



Public Health

PUBLIC HEALTH ORDER 2021-06 AMENDING PUBLIC HEALTH ORDERS 2021-03 AND 2021-05, REQUIRING FACIAL COVERINGS IN CERTAIN 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 2021-02, 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; Boulder County Public Health Order 2021-02, dated March 9, 2021; Boulder County Public Health Order 2021-03, dated April 5, 2021; and Boulder County Public Health Order Amendment 2021-05, dated May 5, 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 D2021-103, Ordering Individuals in Colorado to Wear Non-Medical Face Coverings in Certain Settings, which was initially 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 May 19, 2021, there have been 534,364 confirmed or probable positive cases of COVID-19 statewide in Colorado and 23,571 confirmed or probable positive cases in Boulder County, as well as 6,472 deaths related to COVID-19 cases statewide and 257 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 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 to wear Face Coverings over their nose and mouth when entering or within any Public Indoor Space; and

Whereas, on April 2, 2021, the Governor issued Executive Order 2021-079 modifying prior Face Covering orders and Ordering Individuals in Colorado to Wear Non-Medical Face Coverings; and

Whereas on May 2, 2021, the Governor modified Executive Order 2021-079 with Executive Order 2021-095; and

Whereas, on May 2, 2021, CDPHE issued Amended Public Health Order 20-38 Limited COVID-19 Restrictions; and

Whereas on May 14, 2021, the Governor modified Executive Order 2021-095 with Executive Order 2021-103; 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 three available COVID-19 vaccines in the United States (“U.S.”) are Pfizer, Moderna, and Johnson & Johnson, and they have all been proven to be highly effective in real-world conditions;¹ and

Whereas, on May 13, 2021, in recognition of the high level of effectiveness of the three available COVID-19 vaccines in the U.S., the United States Centers for Disease Control and Prevention (“CDC”) revised its guidance and stated that fully vaccinated people no longer needed to wear a mask or physically distance in most settings;² and

Whereas, the CDC, CDPHE, and Boulder County Public Health (“BCPH”) have recommended that unvaccinated 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

¹ <https://www.cdc.gov/coronavirus/2019-ncov/vaccines/effectiveness/work.html>

² <https://www.cdc.gov/coronavirus/2019-ncov/vaccines/fully-vaccinated-guidance.html>

Whereas, scientific evidence shows that limiting interactions among unvaccinated 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 data indicates, as reflected in CDC guidance, that indoor and outdoor activities pose minimal risk to fully vaccinated people, and fully vaccinated people have a reduced risk of transmitting SARS-CoV-2 to unvaccinated people; and

Whereas, the CDC guidance indicating that vaccinated individuals may resume activities without wearing a mask or physical distancing explicitly does not apply to healthcare settings; and

Whereas, the CDC has issued separate guidance for schools, congregate care facilities, and healthcare settings; 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 outdoors;³ and

Whereas, a Face Covering mandate can work in concert with reduced social distancing protections under Boulder County Public Health Order 2021-04 as amended (“Dial Order”), to minimize the spread of 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

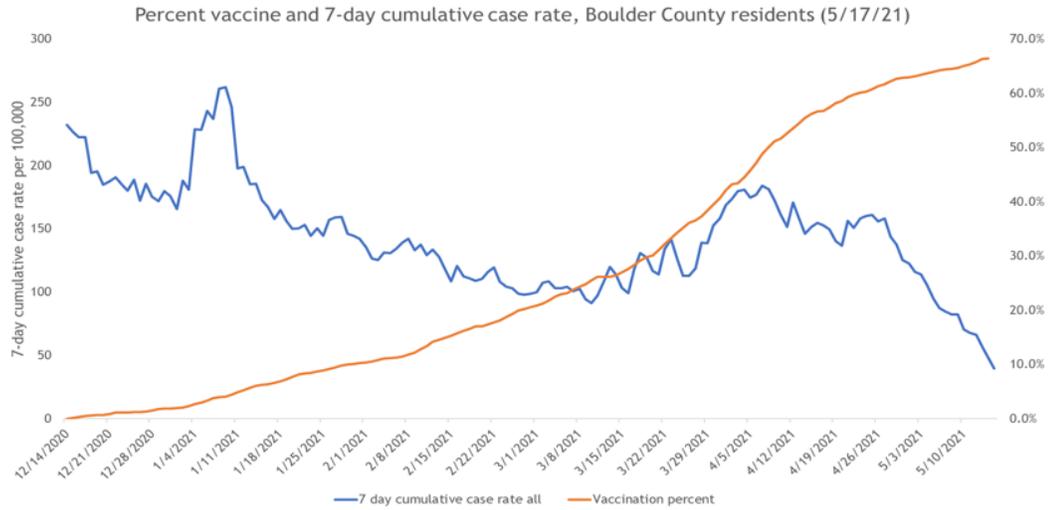
Whereas, as of May 17, 2021, over 197,000 residents, or 66.4% of residents age 10+, have received at least one dose of a COVID-19 vaccine, as shown in the table below, and

Over 197,000 Boulder County Residents Vaccinated, Ages 10+ Years		
Indicator	Number of people	Percent of eligible population
Number of Boulder County residents immunized with a partial course of a COVID-19 vaccine.	49,856	18.2%
Number of Boulder County residents immunized with a full course of a COVID-19 vaccine.	134,324	49.0%
Total number of Boulder County residents immunized with at least one COVID-19 vaccine dose.	184,180	67.2%

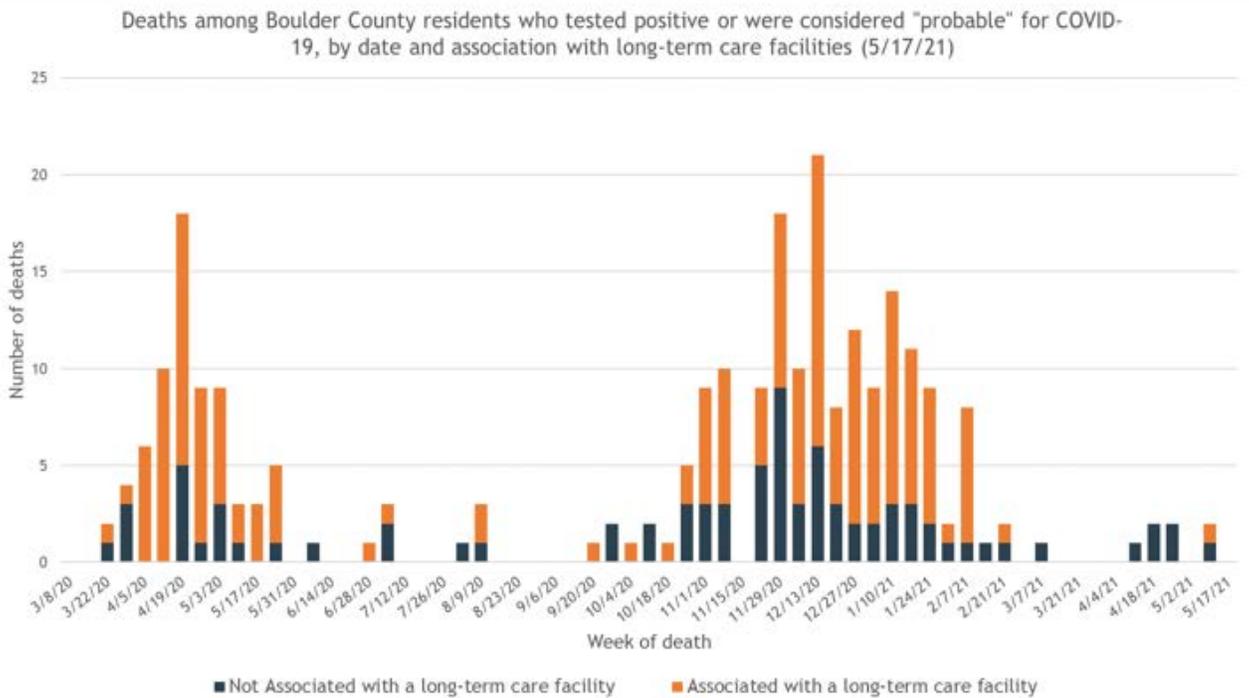
Whereas, the higher the COVID-19 vaccination percentage, the larger the relative decrease in case rates, as show in the table below; and

³ <https://www.medrxiv.org/content/10.1101/2021.01.19.21250116v1.full.pdf>

Rising vaccination rates; lower case rates



Whereas, the rate of COVID-19 deaths has declined since its peak, as shown in the chart below; and



Whereas, since April 2, 2021, all Colorado residents aged 16+ years became eligible to receive a COVID-19 vaccine, and since May 10, 2021, all Colorado residents aged 12+ years became eligible to receive the Pfizer COVID-19 vaccine; and

Whereas, there has been a significant increase in the supply of COVID-19 vaccine doses available for all Colorado residents age 16+ years since April 2, 2021, and it is anticipated that enough COVID-19 vaccine doses will be available for every eligible person in Colorado ages 12+ years by the end of May 2021; 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. Definitions

- a. **Face Covering** or **Facial Covering** 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>.

- b. **Residence** 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.

- c. **Public Indoor Space** 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 include all enclosed indoor areas except for a person's **Residence**.
- d. **School** means pre-kindergarten through 12th grade. A school includes all grade levels that are contained in a single building or in multiple buildings on a school campus.
- e. **Fully Vaccinated** means at least two weeks have passed since the person received the second dose of a two-dose series of a two-dose vaccine, such as the Pfizer or Moderna COVID-19 vaccines, or at least two weeks have passed since receiving a single-dose vaccine, such as the Johnson & Johnson vaccine.
- f. **Unvaccinated** means the state of being not **fully vaccinated**.

2. **Face Coverings Required in Certain Settings**

- a. A **Face Covering** is required pursuant to this Order, Executive Order D2021-103, and CDPHE PHO 20-38, as amended in the following indoor settings unless explicitly exempted or excepted in Paragraph 4 or 5 below:
 - i. All individuals, regardless of COVID-19 vaccination status, in all indoor spaces in preschool through grade 12 schools and school buildings (including extracurricular activities), childcare centers and services, and indoor children's camps, regardless of whether a license is required for such activities.
 - ii. All individuals, regardless of COVID-19 vaccination status, in congregate care facilities, including nursing facilities, assisted living residences, intermediate care facilities, and group homes, except where removal is authorized by the Centers for Medicare and Medicaid Services.
 - iii. All residents, staff, and visitors to jails. However, **fully vaccinated** residents, staff, and visitors may remove their **Face Covering** upon providing proof of **Full Vaccination**.
 - iv. All individuals, regardless of vaccination status, in emergency medical and other healthcare settings, including hospitals, ambulance service centers, urgent care centers, non-ambulatory surgical structures, clinics, doctors' offices, and non-urgent care medical structures.
 - v. When 100 or more unvaccinated people or individuals of unknown vaccination status are in a room located in a **Public Indoor Space**, as required under CDPHE PHO 20-38, as Amended.

- vi. As required by the CDC's [Requirement for Persons Age 2+ Years to Wear Masks While on Conveyances and at Transportation Hubs](#).

3. Face Coverings Recommended

- a. BCPH continues to recommend that all individuals age two+ years who have not been **fully vaccinated** should continue to practice physical social distancing of six feet, handwashing, and wearing of **Face Coverings** whenever near members of other households who are not **fully vaccinated**. BCPH recommends that children under age two years should maintain six feet of distance from members of other households who have not yet been **fully vaccinated** when outside of childcare or other school settings.
- b. BCPH recommends that businesses and organizations evaluate whether to require a **Face Covering** in a **Public Indoor Setting** with the following considerations until 80% of the total population in Boulder County has been **fully vaccinated**:
 - i. For public-facing portions of businesses and organizations:
 1. BCPH recommends that unvaccinated staff wear a **Face Covering** whenever interacting with others indoors.
 2. If all staff of a public-facing business or organization are **fully vaccinated**, and the organization or business permits those staff to not wear a **face covering**, BCPH recommends that businesses or organization post a notice on the entrance to each **Public Indoor Space** that the staff is **fully vaccinated** to inform customers to the reason why staff is not wearing **face coverings**.
 3. BCPH recommends requiring a **Face Covering** for all members of the public while in that business's **Public Indoor Space** unless the business or organization asks, requests, or otherwise ascertains or verifies that that individual is fully vaccinated.
 4. BCPH recommends requiring a **Face Covering** for all members of the public while in the **Public Indoor Space** if the business is unable or unwilling to ask, request, or otherwise ascertain or verify vaccination status.
 5. BCPH recommends businesses and organizations review the [State's Civil Rights Guidance](#) prior to implementing **face covering** policies.
 - ii. For businesses and organizations that are not public-facing and have stable groups of individuals, such as offices, gyms, private events, and other classes with known membership:

1. BCPH recommends that any individuals who are not **fully vaccinated** wear a **Face Covering** whenever they are around other individuals who are not **fully vaccinated**.
2. BCPH recommends that businesses and organizations implement policies to allow individuals, particularly those who are unable to get vaccinated (e.g. due to age) or who have compromised immunity, to assess their own risk. For example, a business or organization may inform its membership or employees of the percentage of other individuals who are vaccinated, require all individuals to wear masks if there is a low percentage of **fully vaccinated** individuals, schedule certain classes or times that **face coverings** are required, or move activities outdoors.
3. BCPH recommends businesses and organizations review the [State's Civil Rights Guidance](#) prior to implementing **face covering** policies.
4. **Exemptions.** The following individuals are exempt from the requirements of this Order:
 - a. Individuals ten (10) years of age and younger.
 - b. Individuals who cannot medically tolerate a **Face Covering**.
5. **Exceptions.** Individuals performing any of 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 receiving a personal service where the temporary removal of a **Face Covering** is necessary to perform the service.
 - f. Individuals who are in a swimming pool and actively engaged in a pool activity in which their Face Covering might become wet.
 - g. 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](#).

- h. 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**.
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 years should not** wear a Face Covering due to the risk of suffocation. However, nothing in this Order shall be construed to pre-empt the [CDC Order](#) requiring all persons age 2+ years to wear a mask while on conveyances and at transportation hubs.
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 2021-103 as well as the Face Covering Orders contained in all CDPHE Orders, including but not limited to Public Health Order 20-38, as amended, and all Federal Orders, including the [CDC Order](#) requiring persons age 2+ years 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.
 - e. Nothing in this Order shall be construed to prevent any business or other entity from requiring a Face Covering for its employees, staff, customers, or other personnel while engaging with that entity or on entity's property.
8. **Refusal of Service.** Except for the limited exemptions and exceptions provided in Paragraphs 3 and 4 above, no owner, operator, or manager of a **Public Indoor Space**, including the businesses, services, and locations listed in Paragraph 2.a 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 this Order or another applicable State or Federal Order.
9. **Reasonable Accommodations.** If a business requires a **face covering**, but an individual qualifies for a medical exception, public health recommends that the business offer reasonable accommodations (such as curbside delivery), but the business is not required to

allow the person to enter the **Public Indoor Space** without a **Face Covering**. BCPH recommends that businesses review the State's [Civil Rights Guidance](#).

10. **Legal Recourse.** Any business that is in violation of this Face Covering Order or of the Governor's Executive Order 2021-103 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.G of the Governor's Executive Order 2021-079.

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](#).

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 May 19, 2021, at 12:01 a.m., and shall expire 11:59 p.m. on June 10, 2021 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: May 19, 2021

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