

**CLEAR CREEK BOARD OF COUNTY COMMISSIONERS**

**MEETING AGENDA**

**BOARD OF COUNTY COMMISSIONERS REGULAR SESSION**

8:30 AM Public Comment

**BOARD OF HEALTH ACTION SESSION**

8:30 AM Consideration Of Approval Of Board Of Health Resolution #21-06, Requiring Facial Coverings In Public Where Social Distancing Cannot Be Maintained And Facilitating Contact Tracing- Dr. Tim Ryan

Documents:

[120321 RESO.PDF](#)

**BOARD OF COUNTY COMMISSIONERS WORK SESSION**

Executive Session To Receive Legal Advice

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**CLEAR CREEK COUNTY BOARD OF HEALTH  
RESOLUTION 21-06**

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

**December 3, 2021**

**FINDINGS**

Whereas, the Clear Creek County Board of Health (“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; and

Whereas, on July 2, 2020, the BOH, through adoption of Resolution 20-04, issued a Standing Public Health Order Requiring Facial Coverings in Public Where Social Distancing Cannot be Maintained (“Standing Order”); and

Whereas, on September 20, 2020, the BOH, through adoption of Resolution 20-06, amended the Standing Order to add language facilitating contact tracing; and

Whereas, on April 27, 2021, the BOH, through adoption of Resolution 21-03, amended the Standing Order by extending it through August 15, 2021, unless extended or modified by further order of the BOH or the Clear Creek County Public and Environmental Health (“CCCPEH”) Director; and

Whereas, Coloradans started to access the COVID-19 vaccines 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, on May 14, 2021, the Governor of the State of Colorado, to align prior Executive Orders with the new CDC guidance, issued Executive Order D 2021 103, amending and restating previous executive orders requiring individuals in Colorado to wear face coverings in certain settings (“State Face Covering Order”); and

Whereas, the State Face Covering Order allows any fully vaccinated individual to go without a face covering in most settings, but maintains some face covering requirements for unvaccinated or not fully vaccinated individuals; and

Whereas, on May 14, 2021, the Colorado Department of Public Health and Environment (“CDPHE”) issued the Second Amended Public Health Order 20-38, which incorporates the face

covering requirements and exemptions for fully vaccinated people contained in the State Face Covering Order; and

Whereas, on May 20, 2021, the BOH adopted Resolution 21-05, rescinding the CCCPEH Order requiring facial coverings, but maintaining the CCCPEH Order facilitating contact tracing; and

Whereas, on September 2, 2021, the BOH adopted Resolution 21-05, pertaining only to school and childcare settings, requiring face coverings for all individuals ages 3 and older; and

Whereas, in Colorado, as of November 30, 2021, fully vaccinated individuals were 3.9 times less likely to become a COVID case, 10 times less likely to be hospitalized for COVID, and 13.4 times less likely to die from COVID than unvaccinated individuals; and

While the COVID-19 vaccines are currently available to all Coloradoans age 5 and older, as of November 30, 2021, in Clear Creek County, 69.8% of the eligible population and 61% of the total population has received at least 1 vaccine dose; this is far short of the percentage of the population needed to reach herd immunity; and

According to the CDC, COVID-19 continues to pose a serious risk, especially to individuals who are not fully vaccinated, and certain viral mitigation measures remain necessary to protect against COVID-19 cases, hospitalizations, and deaths. On July 28, 2021, the CDC updated its guidance and recommended that all individuals, including those who are fully vaccinated, wear a Face Covering in all public indoor settings in areas of substantial or high transmission; and

The CDC created a “transmission tracker” to monitor the transmission of COVID-19 in each county and identifies the transmission status of COVID-19 as “low,” “moderate,” “substantial,” or “high.” As of November 30, 2021, the CDC identifies Clear Creek County as an area with high transmission at a 14-day new COVID-19 case rate of 500 per 100,000. As of November 30, 2021, there were 829,437 known presumptive positive cases of COVID-19 statewide in Colorado, and 894 known presumptive positive cases in Clear Creek County, Colorado, as well as 9,373 deaths due to COVID-19 statewide and 7 deaths in Clear Creek County; and

Whereas, the data also indicates that there have been 14 hospitalizations among Clear Creek County residents due to COVID-19 in the last six weeks (October 5 through November 21), and on average, over 2 hospitalizations of residents per week since August, when the current surge began. This is a greater rate of hospitalization than we have experienced at any other point in the pandemic. If Colorado remains on the current trajectory, there is a reasonable chance peak COVID-19 hospital demand could exceed 2,000 hospital beds before the end of the year, which is greater than the current hospital capacity.

## **INTENT**

Vaccination is the most effective way to prevent transmission of COVID-19, to limit COVID-19 hospitalizations and deaths and to prevent the health care system from becoming overwhelmed. When vaccination is not possible, a layered viral mitigation strategy including wearing Face

Coverings, testing, social distancing, hand hygiene, and ventilation decreases risk of transmission of COVID-19.

The intent of this Order is to slow the spread of COVID-19 to the greatest extent possible so as to reduce unnecessary death and serious illness and to preserve hospital capacity by ensuring that the maximum number of people wear Face Coverings in Indoor Public Spaces. Except as provided below, all individuals in Clear Creek County age 3 and older must wear a Face Covering while inside any Public Indoor Space, as defined below. All provisions of this Order should be interpreted to effectuate this intent. Failure to comply with any of the provisions of this Order constitutes an imminent threat and creates an immediate menace to public health.

## ORDER

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

### 1. Definitions.

- a. **Face Covering or Facial Covering or Mask** must meet the requirements of the CDC mask attributes here: <https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/about-face-coverings.html> When possible, CCCPEH recommends individuals wear a medical grade face covering such as a surgical mask instead of a cloth face covering. If a medical grade face covering is unavailable, a cloth face covering must meet the CDC requirements identified above. **Household Members** means individuals who reside in the same Residence. **Moderate or Low Transmission** means moderate or low transmission as measured by the CDC Transmission Tracker (<https://covid.cdc.gov/covid-data-tracker/#datatracker-home>).
- b. **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 that are not an individual's Residence.
- c. **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.
- d. **Substantial or High Transmission** means any time period after Clear Creek County has reached at least 5 consecutive days in substantial or high transmission as measured by the CDC Transmission Tracker, and prior to Clear Creek County reaching at least 21 consecutive days in Moderate or Low Transmission.

### 2. Face Covering Requirements in effect during Substantial and High Transmission.

- a. **Public Indoor Spaces:** All individuals age 3 or older, regardless of vaccination status,

must wear a Face Covering while entering or within any Public Indoor Space, unless exempt pursuant to Section 3 of this Order or actively engaged in an activity described in Section 4 of this Order.

- i. Duration: This requirement remains in effect during periods of Substantial or High Transmission.
- ii. Business/Facility Policies: Businesses and facilities may choose to keep Face Covering requirements in place during periods of Moderate or Low Transmission, even when not required by this Order.

**3. Exemptions to Face Covering Requirements.** The following individuals are exempt from the Face Covering requirements of this Order:

- a. Individuals under age 3.
- b. Individuals who cannot medically tolerate a Face Covering.

**4. Additional Exceptions to Face Covering Requirements.** Individuals performing any of the following activities are exempt from the Face Covering 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 or actively eating or drinking.
- c. Individuals who are asked to temporarily remove their Face Covering for identification purposes in furtherance of a particular service requiring legal identification.
- 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 actively engaged in a performing arts performance, leading religious services, or engaged in other similar activities, so long as the individual maintains at least twelve (12) feet distance from non-household members indoors.
- f. Individuals who are receiving a personal, religious, or medical service where the temporary removal of the Face Covering is necessary to perform the service.
- g. Individuals who are alone in an enclosed room or only with members of their same Household in an enclosed room.
- h. Individuals who are in a swimming pool and actively engaged in a pool activity in which their Face Covering might become wet.

- i. Individuals participating in certain indoor sports activities as permitted by Boulder County Public Health’s sports guidance (<https://assets.bouldercounty.org/wp-content/uploads/2021/04/2021-april2-guidance-for-boco-sports.pdf>). CCCPEH is expressly adopting the Boulder County Public Health sports guidance through this Order.
  - j. 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.
5. **Americans with Disabilities Act.** The requirements of this Order shall be applied in a manner consistent with the Americans with Disabilities Act (42 U.S.C. § 12101 *et seq.*), Title VII of the Americans with Disabilities Act (42 U.S.C. § 2000e *et seq.*), the Colorado Anti-Discrimination Act (C.R.S. §24-34-401 *et seq.*), and any other relevant federal or State law.
6. **Signage Requirements.** All facilities subject to this Order must post signs at entrance(s) instructing individuals of their legal obligation to wear masks under this Order. Posting a sign requiring masks for all individuals regardless of vaccination status under the requirements of any state or federal order shall be deemed sufficient for purposes of this Order. The “mask in building.pdf” signs made available by the State are considered sufficient for purposes of this Section. Please see <https://covid19.colorado.gov/print-materials> for sample print materials.
7. **Children Under the Age of 3.** This Order does not require any child under the age of 3 to wear a Face Covering. Parents and caregivers should supervise the use of Face Coverings by children to avoid misuse.
8. **Contact Tracing.** 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.
9. **Recommendations.** The following recommendations are not requirements of this Order, but are recommended:
  - a. Businesses and facilities that permit individuals to remove a face covering while performing one of the activities listed Section 4 are strongly recommended to use at least one of the following ventilation strategies:
    - i. Keep open all available windows and doors accessible to fresh outdoor air as long as air quality and weather conditions permit;
    - ii. Keep on a fully operational HVAC system; or
    - iii. Utilize appropriately sized portable air cleaners in each room.
  - b. Businesses and facilities are encouraged to move all activities outdoors that can be performed outdoors. When performing activities indoors, increase ventilation via

opening doors and windows, turning on HVAC systems, or using other air filtration systems.

- c. People who are outdoors or in close proximity to other people who are not part of their household are strongly encouraged to wear a Face Covering.
- d. People are strongly encouraged to wear a Face Covering when present in an indoor private gathering at a Residence if someone who is not part of a person's Household is present in the Residence.
- e. Businesses and other entities subject to this Order are strongly encouraged to provide a Face Covering at no cost to people who do not have one upon entry into the facility.
- f. Businesses and other entities subject to this Order are strongly encouraged to require vaccination of all employees.

#### **10. Conflict and Preemption.**

- a. Nothing in this Order should be construed to preempt any State of Colorado regulations (including CDPHE Orders and Executive Orders) concerning Face Coverings, or that impose Face Covering requirements beyond those contained in this Order.
- 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 facility or local government entity from adopting more protective standards than those contained in this Order.
- d. Nothing in this Order shall be construed to prevent any business or other entity from requiring its employees, staff, customers, or other staff to wear a Face Covering while engaging with that entity or on the entity's property.
- e. Nothing in this order should be construed to require the wearing of a Face Covering when doing so would violate a Federal law, rule, or regulation.

**11. Denial of Entry.** Except for the limited exemptions and exceptions provided in Sections 3 and 4 above, no owner, operator, or manager of a Public Indoor Space 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.

**12. Reasonable Accommodations.** CCCPEH recommends that all facilities subject to this Order review the State of Colorado's Civil Rights Guidance.

**13. Legal Recourse.** Any facility that is in violation of this Order 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) as well as reporting to the appropriate licensing agency for suspension or revocation of its license.

**14. Isolation and Quarantine.** All individuals who have tested positive for COVID-19 or who have been a close contact of a person with COVID-19 infection, whether symptomatic or asymptomatic, and all individuals who are symptomatic with COVID-19 symptoms as defined by CDPHE are required to isolate or quarantine pursuant to CCCPEH General Isolation and Quarantine Guidance unless otherwise directed by CCCPEH.

**15. Severability.** 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.

**16. Duration.** This Public Health Order shall be in effect from December 4, 2021, at 12:01 a.m. and shall remain in effect at all times Clear Creek County is in Substantial or High Transmission. However, this requirement shall be suspended when Clear Creek County has experienced at least twenty-one (21) consecutive days in Moderate or Low Transmission.

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.

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 3rd day of December, 2021, at a special meeting of the Clear Creek County Board of Health.

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George Marlin, Chairman

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Sean C. Wood, Commissioner

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Randall Wheelock, Commissioner

ATTEST:

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

Received and Approved

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Timothy Ryan, PhD.  
Public & Environmental Health Director

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Date