

**CLEAR CREEK BOARD OF COUNTY COMMISSIONERS  
AGENDA**

**May 20, 2021**

**SPECIAL MEETING—Zoom Call**

**Thursday**

**REGULAR SESSION:**

2:30 p.m. Public Comment

**BOARD OF HEALTH ACTION SESSION**

2:30 p.m. Consideration of approval of Clear Creek County Board of Health Resolution 21-04, Amending Standing Public Health Order Requiring Facial Coverings in Public Where Social Distancing Cannot Be Maintained and Facilitating Contact Tracing – Peter Lichtman

**REGULAR SESSION**

Executive Session to receive legal advice – if needed



**To join and listen to the regular session of the meeting, please do the following:**

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**CLEAR CREEK COUNTY BOARD OF HEALTH  
RESOLUTION 21-043**

**AMENDING STANDING PUBLIC HEALTH ORDER  
REQUIRING FACIAL COVERINGS IN PUBLIC WHERE  
SOCIAL DISTANCING CANNOT BE MAINTAINED AND FACILITATING CONTACT  
TRACING**

~~April 27, 2021~~ May 18, 2021

Pursuant to Colorado Revised Statutes (“C.R.S.”) §§ 25-1-506, 508, 509, and 516, Clear Creek County Board of Health (“BOH”) hereby issues this Public Health Order requiring facial coverings to be worn in public where social distancing cannot be maintained throughout Clear Creek 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 while allowing the re-opening of local businesses, recreation sites and events.

**FINDINGS**

Whereas, the BOH has public health jurisdiction over Clear Creek County, including all cities and towns therein. In furtherance of its jurisdiction, BOH has the power and duty to investigate and control the causes of epidemic or communicable diseases and conditions affecting the public health within Clear Creek 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 Clear Creek County as BOH 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 December 21, 2020, there have been 311,036 confirmed or probable positive cases of COVID-19 statewide in Colorado and 257 confirmed or probable positive cases in Clear Creek County, Colorado, as well as 3,511 deaths related to COVID-19 cases statewide and 2 deaths in Clear Creek 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 16, 2020, the Chairman of the Board of County Commissioners for Clear Creek County declared a local disaster emergency, which, on March 17, 2020, was ratified and extended by the Board of County Commissioners for Clear Creek County, and has been extended so that it remains in effect as of this date; and

Whereas, on June 1, 2020, the Governor of the State of Colorado issued Executive Order D\_2020-091 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 D\_2020-092 Amending Executive Orders D\_2020-039 and D\_2020-067 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 March 5, 2021, the Governor of the State of Colorado issued Executive Order D 2021 056 Extending Executive Orders D 2020-039, D 2020-067, D 2020-092, D 2020 110, D 2020 138, D 2020 164, D 2020 190, D 2020 219, D 2020 237, D 2020 245, D 2020 276, D 2020 281, D 2021 007, D 2021 035 and D 2021 079 Ordering Individuals in Colorado to Wear Non-Medical Face Coverings through May 3, 2021; and

[Whereas, Coloradans started to access the COVID-19 vaccine on December 14, 2020, and the general population of the State of Colorado became eligible to receive the COVID-19 vaccines on April 2, 2021; and](#)

[Whereas, on May 13, 2021, the Centers for Disease Control and Prevention \(“CDC”\) outlined new mask guidance for vaccinated and unvaccinated individuals; and](#)

[Whereas, as of May 14, 2021, according to the Colorado Department of Public Health and Environment \(“CDPHE”\) website, 2,321, 885 Coloradans are fully vaccinated \(40% of Colorado’s population\); and](#)

[Whereas, on May 14, 2021, to align the prior Executive Orders with the new CDC guidance, the Governor of the State of Colorado issued Executive Order D 2021 103 Amending, Restating, and Extending Executive Orders D 2020 039, D 2020 067, D 2020 092, D 2020 110, D 2020 138, D 2020 164, D 2020 190, D 2020 219, D 2020 237, D 2020 245, D 2020 276, D 2020 281, D 2021 007, D 2021 035, D 2021 56, D 2021 079 and D 2021 095 Ordering Individuals in Colorado to Wear Face Coverings in Certain Settings; and](#)

[Whereas, on May 14, 2021, the Executive Director of CDPHE issued the Second Amended Public Health Order \(PHO\) 20-38 Limited COVID-19 Restrictions, which, among other things, supersedes PHO 20-36 COVID-19 Dial, and implements reduced restrictions for individuals, Businesses and activities to prevent the spread of COVID-19; and](#)

[Whereas, on April 4, 2021, the Executive Director of CDPHE issued the Tenth Amended Public Health Order \(PHO\) 20-36 COVID-19 Dial, providing additional guidance regarding wearing face](#)

~~coverings in a variety of circumstances, including while entering or within Public Indoor Spaces (as defined in Section 5 of this Order); and~~

~~Whereas, under Executive Order D-2021-079) mask wearing continues to be mandatory for all counties in schools (including extracurricular activities), child care centers, indoor children's camps, public facing state government facilities, emergency medical and other healthcare settings, personal services and limited healthcare settings as defined by PHO 20-38, congregate care facilities, prisons, and jails; and~~

Whereas, local communities may have additional mask restrictions; and

Whereas, the ~~United States Centers for Disease Control and Prevention ("CDC"), Colorado Department of Public Health and Environment ("CDPHE"), and Clear Creek County Public & Environmental Health ("CCCPEH") have recommended that members of the public~~**continues to encourage individuals to remain at least six (6) feet away from non-household contacts, wash their hands, and wear a face covering to reduce the likelihood of transmission of**~~, when they need to interact with others not members of their household, whether indoors or outdoors, 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~~

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~~Whereas, while Colorado has started vaccinating those who are most vulnerable to COVID-19, the Colorado Modeling Group estimates that as of March 31, 2021, only about 25% of the population is currently immune to COVID-19; this is far short of the percentage of the population needed to reach herd immunity. Additionally, new variants that are more transmissible are circulating in Colorado.~~

~~Whereas, these factors, coupled with a loosening of restrictions, could result in an increase in cases, hospitalizations and deaths. While we work as a community to reach herd immunity, it is important that all community members continue to wear a face covering when they are within six (6) feet of distance from non-household members to help reduce the risk of transmission until we reach that critical threshold.~~

~~Whereas, scientific evidence shows that limiting interactions among people slows virus transmission and, as social distancing restrictions 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 restrictions 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; and

Whereas, on April 13, 2021, the BOH adopted Resolution 21-01 creating a new standing public health order requiring facial coverings in public; and

Whereas, on April 27, 2021, the BOH adopted Resolution 21-03 amending the standing public health order to extend the expiration date of that order; and

Whereas, based on the new CDC guidance, the Second Amended PHO 20-38 Limited COVID-19 Restrictions and Executive Order D 2021 103, the BOH has determined it appropriate to amend the standing public health order requiring facial coverings in public.

~~Whereas on April 15, 2021, the Executive Director of CDPHE issued PHO 20-38 Limited COVID-19 Restrictions, which, among other things, rescinded and replaced PHO 20-36 COVID-19 Dial but continues to require compliance with Executive Order D-2020-138, as amended and extended (most recently amended by D-2021-079), concerning face coverings; and~~

~~Whereas, subsequently, in light of PHO 20-36 COVID-19 Dial being rescinded, and to help guide counties in the Denver Metro Area through the recovery phase of the COVID-19 pandemic and into a full reopening, local health leaders suggested language for new public health orders for county public health boards in the region to adopt by resolution; and~~

~~Whereas, in consideration of the benefits of a regional, unified and consistent approach to COVID-19 public health orders, the BOH Public & Environmental Health Director recommend adoption of a resolution adopting the suggested language, and the BOH adopted that resolution on April 20, 2021 (BOH Resolution 21-02), prior to consideration of this Resolution 21-03; and~~

~~Whereas, in light of the adoption of BOG Resolution 21-02, the BOH has determined it appropriate to amend Resolution 21001 to remove the references to the COVID-19 Dial, as the adoption of Resolution 21-02 addresses those concerns.~~

## ORDER

Pursuant to statutory authority granted to the BOH, the following is ordered:

1. Each person within Clear Creek County must wear a Face Covering while (a) they are in indoor areas other than their Residence as defined below, or (b) they are outdoors when they are unable to maintain, or when they are not maintaining, social distance of at least six (6) feet from any non-household members, unless otherwise specifically exempted by Section 6 of this Order. These requirements supplement and are in addition to any other social distancing orders.
2. Businesses shall post on all entrances a sign which states that, pursuant to Clear Creek County Public Health Order 20-005, no individual may enter the facility without wearing a Face Covering unless a specific exception applies. Clear Creek County Public & Environmental Health shall provide a PDF copy of the sign for businesses to print out and

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post on their entrances. The PDFs are available on the County Website, [www.clearcreekcounty.us](http://www.clearcreekcounty.us), in the INFORMATION ON THE COVID-19 EMERGENCY RESPONSE section, under PUBLIC HEALTH ORDERS. If an individual qualifies for an exception, no business should deny services based on failure to wear a Face Covering.

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3. “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. 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 wear and clean Face Coverings may be found on the CDC’s website at: <https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/how-to-wear-cloth-face-coverings.html>

4. “Residence,” as used in this Order, means the real property (including structures and the land) upon which an individual resides with other members of his or her household. “Residence” includes hotels, motels, shared rental units, and similar facilities; however, “Residence” does not include any common areas that may be used by multiple households.
5. “Public Indoor Space,” as used in the 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 include all enclosed indoor areas except for an individual’s Residence.

6. **A Face Covering is not required as follows:**

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- a. **Working Alone.** In any Public Indoor Space setting when any person is alone in such space (a single, fully enclosed room) when others outside of that person’s household are not present and the public does not regularly visit the room. **That individual must put on a Face Covering when coworkers are located six feet or less from the individual, when**

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being visited by a client/customer, and anywhere members of the public or other coworkers are regularly present.

b. Food Establishments. Persons in restaurants or other food establishments which are permitted by state and local regulations to serve food for consumption on the premises, while such person is in the act of eating or drinking; provided, however, that face coverings must be worn while entering and exiting the restaurant, and while ordering, paying, or otherwise interacting with employees or other customers of the restaurant, and once the food and drink have been consumed;

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c. Other Expressly Permitted Situations. In the limited situations where CDPHE, through a current public health order, has explicitly permitted the removal of a Face Covering in order for customers to receive designated services that require removal of a customer's Face Covering, for example, facials and dental procedures.

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d. Hearing Impaired. For individuals who are communicating or seeking to communicate with someone who is hearing-impaired or has another disability, where the ability to see the mouth is essential for communication.

e. Private Vehicles. When a person is driving or is a passenger in a privately-owned or operated motor vehicle when it is occupied only by an individual or members of the same household. Individuals must wear a Face Covering when driving or a passenger in public transportation, paratransit vehicles, taxis, private car services, or ride-sharing vehicles when used for that purpose.

e. First Responder Unforeseen Emergency. 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. However, this Order does not preempt any CDPHE orders or State of Colorado Executive Orders that require first responders to wear Face Coverings.

f. Verifying Identity. Persons in a Public Indoor Place such as banks, financial institutions or other security sensitive businesses who are requested to remove or lower their face covering for purposes of verifying their identity to carry out a sale or transaction; provided, however, that Face Coverings must otherwise be worn while in the establishment.

g. Children. This Order does not require any child aged four (4) years or 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 three years should not wear a Face Covering due to the risk of suffocation.

7. Preemption and Conflicts.

a. This Order is in addition to all executive orders issued by the Governor of Colorado and all public health orders and guidance documents issued by CDPHE. If there is conflict between this Order and any executive order, CDPHE public health order or local public health order, the most restrictive order applies.



b. Nothing in this Order should be construed to preempt any local public health orders. If there is conflict between this Order and any local public health order, the most restrictive order applies.

c. Nothing in this Order should be construed to require the wearing of a Face Covering when doing so would violate Federal law, rule or regulation.

8. Individuals must comply with CCCPEH's case and outbreak investigations, including, without limitation, providing names and contact information for other persons that have COVID-19 or were a close contact of someone with COVID-19, or any other information requested by CCCPEH to investigate and control the spread of COVID-19.

9. All Public Indoor Spaces must comply with case and outbreak investigations, including but not limited to providing names and contact information for employees, customers, or guests that have COVID-19, were a close contact of someone with COVID-19 or any other information requested by CCCPEH to investigate and control the spread of COVID-19.

10. Along with CDPHE, the Clear Creek County BOH and the CCCPEH are tasked with protecting the health and welfare of the citizens of Clear Creek 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. CCCPEH will attempt to seek voluntary compliance through education. However, this Order may be enforced by any appropriate legal means.

11. This Public Health Order shall be in effect from 11:59 p.m. on ~~May~~ April 27, 2021, and shall expire at 11:59 p.m. on August 15, 2021, unless extended or modified by further order of the BOH or the CCCPEH Director. This Order supersedes prior Resolutions of the Board relating to facial mask coverings.

12. If any provision of this Order, or its application to any person or circumstance, is held to be invalid, then the remainder of the Order, including the application of such part or provision to other persons or circumstances, shall not be affected and shall continue in full force and effect. To this end, the provisions of this Order are severable.

FAILURE TO COMPLY WITH THIS ORDER IS SUBJECT TO PENALTIES CONTAINED IN C.R.S. §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.

If you have questions regarding this Order, please contact the CCCPEH at 303-670-7528.

ADOPTED this 27<sup>th</sup> day of April, 2021, at a regular meeting of the Clear Creek County Board of Health.

\_\_\_\_\_  
George Marlin, Chairman

\_\_\_\_\_  
Sean C. Wood, Commissioner

ATTEST:

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Randall Wheelock, Commissioner

\_\_\_\_\_  
Deputy Clerk and Recorder  
For Brenda L. Corbett  
Clear Creek County Clerk and Recorder

Received and Approved

\_\_\_\_\_  
Timothy Ryan, PhD.  
Public & Environmental Health Director

\_\_\_\_\_  
Date