



PUBLIC HEALTH ORDER 2021-03 AMENDING PUBLIC HEALTH ORDER 2021-02 AND REQUIRING FACIAL COVERINGS IN INDOOR PUBLIC SPACES

Pursuant to Colorado Revised Statutes (“C.R.S.”) §§ 25-1-506, 508, 509, and 516, Boulder County Public Health hereby issues this amendment of Boulder County Public Health Order 2020-02, dated May 2, 2020; Boulder County Public Health Order Extension 2020-03, dated May 21, 2020; Boulder County Public Health Order Extension and Amendment 2020-04, dated June 29, 2020; Boulder County Public Health Order Amendment 2020-05, dated July 24, 2020; and Boulder County Public Health Order 2021-02, dated March 9, 2021. Said Public Health Orders require that facial coverings 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 State of Colorado Executive Order D2020-138, Ordering Individuals in Colorado to Wear Non-Medical Face Coverings, which was issued on July 16, 2020, as amended and extended, and to address the increase in availability and uptake in COVID-19 vaccinations, particularly among the most vulnerable populations.

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 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 an illness transmitted primarily through person-to-person contact via respiratory droplets or by contact with surfaces contaminated with the SARS-CoV-2 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 219 countries and territories, including the United States. As of March 4, 2021, there have been 433,021 confirmed or probable positive cases of COVID-19 statewide in Colorado

and 19,132 confirmed or probable positive cases in Boulder County, as well as 5,974 deaths related to COVID-19 cases statewide and 247 deaths in Boulder County; and

Whereas, on March 10, 2020, the Governor of the State of Colorado Jared Polis (“Governor”) 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, on April 17, 2020, the Governor issued Executive Order D2020-039, requiring workers in critical businesses and critical government functions to wear a non-medical mask covering their noses and mouths 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 Executive Order D2020-039; and

Whereas, on May 2, 2020, the Executive Director of Boulder County Public Health issued Boulder County Public Health Order 2020-02, 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, on July 16, 2020, the Governor issued Executive Order D2020-138, requiring all individuals over ten (10) years old to wear Face Coverings over their noses and mouths when entering or moving within any Public Indoor Space; 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; 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 July 24, 2020, the Executive Director of Boulder County Public Health issued Public Health Order 2020-05, Amendment of Boulder County Public Health Order Requiring Facial Coverings in Public Where Social Distancing Cannot be Maintained, amending 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 December 14, 2020, the Governor issued Executive Order D2020-281 amending prior Executive Orders to require all individuals over ten (10) years old to wear Face Coverings over their nose and mouth when entering or within any Public Indoor Space; and

Whereas, on February 4, 2021, the Governor extended Executive Order Face Covering requirements pursuant to Executive Order D2021-035; and

Whereas, on February 12, 2021, 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 Seventh Amended Public Health Order 20-36 COVID-19 Dial that implements levels of restrictions for individuals, businesses and activities to prevent further spread of COVID-19 in Colorado, including Face Covering requirements for employees, patrons, and other individuals across many industries and activities; and

Whereas, the Governor and CDPHE have continued to ease social distancing protections following the resolution of a December 2020 statewide surge in the number of COVID-19 cases; and

Whereas, the United States Centers for Disease Control and Prevention (“CDC”), 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, the wearing of Face Coverings by individuals while in public areas assists in maintaining reduced virus transmission by reducing the spread of respiratory droplets; and

Whereas, the scientific evidence shows that, although there is still a risk of transmitting SARS-CoV-2 outdoors, the risk of transmitting SARS-CoV-2 is significantly higher when indoors, versus outdoors¹; and

Whereas, a Face Covering mandate can work in concert with reduced social distancing protections under CDPHE Order 20-36, as amended (“Dial Order”), to minimize the spread of

¹ <https://www.medrxiv.org/content/10.1101/2021.01.19.21250116v1.full.pdf>

COVID-19 by reducing the exposure of individuals to the virus which is necessary to protect vulnerable populations and to prevent the health care system from becoming overwhelmed; and

Whereas, as of March 30, 2021, over 90% of Boulder County’s population 70+ years has received at least a partial course of a COVID-19 vaccine; over 75% of the 60-69 year population in Boulder County has received at least a partial course of a COVID-19 vaccine; over 110,000 Boulder County residents, representing over 40% of the eligible population, has received at least 1 course of the COVID-19 vaccine; and 57% of the 50+ year population in the Denver Metro Area has received at least 1 course of a COVID-19 vaccine, as shown in the table below; and

Age Group	Percent with a full course of a COVID-19 vaccine	Percent with a partial course of a COVID-19 vaccine	Total percent with at least a partial course
0 to 9	0.0%	0.0%	0.0%
10 to 19	0.8%	2.7%	3.6%
20 to 29	6.8%	9.4%	16.3%
30 to 39	12.9%	15.8%	28.7%
40 to 49	15.6%	16.0%	31.6%
50 to 59	16.0%	27.8%	43.8%
60-69	42.2%	32.9%	75.1%
70+	84.1%	6.3%	90.5%

Whereas, the rate of COVID-19 deaths continues to decline in Boulder County, with only one death documented to date during March 2021 due to COVID-19, and statewide hospitalizations remain steady; and

Whereas, the State of Colorado is anticipating a significant increase in the supply of COVID-19 vaccine doses that will be available to Colorado residents starting in April 2021, with enough doses for every eligible person anticipated by the end of May 2021; and

Whereas, as of April 2, 2021, all residents of Colorado aged 16+ years will be eligible to receive a COVID-19 vaccine; and

Whereas, the scientific evidence shows that available COVID-19 vaccines are extremely effective at both preventing COVID-19 infection and transmission of the Sars-CoV-2 virus.

II. 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. Except as specifically exempted below by Paragraph 5 or 6, each person in Boulder County must wear a **Face Covering**, as required by the Governor's Executive Order D2020-138, as amended and extended; that is, whenever entering or within any **Public Indoor Space** that is not that person's **Residence**, 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 of Colorado 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 does not include any common areas that may be used by multiple households. Residence also includes a motor vehicle when being used for personal use by an individual or their same household.
4. **Public Indoor Space**, as used in this Order, means any enclosed indoor area that is publicly or privately owned, managed, or operated to which individuals have access by right or by invitation, expressed or implied, or that is accessible to the public, serves as a place of employment, or is an entity providing services. Public indoor spaces includes all enclosed indoor areas except for a person's **Residence**.

5. The following individuals are exempt from the requirements of this Order:
 - a. Individuals ten (10) years of age and younger; or
 - b. Individuals who cannot medically tolerate a Face Covering.

6. Individuals performing the following activities are exempt from the requirements of this Order while such 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 enter a business or receive service and are asked to temporarily remove a face covering for identification purposes;
 - d. Individuals who are actively engaged in a public safety role such as law enforcement personnel, firefighters, or emergency medical personnel;
 - e. Individuals who are officiating or participating in a life rite or religious service where the temporary removal of a Face Covering is necessary to complete or participate in the life rite or religious service, so long as the individual maintains at least twenty-five (25) feet distance from non-household members indoors;
 - f. Individuals who are permitted under state orders to remove their masks so long as the individual maintains at least twenty-five (25) feet distance from non-household members indoors;
 - g. Individuals who are receiving a personal service where the temporary removal of a **Face Covering** is necessary to perform the service;
 - h. Individuals who are alone only with members of their same household in a room;
 - i. Individuals who are in a swimming pool and actively engaged in a pool activity in which their Face Covering might become wet;
 - j. Waivers granted by CDPHE for certain indoor activities that take place for a limited time period if such activities cannot be practically or safely be performed while wearing a mask as long as those activities are explicitly permitted without a **Face Covering** pursuant to [Boulder County Public Health's sports guidance](#); or
 - k. When a student in a classroom setting for academic credit at a K-12 school is actively playing an instrument that cannot otherwise be played while wearing a **Face Covering**.

7. 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 years should not** wear a Face Covering due to the risk of suffocation.

8. This Order adopts and is intended to provide additional public health protections by supplementing the requirements of other state Face Covering orders, including but not limited to: Executive Order D2020-39, Executive Order D2020-067, Executive Order D2020-092, Executive Order D2020-110, Executive Order D2020-138, Executive Order D2020-164, Executive Order D2020-190, Executive Order D2020-219, Executive Order D2020-237, Executive Order D2020-245, Executive Order D2020-276, Executive Order D

2020-281, Executive Order D2021-007, and Executive Order D2021-035, D2021-56, D2021-079, as well as the Face Covering orders contained in all CDPHE orders, including but not limited to Public Health Order 20-36, as amended, and the Federal Orders, including the [CDC Order](#) requiring persons to wear masks on conveyances and at transportation hubs. 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.
9. 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 be within that Public Indoor Space, unless the individual is wearing a **Face Covering** as required by Executive Order 2020-138, as amended. This Paragraph 8 shall be construed to incorporate in full Paragraph II.I of the Governor's Executive Order 2020-138.
10. 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>.
11. 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.

Anyone with questions regarding this Order should contact the BCPH Call Center at 720-776-0822 or view the COVID-19 information on BCPH's website at [BoCo.org/COVID-19](https://www.boco.org/COVID-19).

Individuals wishing to obtain a COVID-19 vaccine may locate a provider at www.boco.org/COVIDVaccines

This BCPH Public Health Order shall be in effect from April 5, 2021, at 12:01 a.m., and shall continue for 30 days unless the Executive Director or Interim Executive Director modifies, amends, or extends the order.

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 YEAR.



Alexandra Nolen
Interim Executive Director
Boulder County Public Health

Date: April 2, 2021

APPROVED BY BOULDER COUNTY BOARD OF HEALTH: April 2, 2021