

PUBLIC HEALTH ORDER REQUIRING FACE COVERINGS INSIDE PUBLIC INDOOR SPACES

December 28, 2021

On March 10, 2020, the Governor of the State of Colorado issued an Executive Order declaring a state of disaster emergency due to the risk of spread of the novel coronavirus, now designated COVID-19.

On March 12, 2020, the Mayor of the City and County of Denver declared a state of local disaster emergency pursuant to C.R.S. § 24-33.5-701, et seq., due to the risk of spread of COVID-19.

Since that time, the Executive Director of the Denver Department of Public Health & Environment (“DDPHE”), pursuant to section 24-16 of the Denver Revised Municipal Code, has issued numerous public health orders to mitigate the spread of COVID-19 within the City and County of Denver. These public health orders have restricted access to certain facilities; restricted mass gatherings of people; closed restaurants and bars to in-person services; and implemented stay at home requirements and critical business operations. In conjunction with steps taken by the Governor and the Colorado Department of Public Health and Environment (“CDPHE”), these measures all act in concert to minimize the spread of COVID-19 by reducing the exposure of individuals to the virus.

The United States Centers for Disease Control and Prevention (“CDC”), CDPHE, and DDPHE 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 the mouth and nose to prevent inadvertently spreading COVID-19. One key transmission method for the COVID-19 virus is through respiratory droplets and aerosolized particles that people expel when they breathe, talk, cough, or sneeze. Moreover, people can be infected with the COVID-19 virus and be asymptomatic but still be contagious. People can also be infected and contagious 48 hours before developing symptoms when they are pre-symptomatic. Many people with COVID-19 have mild symptoms and do not recognize they are infected and contagious, and they can unintentionally infect others. Further, the Omicron variant of the SARS-CoV-2 virus has been detected in Colorado and is fueling rapid increases in new cases and outbreaks. The Omicron variant has been found to be highly contagious, and the ongoing surge in cases has resulted in ongoing capacity challenges to hospitals around the state, including the metro region.

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On July 27, 2021, the CDC updated its guidance and recommended that fully vaccinated people wear a mask in all public indoor settings in areas of substantial or high transmission in addition to recommending that all unvaccinated persons aged 2 or older wear masks in public indoor settings.

On August 1, 2021 DDPHE issued a public health order requiring City employees and contractors, as well as employees and contractors of specific industries, be vaccinated, which order was amended on September 1, 2021.

Despite such orders from DDPHE and CDPHE, DDPHE has observed an uptick in positive COVID-19 cases since the introduction of the Delta and Omicron variants in Colorado. The risk of transmission is significantly reduced when individuals wear face coverings if they are unable to socially distance. Reducing infections is a critical regional concern because hospital capacity is strained and could trigger rationed care.

Therefore, the Executive Director of DDPHE, pursuant to §24-16 of the Denver Revised Municipal Code, hereby orders as follows:

1. Except as specifically exempted below, all individuals two (2) years of age or older (“Individuals”) must wear a Face Covering over their nose and mouth when entering, inside, or moving within any Public Indoor Space. Owners, operators, and managers of a Public Indoor Space are responsible for compliance.
2. Exemptions. The following individuals are exempt from the requirements of this Order:
 - a. Individuals under the age of 2.
 - b. Individuals who cannot medically tolerate a Face Covering.
3. Exceptions. 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 inside a Fully Vaccinated Facility.
 - b. Individuals who are deaf or hard of hearing, or who are communicating with someone who is deaf or hard of hearing or otherwise disabled and where the ability to see the mouth is essential to communication.
 - c. Individuals who are seated at a food service establishment and actively eating or drinking.
 - d. Individuals who are asked to temporarily remove their Face Covering for identification purposes in furtherance of a particular service requiring legal identification.
 - e. Individuals who are actively engaged in a public safety role such as law enforcement personnel, firefighters, or emergency medical personnel.
 - f. Individuals who are actively engaged in a performing arts event, leading

religious services, or engaged in other similar activities indoors, so long as the individual maintains at least twelve (12) feet distance from non-household members.

- g. Individuals who are receiving a personal, religious, or medical service where the temporary removal of a Face Covering is necessary to perform the service.
- h. Individuals who are alone in an enclosed room or are only with members of their same household in an enclosed room.
- i. Individuals who are in a swimming pool and actively engaged in a pool activity in which their Face Covering might become wet.
- j. Individuals who are testifying as witnesses in court proceedings, so long as such individuals wear a face covering at all other times during the proceedings.
- k. Individuals who are serving as language interpreters for participants in court proceedings where the ability to see the mouth and hear the translation is essential to communication, so long as such individuals wear a face covering when not providing interpretation services.

4. Nothing in this Public Health Order changes or abrogates the CDC's Order on January 29, 2021, requiring the wearing of face coverings by travelers to prevent the spread of COVID-19. Specifically, Individuals are required to wear a Face Covering while boarding, disembarking, and traveling on any aircraft, train, or road vehicle (including rideshares), into or within the United States. Additionally, Individuals must also wear a Face Covering at any transportation hub that provides transportation within the United States. All Individuals in Denver must abide by the CDC's Order, which can be viewed here: <https://www.cdc.gov/quarantine/masks/mask-travel-guidance.html>.

5. Nothing in this Public Health Order changes or abrogates DDPHE's Public Health Order, dated August 1, 2021 and amended September 1, 2021, regarding mandatory vaccines and accommodations. Similarly, nothing in this Public Health Order changes or abrogates DDPHE's Public Health Order, dated August 17, 2021 requiring the use of Face Coverings by all individuals aged two and older in all childcare facilities and preschool through grade 12 schools, regardless of vaccination status.

6. Childcare facilities should provide face coverings for children over the age of two; however, face coverings should be removed during naps and nap mats should be placed at least six (6) feet apart. Parents and caregivers must supervise the use of Face Coverings by children to avoid misuse.

7. No later than the effective date of this Order, all owners, operators, or managers of Public Indoor Spaces must post signs in a conspicuous place at every public entrance to the facility. Signs must be clearly visible to the public, and in a size not less than 11 inches wide and 14 inches in height, advising of the requirement to wear a face covering.

8. Definitions. The terms as used in this order are defined as follows:
- a. “Face Covering,” as used in this Order, means a covering made of cloth, fabric, or other soft or permeable material, without holes, that covers the nose and mouth and surrounding areas of the lower face. A Face Covering may be factory-made or may be handmade and improvised from ordinary household materials. The Face Covering should fit snugly but comfortably against the side of the face, include multiple layers of fabric, allow for breathing without restriction, and be able to be laundered and machine-dried without damage or change to shape, if not single use. Face Coverings need to 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 needs to be replaced with one that does not need to be frequently adjusted to reduce touching of the face. A Face Covering should be replaced when it becomes dirty or wet.
 - b. “Fully Vaccinated Facility,” as used in this Order, means any indoor facility or portion of an indoor facility where the owner, operator or manager has verified that at least 95% of the persons within the facility (including employees, invitees, attendees, patrons, customers, and any other person entering the facility) have been fully vaccinated. To be considered a Fully Vaccinated Facility, the owner, operator or manager of the facility must notify DDPHE of the name of the facility, address of the facility, type of facility (office building, gym, etc.), contact information of the person at the facility responsible for verifying the vaccination status of persons within the facility, and the date the facility began collecting vaccination status.
 - c. “Fully vaccinated” means two weeks after a person’s second dose in a two-dose series and two weeks after a single-dose vaccine.
 - d. “Public Indoor Space,” as used in this Order, means any enclosed indoor area, other than a person’s residence, 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 goods or services. Public Indoor Spaces include entering, being inside, or moving within the common area of an apartment building, condominium, or similar residential building, including lobbies, pool areas, elevators, common recreation areas, and in offices or other spaces used by the public.

Pursuant to section 24-24 of the Denver Revised Municipal Code, it is unlawful for any person to fail to comply with this Order. Any person who fails to comply with this Order may also be subject to a civil penalty of up to five thousand dollars (\$5,000.00) per violation. Enforcement actions are intended to be cumulative in nature and Denver may pursue one or more civil, criminal, and administrative actions, fees, fines, sentences, penalties, judgments, and remedies and may do so simultaneously or in succession.

This Order hereby amends and replaces the face covering order issued by the Denver Department of Public Health & Environment on November 23, 2021. This Order shall become effective

immediately, and shall continue until 11:59 p.m. on Thursday, February 3, 2022, unless rescinded, superseded, or amended in writing by the Executive Director of the Denver Department of Public Health & Environment.

Issued by:

Robert McDonald

Robert M. McDonald
Public Health Administrator, City & County of Denver
Executive Director, Denver Dept of Public Health & Environment