

April 5, 2021

**NOTICE OF FIRST AMENDED JEFFERSON COUNTY
PUBLIC HEALTH ORDER 20-008
REQUIRING FACE COVERINGS IN PUBLIC WHERE
SOCIAL DISTANCING CANNOT BE MAINTAINED**

The Jefferson County Public Health Department (“JCPH”) is working to stop the spread of Coronavirus 2019 (“COVID-19”). To support this effort, I find it necessary to implement emergency measures to require all individuals in Jefferson County, Colorado, to wear Face Coverings in public indoor spaces.

FINDINGS AND NECESSITY OF ORDER

COVID-19 was first detected in Wuhan, China in late 2019, and since then has spread to over 213 countries, including the United States.

COVID-19 is a respiratory illness transmitted like other respiratory illness 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 to fourteen days after exposure. Symptoms include fever, cough or 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.

The United States Centers for Disease Control and Prevention (“CDC”), CDPHE, and JCPH 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.

Scientific evidence shows that limiting interactions among people slows virus transmission and, as restrictions targeted at reducing transmission 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.¹ This includes both indoor and outdoor settings in which individuals have close, prolonged contact with others outside of their household.

¹ Tran Phuoc Bao Thu et al., *Effect of the Social Distancing Measures on the Spread of COVID-19 in 10 Highly Infected Countries*, SCI TOTAL ENVIRON (June 22, 2020), available at, <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7307990/>; *Guidance for Wearing Masks. Help Slow the Spread of COVID-19.* <https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/cloth-face-cover-guidance.html>

While Colorado has started vaccinating those who are most vulnerable to COVID-19, estimates indicate that as of April 2, 2021, only about 27% 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. These factors, coupled with a loosening of restrictions, could result in an increase in cases. While we work as a community to reach herd immunity through vaccination, 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.

While Jefferson County's one-week incident rates have dropped from the peaks of November and December, 2020, case counts are variable from week to week and have remained relatively steady at 100 to 120 per 100,000 7 day average incidence rate throughout March 2021. Elimination of the mask requirements will likely lead to increased case counts in Jefferson County until enough people have been vaccinated to reach the threshold to achieve herd immunity. As of April 4, 2021, there were 486,121 known presumptive positive cases of COVID-19 statewide in Colorado, and 40,751 known presumptive positive cases in Jefferson County, Colorado, as well as 6,253 deaths due to COVID-19 statewide and 779 deaths in Jefferson County.

A face covering mandate can work in concert with vaccination efforts to minimize the spread of COVID-19 as social distancing restrictions are reduced under PHO 20-36, COVID-19 Dial, by reducing the exposure of individuals to the virus. This continues to be necessary to protect vulnerable populations and to prevent the health care system from becoming overwhelmed.

History of State and JCPH Orders

On March 10, 2020, the Governor of Colorado declared a State of Emergency relating to the presence of COVID-19.

On March 25, 2020, the Governor of Colorado issued Executive Order D 2020-017, ordering all Coloradoans to Stay-at-Home due to the presence of COVID-19 in the state ("Stay-at-Home Order").

On April 26, the Governor of Colorado issued Executive Order D 2020-044, Safer at Home, through May 27, 2020 ("Safer-at-Home Order").

On June 1, 2020, the Governor of Colorado issued Executive Order D 2020-091, Safer-at-Home and in the Vast, Great Outdoors ("Safer-at-Home and in the Vast, Great Outdoors Order"), which was extended by Executive Order D 2020-213 until November 5, 2020.

Jefferson County's movement from the Stay-At-Home Order to Safer-At-Home and in the Vast, Great Outdoors Order resulted in the easing of social distancing restrictions in Jefferson County.

(Updated Feb 18, 2021); *Strategies to Flatten the COVID-19 Curve in a Post-Lockdown World*, NATURE HUMAN BEHAVIOUR (June 4, 2020), available at, <https://www.nature.com/articles/s41562-020-0898-6>

On April 17, 2020, the Governor of Colorado issued Executive Order D 2020-039, requiring workers in critical businesses and critical government functions to wear a non-medical mask covering their nose and mouth while at work and while serving the public, and directing the Executive Director of CDPHE to issue a public health order consistent with the directives in the Executive Order, which order was extended and amended by Executive Orders D 2020-067, 2020-092, and Executive Order D 2020-110, which extended the requirements for certain workers to wear non-medical face coverings through July 20, 2020.

On April 22, 2020, the Executive Director of the Colorado Department of Public Health and the Environment (“CDPHE”), pursuant to Colorado Revised Statutes §§ 25-1.5-101(1)(a) and 25-1.5-102(1)(a)(I), issued Public Health Order 20-26 requiring employees who work in close proximity to other employees or with the public to wear a non-medical or medical face covering unless doing so would inhibit the individual’s health, and recommending that these employees should wear gloves if gloves are provided by their employer, which was extended until June 14, 2020 and amended by Amended Public Health Order 20-26.

On June 18, 2020, the Executive Director of CDPHE issued Seventh Amended Public Health Order 20-28, Safer at Home and in the Vast, Great Outdoors which, among other things, establishes face covering requirements and removal allowances for providers and customers of designated services, in effect through July 1, 2020, which was further amended by the Ninth Amended Public Health Order 20-28 to extend the requirement to wear face coverings to all public indoor spaces (“PHO 20-28”).

On July 16, 2020, the Governor issued Executive Order D 2020 138, requiring individuals in Colorado to wear a non-medical face covering over their nose and mouth, subject to several exceptions, which Order amended Executive Order D 2020 039 and its progeny, and has since been amended and extended numerous times (“EO 2020 138”).

On July 24, 2020, JCPH Executive Director Mark Johnson, M.D., M.P.H. issued Jefferson County Public Health Order 20-008 to supplement the provisions of the State Mask Order by requiring all individuals to wear a face covering when they are outside their Residence and when they are unable to maintain at least six feet of distance from non-household members.

On September 16, 2020, the Executive Director of CDPHE issued Public Health Order 20-35, Safer at Home Dial, which supersedes and replaces Public Health Order 20-28 (“PHO 20-35”). PHO 20-35 includes the requirement that individuals wear face coverings in public indoor spaces.

On November 2, 2020, the Executive Director of CDPHE issued Public Health Order 20-36, COVID-19 Dial, which supersedes and replaces Public Health Order 20-35 (“PHO 20-36”). PHO 20-36 requires individuals to wear face coverings in a variety of circumstances, including while entering or within public indoor spaces.

On March 24, 2021, the Executive Director of CDPHE issued the Ninth Amended Public Health Order 20-36, which significantly loosens restrictions for counties in Levels Blue and Green on the COVID-19 Dial.

On April 2, 2021, The Governor issued Executive Order 2021 079, requiring individuals in Colorado to wear a non-medical face covering over their nose and mouth in groups of ten (10) or more individuals who are unvaccinated or whose vaccination status is unknown, which Order amended Executive Order D 2020 138 (“State Mask Order”).

INTENT

The intent of this **Face Covering Order** is to ensure that the maximum number of people wear face coverings in public where social distancing cannot be maintained to slow the spread of COVID-19 to the greatest extent possible, while enabling the continuation of essential services, businesses and travel necessary to protect public health and safety, and for the continuity of social and commercial life.

Except as provided below, when people need to leave their places of residence, whether to obtain or perform vital services, or to otherwise facilitate authorized activities necessary for continuity of social and commercial life, they should at all times wear a Face Covering (as defined below) if they are unable to maintain or are not maintaining social distance of at least six (6) feet from any non-household members. People should continue to comply with social distancing requirements as described in all applicable executive and public health orders. 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 the authority granted the Executive Director of Jefferson County Public Health in C.R.S. §§ 25-1-506(3)(b) and 25-1-509(1)(c), and consistent with the Governor’s Executive Order, CDPHE guidance and CDC’s guidance, the following is ordered:

1. **Face Coverings Required Indoors.** Except as specifically exempted below by Paragraphs 5 or 6, each person in Jefferson County must 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 in an indoor setting. In addition, each person in Jefferson County must wear a Face Covering as required by Governor Polis’ Executive Order D2021 079, as amended and extended from time to time. This JCPH Order 20-008 requires all Individuals to wear a Face Covering in a **Public Indoor Space** if six (6) feet of distance cannot be maintained between non-household members regardless of the number of individuals in that space or their vaccination status, 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 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. 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 alone or 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** 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, and that is accessible to the public, serves as a place of employment, or is an entity providing services. Public Indoor Space does not mean a person's Residence, including a room in a motel or hotel or a residential room for students at an educational facility.
5. The following individuals are exempt from the requirements of this Order:
 - a. Individuals ten (10) years old and younger; or
 - b. Individuals who cannot medically tolerate a face covering.
6. To clarify the exemptions provided in EO D 2021 079, as modified by this Face Covering Order, a Face Covering is required under all circumstances other than the following:
 - 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 are receiving a personal service where the temporary removal of the Face Covering is necessary to perform the service;
 - d. Individuals who enter a business or receive services and are asked to temporarily remove a face covering for identification purposes;
 - e. Individuals who are actively engaged in a public safety role such as law enforcement, firefighters, or emergency medical personnel;
 - f. 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;
 - g. Individuals who are giving a speech for broadcast or an audience;
 - h. Individuals who are alone in a room or only with members of their same household;
 - i. Individuals who are in a swimming pool and are actively engaged in a pool activity in which their Face Covering might become wet.
7. **Interaction with the State's Mask Order.** This JCPH Order 20-008 takes priority over the State Mask Order. As a result, the State's variances or waivers for certain indoor activities do not apply in Jefferson County and, unless exempted in Paragraphs 5 or 6 above, all individuals in Jefferson County must wear a Face Covering unless they can maintain at least six (6) feet of distance from non-household members in any indoor setting. If it is not safe to perform an activity with a Face Covering or if the activity cannot take place such that the participants can maintain six (6) feet of distance from non-household members, then the activity should not take place unless it can be modified to meet one of those two requirements.
8. 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.
9. This Order 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 D 2021 079, as amended and extended, as well as the face covering orders contained in all CDPHE orders, including but not limited to Public Health Order 20-36. 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 Federal orders, including the CDC Order requiring individuals to wear masks on conveyances and at transportation hubs.
 - d. Nothing in this Order should be construed to preempt any local public health orders.
 - e. Nothing in this Order shall be construed to prevent a municipality from adopting more protective standards than those contained in this Order.

10. Except for the limited exemptions provided in paragraphs 5 and 6 above, no owner, operator, or manager of a **Public Indoor Space**, as the term is defined herein, may provide service to such individuals or allow an individual to enter that Public Indoor Space, unless the individual is wearing a **Face Covering** as required by Executive Order 2021 079 and this JCPHO 20-008.
11. To supplement the signage requirements of II.J. of EO 2021 079, all businesses in Jefferson County shall post on all entrances a sign which states that, pursuant to Executive Order 2020-138 and Jefferson County Public Health Order 20-008, no individual may enter the facility without wearing a Face Covering unless a specific exception applies. Jefferson County Public Health shall provide a PDF copy of the sign for businesses to print out and post on their entrances. The PDF is available in English here: <https://www.jeffco.us/DocumentCenter/View/22571/Business-Face-Covering-Poster-PDF>. You can download the sign in Spanish here: <https://www.jeffco.us/DocumentCenter/View/22743/Business-Face-Covering-Poster---Spanish-PDF>.
12. If an individual qualifies for a medical exception, the business should offer reasonable accommodations (such as curbside delivery) but the business is not required to allow the person to enter the facility without a Face Covering.
13. Any business that is in violation of this Face Covering Order or of the Governor's Executive Order 2021 079 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 2021 079.

Along with CDPHE, JCPH is tasked with protecting the health and welfare of the citizens of Jefferson 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.

If you have questions regarding this Order, please contact the JCPH at HealthEPR@jeffco.us or view the COVID-19 information on JCPH's website at www.jeffco.us/coronavirus.

This First Amended JCPH Public Health Order 20-008 shall be in effect from April 6, 2021, at 12:01 a.m. through May 5, 2021 at 11:59 p.m.

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.

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.

Issued by:

A rectangular box containing a handwritten signature in cursive script that reads "R. Dawn Comstock".

R. Dawn Comstock, Ph.D
Executive Director
Jefferson County Public Health

April 5, 2021
Date