

STATE OF COLORADO)
) ss.
COUNTY OF GARFIELD)

At a special meeting of the Board of County Commissioners for Garfield County, Colorado, held at the County Administration Building in Glenwood Springs on Monday, the 19th day of April 2021, there were present:

- Tom Jankovsky, Commissioner
- Mike Samson, Commissioner
- John Martin, Commissioner Chairman
- Tari Williams, County Attorney
- Kevin Batchelder, County Manager
- Jean Alberico, Clerk to the Board

when the following proceedings, among others were had and done, to-wit:

RESOLUTION NO. 2021-13

RESOLUTION DECLARING GARFIELD COUNTY LOCAL GUIDANCE FOLLOWING STATEWIDE LIMITATION ON COVID-19 RESTRICTIONS

A. On March 20, 2020, Garfield County Public Health (“GCPH”) issued a Public Health Order declaring that all state orders will be deemed effective and enforceable in Garfield County as soon as they are announced. That Order remains in effect to this day.

B. On March 15, 2021, the Garfield County Board of County Commissioners (the “BOCC”) sent a letter to Governor Polis petitioning him to immediately adopt a plan that would allow the State of Colorado and Garfield County to reopen, remove restrictions on the economy and allow citizens to exercise their own personal responsibility to determine how best to protect their health and financial interests. (see **Exhibit A**).

C. On April 15, 2021, the Colorado Department of Public Health and Environment (“CDPHE”) issued Public Health Order 20-38 (**Exhibit B**), which supersedes existing PHO 20-36 regarding the COVID-19 Dial and PHO 20-29 involving voluntary and elective surgeries. In other words, although the Dial and applicable guidance will remain a viable measure of virus activity and of ongoing safeguards, statewide restrictions no longer accompany the Dial designations. Instead, PHO 20-38 implements reduced restrictions for individuals, businesses, activities, and hospital reporting requirements in the ongoing prevention of the spread of COVID-19 in Colorado.

D. The CDPHE’s reduced COVID-19 restrictions now apply only to face covering requirements, work accommodations in business and government entities, mass indoor gatherings when more than 100 are gathered in a room in a public indoor space, outdoor ticketed seated event venues in excess of 30,000 square feet, and schools and child care. (Order, section I.A-D). In addition, Hospital facility reporting requirements remain in place, as do PHO 20-20 setting requirements for Skilled Nursing Facilities, Assisted Living Residences, Intermediate Care

Facilities and Group Homes, PHO 20-23 regarding laboratory data reporting, and PHO 20-37 regarding vaccine access and data reporting (see Order I.H and Findings ¶ 5).

E. Of note, face coverings are still required in the settings originally defined in Executive Order D 2020-138, as most recently amended in D 2021-079 and now included in PHO 20-38 I.A.1. (a)-(h). Face coverings are not required outdoors or in most Public Indoor Spaces unless and until a one week incidence rate in excess of 35 per 100,000 is reached, in which case face covering will be required in Public Indoor Spaces where 10 or more unvaccinated individuals or individuals of unknown vaccination status are present.

F. PHO 20-38 became immediately effective in Garfield County.

G. As currently ordered, the CDPHE will not reverse this limitation on restrictions unless and until a county's resident hospitalizations threaten to exceed 85% of hospital or hospital system capacity, at which time the CDPHE has reserved the right to implement additional restrictions in that county to mitigate disease transmission. (see Order I.E)

H. The BOCC recognizes that the pandemic is not over and that as state restrictions decline the burden of preventing virus spread becomes a local issue. Going forward, Garfield County will treat COVID-19 like all other communicable diseases as defined by the CDPHE and the CDC.

I. The BOCC also recognizes that it is time to move Garfield County residents and economy forward and strike a locally appropriate balance between the serious need to continue to curtail virus spread with the need to ensure small businesses and the local economy can open to the extent that each is comfortable. The ability to determine how to balance these competing priorities is finally moving from the state to local governments, individuals, and businesses, each of whom must stay informed about the virus activity in Garfield County in order to make informed decisions about how to conduct themselves.

NOW THEREFORE, BE IT RESOLVED AS FOLLOWS: The Board of County Commissioners, sitting as both the BOCC and the Garfield County Board of Health, hereby:

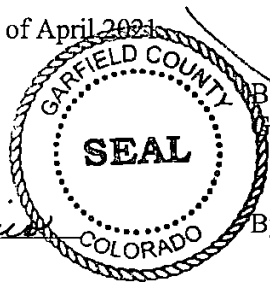
1. Encourages all Garfield County citizens to continue to follow all five containment strategies that have shown to be effective in slowing the spread of the COVID-19 virus:
 - a. Wash your hands
 - b. Wear a mask while indoors and continue to remain at least 6 feet away from non-household contacts
 - c. Avoid large crowds
 - d. Stay home when sick and seek testing for COVID-19 right away, and
 - e. Isolate or quarantine if you test positive or have been in close contact with someone who tests positive.

2. Encourages all citizens to remain aware of the COVID-19 metrics that Garfield County Public Health will continue to publish on the county website. It will be up to everyone to make personally appropriate decisions.
3. Encourages all Garfield County businesses to reopen to the extent each is comfortable and to make their own decisions about whether and to what extent to limit capacity or impose other safety measures, subject of course to remaining in compliance with any applicable municipal requirements and the continued state requirements.
4. Directs the Garfield County Public Health Department to:
 - a. Continue to offer and support vaccinations to all citizens 16 years and older.
 - b. Continue to maintain County data metrics regarding the County's experience with COVID-19, including case counts, case rates, number of hospitalizations, outbreaks, and variants and to make that data available to the public.
5. Reminds all citizens that COVID-19 is a communicable disease and that Garfield County Public Health will follow all standard communicable disease control measures to investigate and trace all outbreaks in accordance with CDC guidelines.
6. Reminds all restaurant and food service entities that Garfield County Public Health retains regulatory authority for consumer protection independent of COVID-19 restrictions and will continue to exercise that authority, which does include education before enforcement.
7. This resolution shall take effect immediately upon signature.

DATED this 17th day of April 2021

ATTEST:

Jean M Alberico
Clerk to the Board



BOARD OF COUNTY COMMISSIONERS OF
GARFIELD COUNTY, STATE OF COLORADO

By: _____
Chairperson

A large, stylized handwritten signature in black ink is written over the line for the Chairperson's name.

Upon motion duly made and seconded the foregoing Resolution was adopted by the following vote:

- Tom Jankovsky Aye
 - Mike Samson Aye
 - John Martin Aye
- Commissioners



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Attachment A

BOCC March 15, 2021 Letter to Governor Polis



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Tom Jankovsky
District 1

John Martin, Chair
District 2

Mike Samson, Chair Pro Tem
District 3



March 15, 2021

Governor Jared Polis
Office of the Governor
State Capitol Building
200 E. Colfax Ave., Rm. 136
Denver, CO, 80203

Dear Governor Jared Polis,

The Garfield County Board of County Commissioners is hereby petitioning the Governor of the State of Colorado to immediately adopt a plan that will allow the State of Colorado and Garfield County to reopen. As a result of the drastic decreasing numbers in the COVID infection and hospitalization rates and the positive vaccinations in our county, there is no longer a need to impose all the measures to restrict the economy and to prohibit our citizens from exercising their own personal responsibility to determine how best to protect their health and financial interest.

The Board is concerned about ongoing business restrictions and closures, personal restrictions, and harm to the economy and the public welfare due to overly broad State government action.

What started as a need to severely restrict businesses and personal liberties for a short period of time to “flatten the curve” and protect the hospital and health care system turned into more than 350 Executive Orders. There is no guarantee that jobs and income losses will ever be fully restored. The negative impacts to the mental health of our citizens, young and old, from these closures has greatly increased.

The health care system, our citizens, and essential workers, including our local teachers have responded heroically. The number of people with some level of immunity to COVID-19, either through contraction of the disease and/or receiving a COVID-19 vaccine has increased dramatically and Garfield County is approaching herd immunity, with over 40% of the citizens of Garfield County having received their first vaccine and especially amongst the most vulnerable with 82% over 70 years of age.

The State of Colorado has not issued any guidance or criteria to indicate what reopening looks like, or requirements for any citizen or business.

The board believes that the State’s mandated restrictions continue to unreasonably infringe on personal rights as well as life, liberty, and property interests of Garfield County businesses and citizens.

*108 8th Street, Suite 101 • Glenwood Springs, CO 81601
Office: 970-945-5004 • Fax: 970-945-7785*

Our citizens continue to express concerns to the Board in increasing numbers, that the County should not be involved in the governor's executive orders, and the guaranteed freedoms they have been deprived of by their state. Our citizens also compare us to surrounding counties and are asking questions, why the citizens of these counties are not following your executive orders.

The Board does not wish to mislead any person or business that Garfield County has the authority to allow reopening without potentially severe repercussions to any business from other entities but can only assure such individuals and businesses that no retribution should come from the County.

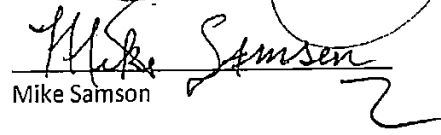
Garfield County is requesting that the State immediately issue a full reopening plan so that the public is fully aware of when and how normal activity can occur without further Government restrictions. The board believes that Garfield County citizens are fully capable of exercising personal responsibility and making meaningful and safe decisions with the respect to their personal health circumstances, jobs, businesses, and personal lives and will do so far better than government.

The Board of County Commissioners of the County of Garfield, State of Colorado will uphold their oaths of office, support the Constitution of the United States and the State of Colorado, and hereby petitions the state to immediately, fully, and safely reopen our State and County.

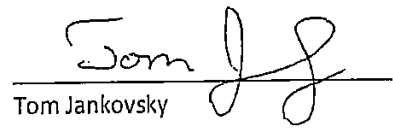
Sincerely,



John Martin, Chairman



Mike Samson



Tom Jankovsky



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Attachment B

CDPHE April 15, 2021 PHO 20-38



PUBLIC HEALTH ORDER 20-38
LIMITED COVID-19 RESTRICTIONS
April 15, 2021

PURPOSE OF THE ORDER

I am issuing this Public Health Order (PHO or Order) in response to the existence of thousands of confirmed and presumptive cases of Coronavirus disease 2019 (COVID-19) and related deaths across the State of Colorado. This Order supersedes PHO 20-36 COVID-19 Dial and PHO 20-29 Voluntary and Elective Surgeries and Procedures, and implements reduced restrictions for individuals, businesses and activities, as well as reporting requirements for hospitals, to prevent the spread of COVID-19 further in Colorado.

FINDINGS

1. Governor Polis issued **Executive Order D 2020 003** on March 11, 2020, declaring a disaster emergency in Colorado due to the presence of COVID-19. Since that time, the Governor has taken numerous steps to implement measures to mitigate the spread of disease within Colorado, and has further required that several public health orders be issued to implement his orders.
2. I have issued public health orders pertaining to the limitation of visitors and nonessential individuals in skilled nursing facilities, intermediate care facilities, and assisted living residences; defining the terms of the Governor's **Stay at Home, Safer at Home, and Protect our Neighbors** requirements as well as **Critical Business** designations; requiring hospitals to report information relevant to the COVID-19 response; and requiring the wearing of face coverings in the workplace and urging their use in public. These measures all act in concert to reduce the exposure of individuals to disease, and are necessary steps to protect the health and welfare of the public. Additionally, in reducing the spread of disease, these requirements help to preserve the medical resources needed for those in our communities who fall ill and require medical treatment, thus protecting both the ill patients and the healthcare workers who courageously continue to treat patients.
3. As of April 14, 2021, there have been 485,318 known cases of COVID-19 in Colorado, 26,661 Coloradans have been hospitalized and 6,319 Coloradans have died from COVID-19. Multiple sources of data show that COVID-19 transmission and the use of the hospital system due to COVID-19 have leveled off in Colorado.

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4. With the rescission of PHO 20-36 COVID-19 Dial, but the pandemic ongoing, it remains critical for individuals, communities, businesses, and governments to remain vigilant regarding the spread of COVID-19. Individuals are encouraged to remain at least 6 feet away from non-household contacts, wash their hands, and wear a face covering to reduce the likelihood of disease transmission. As we continue to combat COVID-19 in our communities, continuing some limited requirements to mitigate disease spread remain appropriate.

5. The following additional public health orders remain in effect:

- a. PHO 20-20 Requirements For Colorado Skilled Nursing Facilities, Assisted Living Residences, Intermediate Care Facilities, And Group Homes For COVID-19 Prevention And Response;
- b. PHO 20-33 Laboratory Data Reporting for COVID-19; and
- c. PHO 20-37 Vaccine Access And Data Reporting For COVID-19.

INTENT

This Order includes limited requirements for individuals and businesses to mitigate the spread of COVID-19 in Colorado. The Order incorporates the requirements of **Executive Order D 2020 138**, as amended and extended by **Executive Order 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 056, and D 2021 079** concerning face coverings. Additionally, the Order maintains some restrictions on certain activities while we continue to take steps to limit the spread of COVID-19 in Colorado, and includes a provision that authorizes CDPHE to require a county to comply with additional restrictions should certain metrics be met. The Order also includes hospital reporting requirements regarding bed capacity to provide the State with critical information to assess the status of the COVID-19 pandemic relative to the statewide capacity to provide necessary medical care and services to Coloradans.

ORDER

This Order supersedes and replaces Public Health Orders 20-29 and 20-36, as amended, effective at 12:01 AM on Friday, April 16, 2021.

I. COVID-19 RESTRICTIONS

A. FACE COVERINGS

- 1. Face coverings are required pursuant to **Executive Order D 2020 138**, as amended and extended by **Executive Order 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 056, and D 2021 079, for all individuals in the following settings:

- a. Preschool through grade 12 schools (including extracurricular activities), child care centers and services, and indoor children's camps;
 - b. Public areas of state government facilities, and areas in state government facilities where members of the public come into contact with state government employees;
 - c. Congregate care facilities, including nursing facilities, assisted living residences, intermediate care facilities, and group homes;
 - d. Prisons;
 - e. Jails;
 - f. 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);
 - g. **Personal services;** and
 - h. **Limited healthcare settings.**
2. For counties with a one week disease incidence rate in excess of 35 per 100,000, face coverings are also required pursuant to **Executive Order D 2020 138**, as amended and extended, in a **Public Indoor Space**, as defined in **Executive Order D 2020 138**, as amended and extended, where 10 or more unvaccinated individuals or individuals of unknown vaccination status are present.
 3. Exceptions to the face covering requirements include
 - a. individuals 10 years of age or younger,
 - b. individuals who cannot medically tolerate a face covering, and
 - c. individuals participating in one of the activities described in Section II.I of **Executive Order D 2020 138**, as amended and extended.
 4. Face coverings may be removed in a school classroom setting for the limited purpose of playing an instrument that cannot otherwise be played while wearing a face covering.
 5. Nothing in this Order changes or abrogates the Centers for Disease Control and Prevention's (CDC) Order on January 29, 2021, requiring the wearing of masks by travelers to prevent the spread of COVID-19. All Coloradans must abide by the CDC's Order, which can be found at <https://www.cdc.gov/quarantine/masks/mask-travel-guidance.html>.

B. ALL BUSINESSES AND GOVERNMENT ENTITIES. All businesses and government entities shall comply with the requirements in this Section I.B.

1. Work Accommodations. Employers are strongly encouraged to provide reasonable work accommodations, including accommodations under the

Americans with Disabilities Act (ADA) for individuals who cannot obtain access to COVID-19 vaccine or who for medical or other legal reasons cannot take a COVID-19 vaccine.

2. Face coverings. All employers must implement the face covering requirements in **Executive Order D 2020 138**, as amended and extended, as applicable.
3. Disease mitigation practices. Employers and sole proprietors are strongly encouraged to follow the best practices for disease mitigation found in CDPHE Guidance.

C. MASS INDOOR GATHERINGS

1. In addition to the requirements in Section I.B of this Order, the requirements in this Section I.C apply to **Mass Indoor Gatherings**.
2. When more than 100 people are gathered in a room in a **Public Indoor Space**, the setting may operate at 100% capacity not to exceed 500 people, with 6 feet distancing required between parties of unvaccinated people or when vaccination status is unknown. Existing approved variances remain in effect, including 5 Star Program approvals granted by a county. Venues may apply to their local public health agency for a variance to exceed 500 people, to be finally approved by CDPHE. These requirements do not apply to the following sectors:
 - a. Places of worship and associated ceremonies,
 - b. Retail services,
 - c. Restaurants that have sit-down dining and do not have unseated areas where 100 or more people could gather (such as dance floors or common gathering areas), and
 - d. School proms and graduations that wish to exceed these thresholds shall be subject to review and approval by local public health agencies in accordance with CDPHE prom and graduation guidance.
3. Face coverings are required for all individuals in a **Mass Indoor Gathering**, except in the following circumstances:
 - a. individuals 10 years of age or younger,
 - b. individuals who cannot medically tolerate a face covering, and
 - c. individuals participating in one of the activities described in Section II.I of **Executive Order D 2020 138**, as amended and extended.

D. OUTDOOR EVENTS

1. Outdoor ticketed, seated event venues in excess of 30,000 square feet require CDPHE approval, in consultation with the local public health agency. Existing approved variances, including 5 Star Program approvals granted by a county, remain in effect.

E. SCHOOLS AND CHILD CARE

1. **Schools** and child care shall work with their local public health agencies as COVID-19 cases occur, and shall follow the CDPHE guidance for Cases and Outbreaks in Schools and Child Care.
2. **Schools** that are entirely remote learning due to ongoing COVID-19 cases and outbreaks shall not have in-person extracurricular activities.

E. ADDITIONAL COUNTY RESTRICTIONS

1. CDPHE may require counties whose resident hospitalizations threaten to exceed 85% of hospital or hospital system capacity to implement additional restrictions to mitigate disease transmission.

II. HOSPITAL FACILITY REPORTING

- A. COVID-19 Case Reporting. All Colorado hospitals shall report to CDPHE in a form and format determined by CDPHE, certain information for all suspected (pending laboratory test) and confirmed (positive laboratory test) cases of COVID-19, including but not limited to:

1. race and ethnicity;
2. numbers of suspected and confirmed cases who are hospitalized, who are hospitalized and using a ventilator, or who are in the emergency department waiting for an inpatient bed;
3. numbers of suspected and confirmed cases who are discharged and in recovery;
4. deaths due to COVID-19; and
5. medical equipment and supply information, including but not limited to total bed and intensive care unit (ICU) bed capacity and occupancy, ventilator availability and utilization, and availability of N95 masks.

Reporting by hospitals shall be done in CDPHE's EMResource reporting system on a daily basis or as otherwise required by this Order.

- B. Hospital Bed Capacity Reporting. All Colorado hospitals shall report to CDPHE the following in EMResource daily at 10:00 a.m.:

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1. The daily maximum number of beds that are currently or can be made available within 24 hours for patients in need of ICU level care; and
2. The daily maximum number of all staffed acute care beds, including ICU beds, available for patients in need of non-ICU hospitalization.

III. DEFINITIONS

- A. Limited Healthcare Settings** means those locations where certain healthcare services are provided, including acupuncture (not related to personal services), athletic training (not related to personal services), audiology services, services by hearing aid providers, chiropractic care, massage therapy (not related to personal services), naturopathic care, occupational therapy services, physical therapy, and speech language pathology services.
- B. Mass Indoor Gathering** is any indoor space where more than 100 unvaccinated individuals or individuals with unknown vaccination status are gathered in a room.
- C. Personal Services** means services and products that are not necessary to maintain an individual's health or safety, or the sanitation or essential operation of a business or residence. **Personal Services** include, but are not limited to, personal training, dog grooming, or body art and also applies to noncritical professionals regulated by the Division of Professions and Occupations, within the Department of Regulatory Agencies (DORA) including but not limited to services provided by personal beauty professionals such as hairstylists, barbers, cosmetologists, estheticians, nail technicians, as well as massage therapists, whose work requires these professionals to be less than six feet from the person for whom the services are being provided.
- D. 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.
- E. School** means pre-kindergarten through 12th grade. A school includes all grade levels contained in a building or multiple buildings on a campus.

IV. ENFORCEMENT

This Order will be enforced by all appropriate legal means. Local authorities are encouraged to determine the best course of action to encourage maximum compliance. Failure to comply with

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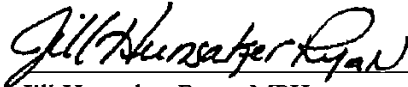
this order could result in penalties, including jail time, and fines, and may also be subject to discipline on a professional license based upon the applicable practice act.

V. SEVERABILITY

If any provision of this Order or the application thereof to any person or circumstance is held to be invalid, 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.

VI. DURATION

This Order shall become effective at 12:01 AM on Friday, April 16, 2021 and will expire in 30 days unless extended, rescinded, superseded, or amended in writing.



Jill Hunsaker Ryan, MPH
Executive Director

April 15, 2021

Date