contact. Persons infected with COVID-19 may become symptomatic anywhere from two (2) to fourteen (14) days after exposure. Symptoms may include, but are not limited to, 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, 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 (“BOCC”) declared a local disaster emergency, which, on March 19, 2020, was extended by the BOCC; and

Whereas, the Colorado Department of Public Health and Environment (“CDPHE”) implemented the “COVID-19 Dial” through CDPHE Order 20-36. The Dial determines levels of restrictions on gatherings and business capacity, as well as other prevention precautions to reduce the spread of SARS-CoV-2 based on 14-day cumulative case levels, the positivity rate, and the hospitalization rates and utilizations of hospital beds in each county; and

Whereas, CDPHE placed Boulder County in *Level Red: Severe Risk* restrictions on the Dial from November 20, 2021, until January 4, 2021, when CDPHE moved Boulder County to *Level Orange: High Risk*; and

Whereas, although Boulder County restrictions are now in *Level Orange: High Risk* pursuant to CDPHE Order 20-36, Boulder County data does not yet meet Level Orange data requirements, as indicated by the State of Colorado (“State”) on the January 7, 2021, COVID-19 5-Star Qualification Report¹; specifically, Boulder County is above the 350 per 100,00 incident rate level and has seen increasing hospitalizations; and

Whereas, as of January 7, 2021, there have been 349,450 confirmed or probable positive cases of COVID-19 statewide in Colorado and 15,433 confirmed or probable positive cases in Boulder County, as well as 19,703 individuals hospitalized with COVID-19 in Colorado and 5,050 deaths related to COVID-19 cases statewide; and

Whereas, as of January 7, 2021, the 14-day positivity rate for COVID-19 in the state of Colorado is 9.71%, and the five-day average positivity in Boulder County is currently 4.8%; and

Whereas, the 2-week cumulative incidence rate in Boulder County is 377.5 per 100,000, which is above the 350 cases per 100,000 benchmark set by the State of Colorado for *Level Red: Severe Risk* on the Dial; and

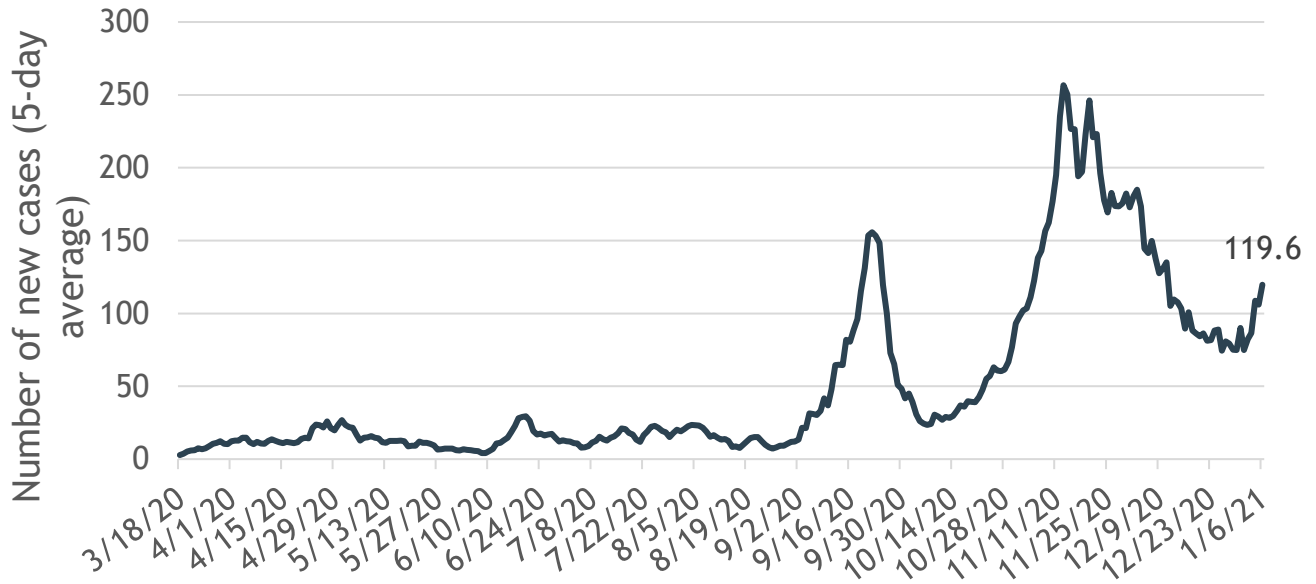
Whereas, the 2-week cumulative incident rate has increased by 56.1% the week of January 4, 2021, the first week-to-week increase in this metric since the week of November 23, 2020, immediately following Boulder County being put into *Level Red: Severe Risk* restrictions; and

Whereas, due to the high number of COVID-19 cases in Boulder County, BCPH has been unable to contact every individual who has tested positive and, therefore, is unable to perform contact tracing for all cases, thereby putting the community at further risk for the spread of COVID-19; and

Whereas, as of January 7, 2021, the 5-day average number of new COVID-19 cases among Boulder County residents was 119.6 cases per day, as shown in the graph below, which compared to 90 cases per day on December 31, 2020. During the week of January 4, 2021, the 5-day average in Boulder County has risen by 29.6 cases per day, as compared to a rise of only 1 case per day the week of December 24, 2020. This is the largest rise in cases per day since the week of November 10, 2020, the week before Boulder County was put into *Level Red: Severe Risk* restrictions; and

¹See https://drive.google.com/drive/folders/1LfQY5_gPbiDw2D82JO0HJcpghaBrOsfl

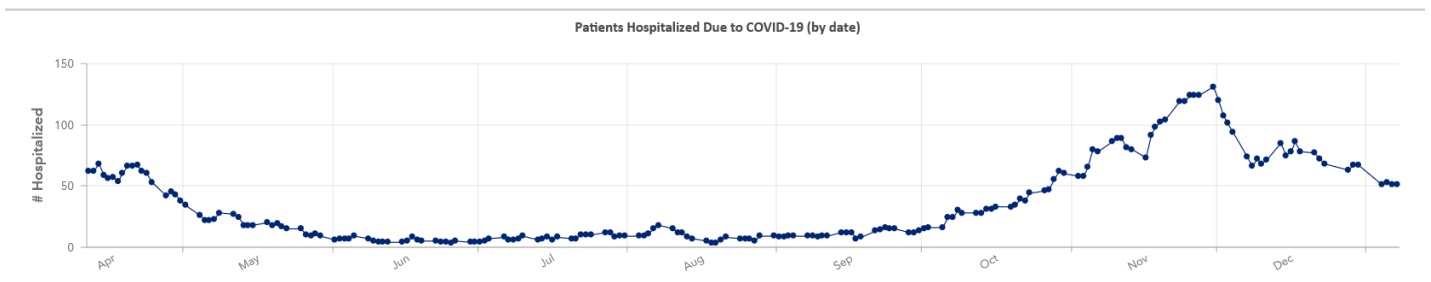
Five-day average of number of new cases of COVID-19 among Boulder County residents (1/7/21)



Whereas, the effective reproductive number in the state of Colorado is 1.06, indicating that COVID-19 cases are still growing in the community; and

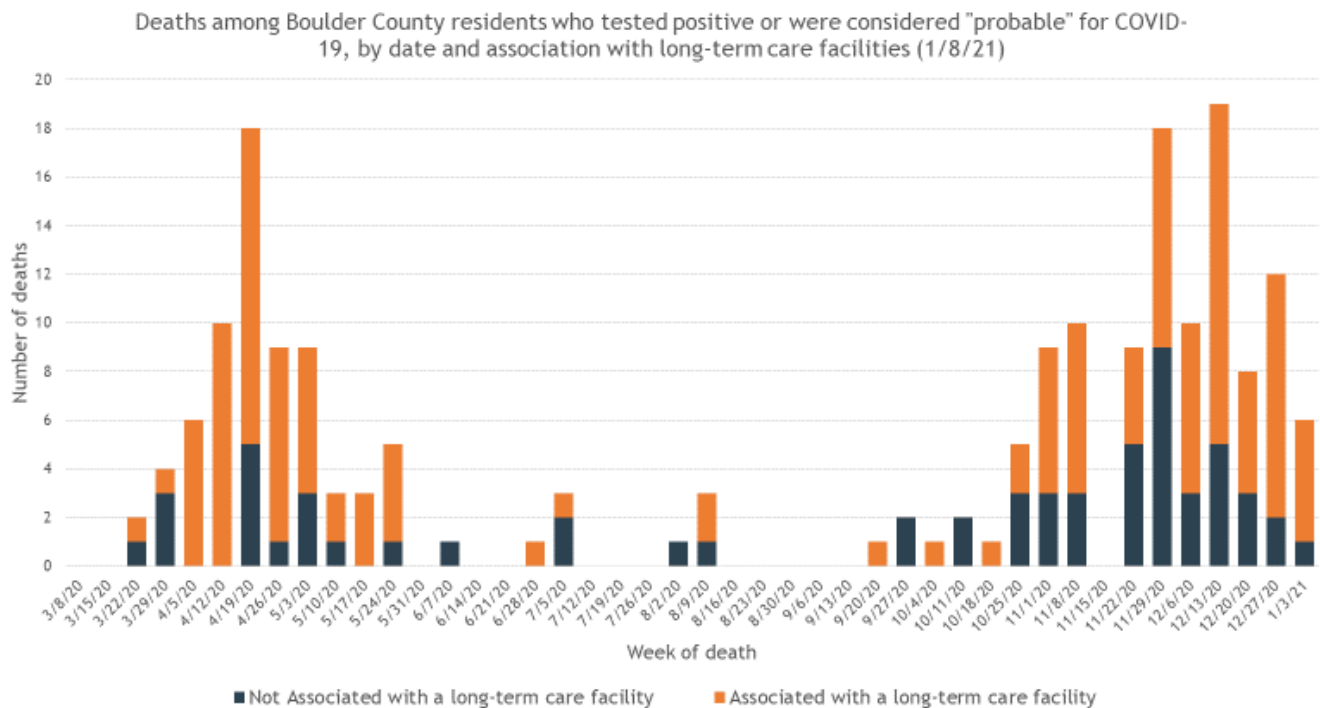
Whereas, there have been at least 19,703 people in Colorado who have been hospitalized due to COVID-19 since March 2020; and

Whereas, as of January 7, 2021, there were 51 people hospitalized for COVID-19 in Boulder County, exceeding the peak of hospitalizations that occurred in March and April 2020, as shown by the graph below, which indicates hospitalizations in Boulder County by date; and



Whereas, there have been 5,050 deaths among COVID-19 cases in Colorado since March 2020; and

Whereas, there have been 196 deaths among COVID-19 cases in Boulder County since March 2020, as shown in the graph below; and



Whereas, recent State modeling estimates that 1 out of every 92 people in Colorado is currently infectious with COVID-19, and 50% of those infected with COVID-19 don't realize they may be infectious; and

Whereas, with respect to spectators at sporting events, the Centers for Disease Control & Prevention ("CDC") has determined that the higher the transmission of COVID-19 in the community, the higher the risk of transmission of COVID-19 at sporting events; and

Whereas, the CDC has found that the greater the number of sporting events that someone attends, the greater the risk that COVID-19 will spread; and

Whereas, the CDC encourages sports programs to limit attendance by non-essential visitors, including families, volunteers, and spectators; and

Whereas, C.R.S. § 25-1-506(3)(b) authorizes BCPH to take action and issue public health notices and orders to control the spread of communicable diseases, such as COVID-19. This authority includes the establishment, maintenance, and enforcement of isolation and quarantine, as BCPH finds necessary to protect public health and to prevent further spread of diseases. This authority also includes the ability to investigate and abate nuisances, when necessary, in order to eliminate sources of epidemic or communicable diseases and conditions affecting the public health, and to investigate and control the causes of epidemic or communicable diseases and conditions affecting public health; and

Whereas, in the event of a public health emergency, C.R.S. § 25-1-509(1)(c) directs BCPH to issue orders and adopt rules consistent with the laws and rules of the State of Colorado as the public health director may deem necessary for the proper exercise of powers and duties vested in or imposed upon the Boulder County Board of Health.

II. NECESSITY OF THIS ORDER

This Order is issued based on evidence of increasing occurrence and transmission of COVID-19 within Boulder County. The dangers of COVID-19 are exacerbated because some individuals who contract the SARS CoV-2 virus may be pre-symptomatic, asymptomatic, or have mild symptoms and may be unaware that they are carrying the coronavirus.

This Order is further based on scientific evidence and best practices regarding the most effective approaches to slow the transmission of communicable diseases generally and COVID-19 specifically, and evidence that the age, condition, and health of a significant portion of the population within Boulder County places said population at risk for serious health complications, including death, from COVID-19.

COVID-19 positive case data for Boulder County shows that, at this stage of the pandemic emergency, it is essential to slow the virus. By reducing the rate of potential transmission of COVID-19, this Order helps to preserve critical and limited health care capacity in Boulder County.

This Order is necessary to slow the rate of potential transmission of COVID-19, and the Executive Director of BCPH, in collaboration with the Boulder County Board of Health, will re-evaluate this Order as further data becomes available.

III. INTENT

This Order is intended to reduce the number of close contacts among persons in Boulder County, particularly in settings where people gather for prolonged periods of time.

All provisions of this Order should be interpreted to effectuate this intent. Failure to comply with any of the provisions of this Order shall constitute an imminent threat to the public health, safety, and welfare of the population residing, working, or traveling in Boulder County.

IV. ORDER

Hereby finding it is essential that the spread of the novel coronavirus SARS-CoV-2, responsible for the COVID-19 disease, be slowed to protect the ability of public and private health care providers to handle the influx of new patients and safeguard public health, and because the risk of the rapid spread of COVID-19 necessitates immediate action to protect all members of the community, especially community members who are most vulnerable to COVID-19 and also

health care providers and first responders, and pursuant to the statutory authority granted the Executive Director of BCPH, the following is ordered:

1. **No Spectators at Sporting Events:** Spectators are not permitted at adult and high school-level sporting events in Boulder County, including those sanctioned by the Colorado High School Activities Association (“CHSAA”). Spectators are not permitted at any professional sports events in Boulder County as that term is used in CDPHE Order 20-36, including sporting events at postsecondary institutions.
2. **Work from Home:** Boulder County Public Health strongly encourages all employers in Boulder County, of both critical and non-critical workplaces, to identify all individuals who can work from home either part-time or full-time and immediately encourage such individuals to work from home to the greatest extent possible.
3. **Relationship to Other Orders** (including isolation or quarantine orders or instructions): In the event of a conflict between this Order and any other Public Health Order or Executive Order, the most protective, applicable Order shall control.
 - a. Nothing in this Order shall be construed to relieve an individual of the requirements of an isolation or quarantine instruction or Order issued by Boulder County Public Health.
 - b. Nothing in this Order should be construed to preempt any local Public Health Orders.
 - c. Nothing in this Order shall be construed to prevent a municipality from adopting more protective standards than those contained in this Order.

This Order is necessary to control the transmission of COVID-19 to others. Immediate issuance of this Order is necessary for the preservation of public health, safety, or welfare in Boulder County. Individuals have a right to request judicial review of this Order by filing an action with Boulder County District Court pursuant to C.R.S. § 25-1-515. However, any such individual must continue to obey the terms of this Order while their request for judicial review is pending.

BCPH is available to answer questions regarding this Order and provide available resources for support. The BCPH Call Center can be reached at 720-776-0822.

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 EIGHTEEN (18) MONTHS.

This Order is in effect at 12:01 a.m. on January 12, 2021, and shall expire when Boulder County meets all metrics for *Level Orange: High Risk on the Dial* under the January 4, 2021, version of CDPHE Order 20-36 and has two weeks of stable or declining cases while

in *Level Orange: High Risk* metrics unless this Order is extended, modified, or rescinded by BCPH.

DONE AND SIGNED, as the official Order of the Executive Director of Boulder County Public Health on this 11th day of January, 2021, at the authorization and direction of the Boulder County Board of Health.



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

January 11, 2021

Date